

By: Harris

S.B. No. 1320

A BILL TO BE ENTITLED

AN ACT

relating to the licensing, acquisition, regulation, and taxation of manufactured housing; providing administrative and criminal penalties.

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

SECTION 1. Section 1201.003, Occupations Code, is amended to read as follows:

Sec. 1201.003. DEFINITIONS. In this chapter:

(1) "Advertisement" means a commercial message that promotes the sale, exchange, or lease-purchase of a manufactured home and that is presented on radio, television, a public-address system, or electronic media or appears in a newspaper, a magazine, a flyer, a catalog, direct mail literature, an inside or outside sign or window display, point-of-sale literature, a price tag, or other printed material. The term does not include educational material or material required by law.

(2) "Affiliate" means a person who is under common control with another person.

(3) "Alteration" means the replacement, addition, modification, or removal of equipment in a new manufactured home after sale by a manufacturer to a retailer but before sale and installation by a retailer to a purchaser in a manner that may affect the home's construction, fire safety, occupancy, or plumbing, heating, or electrical system. The term includes the

1 modification of a manufactured home in a manner that may affect the
2 home's compliance with the appropriate standards but does not
3 include:

4 (A) the repair or replacement of a component or
5 appliance that requires plug-in to an electrical receptacle, if the
6 replaced item is of the same configuration and rating as the
7 replacement; or

8 (B) the addition of an appliance that requires
9 plug-in to an electrical receptacle and that was not provided with
10 the manufactured home by the manufacturer, if the rating of the
11 appliance does not exceed the rating of the receptacle to which the
12 appliance is connected.

13 (4) [~~(2-a)~~] "Attached" in reference to a manufactured
14 home means that the home has been:

15 (A) installed in compliance with the rules of the
16 department; and

17 (B) connected to a utility, including a utility
18 providing water, electric, natural gas, propane or butane gas, or
19 wastewater service.

20 (5) [~~(3)~~] "Board" means the Manufactured Housing
21 Board within the Texas Department of Housing and Community Affairs.

22 (6) [~~(4)~~] "Broker" means a person engaged by one or
23 more other persons to negotiate or offer to negotiate a bargain or
24 contract for the sale, exchange, or lease-purchase of a
25 manufactured home for which a certificate or other document of
26 title has been issued and is outstanding. The term does not include
27 a person who maintains a location for the display of manufactured

homes.

(7) [~~(5)~~] "Business use" means the use of a manufactured home for a purpose other than as a permanent or temporary dwelling.

(8) [~~(6)~~] "Consumer" means a person, other than a person licensed under this chapter, who seeks to acquire or acquires by purchase, exchange, or lease-purchase a manufactured home.

(9) "Control" means, with respect to another person, the possession of the power, directly or indirectly, to vote an interest of 25 percent or more, the power to establish policy, directly or through a related person, or the power to hire, elect, or otherwise designate related persons.

(10) [~~(7)~~] "Department" means the Texas Department of Housing and Community Affairs operating through its manufactured housing division.

(11) [~~(8)~~] "Director" means the executive director of the manufactured housing division of the Texas Department of Housing and Community Affairs.

(12) [~~(9)~~] "HUD-code manufactured home":

(A) means a structure:

(i) constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development;

(ii) built on a permanent chassis;

(iii) designed for use as a dwelling with or without a permanent foundation when the structure is connected to

1 the required utilities;

2 (iv) transportable in one or more sections;

3 and

4 (v) in the traveling mode, at least eight
5 body feet in width or at least 40 body feet in length or, when
6 erected on site, at least 320 square feet;

7 (B) includes the plumbing, heating, air
8 conditioning, and electrical systems of the home; and

9 (C) does not include a recreational vehicle as
10 defined by 24 C.F.R. Section 3282.8(g).

11 (13) [~~(10)~~] "Installation" means the temporary or
12 permanent construction of the foundation system and the placement
13 of a manufactured home or manufactured home component on the
14 foundation. The term includes supporting, blocking, leveling,
15 securing, anchoring, and properly connecting multiple or
16 expandable sections or components and making minor adjustments.

17 (14) [~~(11)~~] "Installer" means a person, including a
18 retailer or manufacturer, who contracts to perform or performs an
19 installation function on manufactured housing.

20 (15) [~~(12)~~] "Label" means a device or insignia that
21 is:

22 (A) issued by the director to indicate compliance
23 with the standards, rules, and regulations established by the
24 United States Department of Housing and Urban Development; and

25 (B) permanently attached to each transportable
26 section of each HUD-code manufactured home constructed after June
27 15, 1976, for sale to a consumer.

1 (16) [~~(13)~~] "Lease-purchase" means entering into a
2 lease contract for a manufactured home, in which the lessor retains
3 title, containing a provision or, in another agreement, conferring
4 on the lessee an option to purchase a manufactured home.

5 (17) [~~(14)~~] "License holder" or "licensee" means a
6 person who holds a department-issued license as a manufacturer,
7 retailer, broker, rebuilder, salesperson, or installer.

8 (18) [~~(15)~~] "Manufactured home" or "manufactured
9 housing" means a HUD-code manufactured home or a mobile home or any
10 other structure that, regardless of size, is designed for use as a
11 dwelling when it is connected to the required utilities, is built on
12 a permanent chassis, and is not a modular component as defined in
13 Chapter 1202.

14 (19) [~~(16)~~] "Manufacturer" means a person who
15 constructs or assembles manufactured housing for sale, exchange, or
16 lease-purchase in this state.

17 (20) [~~(17)~~] "Mobile home":
18 (A) means a structure:
19 (i) constructed before June 15, 1976;
20 (ii) built on a permanent chassis;
21 (iii) designed for use as a dwelling with or
22 without a permanent foundation when the structure is connected to
23 the required utilities;
24 (iv) transportable in one or more sections;
25 and
26 (v) in the traveling mode, at least eight
27 body feet in width or at least 40 body feet in length or, when

erected on site, at least 320 square feet; and

(B) includes the plumbing, heating, air conditioning, and electrical systems of the home.

(21) "New manufactured home" means a manufactured home that is not a used manufactured home, regardless of its age.

(22) ~~[(18)]~~ "Person" means an individual or a partnership, company, corporation, association, or other group, however organized.

(23) "Related person" means a person who directly or indirectly participates in management or policy decisions or day-to-day activity subject to this chapter or who has been found by the department, in a final order, to be such a person.

(24) ~~[(19)]~~ "Retailer" means a person who:

(A) is engaged in the business of buying for resale, selling, or exchanging manufactured homes or offering manufactured homes for sale, exchange, or lease-purchase to consumers, including a person who maintains a location for the display of manufactured homes; and

(B) sells, exchanges, or lease-purchases at least two manufactured homes to consumers in a 12-month period.

(25) "Rules" means the rules of the department.

(26) ~~[(20)]~~ "Salesperson" means a person who, as an employee or agent of a retailer or broker, sells or lease-purchases or offers to sell or lease-purchase manufactured housing to a consumer ~~[for any form of compensation]~~.

(27) ~~[(21)]~~ "Salvaged manufactured home" means a manufactured home determined to be salvaged under Section 1201.461.

1 (28) [~~(22)~~] "Seal" means a device or insignia issued
2 by the director that, for title purposes, is to be attached to a
3 used manufactured home as required by the director.

4 (29) [~~(23)~~] "Standards code" means the Texas
5 Manufactured Housing Standards Code.

6 (30) [~~(23-a)~~] "Statement of ownership and location"
7 means a statement issued by the department and setting forth:

8 (A) the ownership and location of a manufactured
9 home [~~that has been sold at a retail sale or installed~~] in this
10 state as provided by Section 1201.205; and

11 (B) other information required by this chapter.

12 (31) [~~(24)~~] "Trust fund" means the manufactured
13 homeowners' recovery trust fund.

14 (32) "Used manufactured home" means a manufactured
15 home which has been occupied for any use or for which a statement of
16 ownership and location has been issued. The term does not include:

17 (A) a manufactured home that was used as a sales
18 model at a licensed retail location; or

19 (B) a manufactured home that:

20 (i) was sold as a new manufactured home and
21 installed but never occupied;

22 (ii) had a statement of ownership and
23 location; and

24 (iii) was taken back from the consumer or
25 transferee because of a first payment default or agreement to
26 rescind or unwind the transaction.

27 SECTION 2. Section 1201.008, Occupations Code, is amended

1 by adding Subsection (e) to read as follows:

2 (e) Notwithstanding any zoning or other law to the contrary,
3 in the event that a manufactured home occupies a lot in a
4 municipality, the owner of the manufactured home may remove the
5 manufactured home from its location and place another manufactured
6 home on the same property, provided that the replacement is a newer
7 manufactured home and is at least as large in living space as the
8 prior manufactured home.

9 SECTION 3. Subsection (a), Section 1201.053, Occupations
10 Code, is amended to read as follows:

11 (a) The board [~~director~~] shall adopt rules[~~, issue orders,~~]
12 and otherwise act as necessary to:

13 (1) comply with the National Manufactured Housing
14 Construction and Safety Standards Act of 1974 (42 U.S.C. Section
15 5401 et seq.), including adopting and enforcing rules reasonably
16 required to implement the notification and correction procedures
17 provided by 42 U.S.C. Section 5414; and

18 (2) provide for the effective enforcement of all
19 HUD-code manufactured housing construction and safety standards in
20 order to have the state plan authorized by the National
21 Manufactured Housing Construction and Safety Standards Act of 1974
22 (42 U.S.C. Section 5401 et seq.) approved by the secretary of
23 housing and urban development.

24 SECTION 4. Section 1201.054, Occupations Code, is amended
25 to read as follows:

26 Sec. 1201.054. PROCEDURE FOR ADOPTING RULES. (a) Rules
27 must be adopted in accordance with Chapter 2001, Government Code,

and with this section.

(b) If requested, the board shall, after at least 10 days' notice, hold a hearing on any rule that it proposes to adopt, other than a rule that is to be adopted under emergency rulemaking, in which case only the requirements of Chapter 2001, Government Code, shall apply ~~[A proposed rule must be published in the Texas Register before the 30th day preceding the date of a public hearing set to consider the testimony of interested persons. Notice of the time and place of the public hearing must be published in the Texas Register before the 30th day preceding the date of the hearing].~~

~~(c) [A rule as finally adopted must be published in the Texas Register and state the rule's effective date.]~~

~~[(d)]~~ A rule takes effect on the 30th day after the date of publication of notice that the rule has been adopted, except that a rule relating to installation standards may not take effect earlier ~~[later]~~ than the 60th day after the date of publication of notice unless the board has determined that an earlier effective date is required to meet an emergency and the standard was adopted under the emergency rulemaking provisions of Chapter 2001, Government Code.

SECTION 5. Section 1201.055, Occupations Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) The department may permit the use of any device or procedure that has been reviewed and approved by a licensed engineer provided that such use or procedure complies with any instructions, conditions, or other requirements specified by that engineer.

SECTION 6. Section 1201.058, Occupations Code, is amended

1 to read as follows:

2 Sec. 1201.058. AMOUNT OF FEES. (a) The board shall
3 establish reasonable fees for all matters under this chapter
4 providing for fees. If the department's rules provide an option to
5 file a document electronically, the department may charge a
6 discounted fee for the electronic filing.

7 (b) Ten dollars of the fee for each purchase, exchange, or
8 lease-purchase of a manufactured home shall be deposited to the
9 credit of the trust fund and used for the protection programs
10 described by Subchapter I.

11 (c) All fees established by this chapter or the rules are
12 deemed to be earned and not subject to refund after receipt by the
13 department.

14 (d) Notwithstanding Subsection (c), the director may, in
15 limited and appropriate circumstances and in accordance with rules
16 adopted by the board, approve the refund of fees [~~the fees imposed~~
17 ~~under Sections 1201.055-1201.057 in amounts that are reasonable and~~
18 ~~necessary to cover the cost of administering this chapter~~].

19 SECTION 7. Section 1201.101, Occupations Code, is amended
20 by amending Subsections (d), (f), and (g) and adding Subsection
21 (f-1) to read as follows:

22 (d) A person may not act as an installer [~~perform an~~
23 ~~installation function on manufactured housing~~] in this state unless
24 the person holds an installer's license.

25 (f) A person may not act as a salesperson of manufactured
26 housing unless the person holds a salesperson's license. A
27 retailer or broker may not employ or otherwise use the services of a

1 salesperson who is not licensed. A licensed salesperson may not
2 participate in a sale of a manufactured home unless the sale is
3 through the retailer or broker who sponsored the salesperson's
4 application as required by Section 1201.103(d).

5 (f-1) A retailer may be licensed to operate at a principal
6 location and one or more branch locations under a single license,
7 provided, however, that a separate application must be made for
8 each branch, and each branch must be separately bonded.

9 (g) A person may not make an announcement concerning the
10 sale, exchange, or lease-purchase of, or offer to sell, exchange,
11 or lease-purchase, a manufactured home to a consumer in this state
12 through an advertisement unless the person holds a manufacturer's,
13 retailer's, or broker's license. This subsection does not apply to:

14 (1) a person exempt from licensing [~~to whom a~~
15 ~~statement of ownership and location has been issued showing the~~
16 ~~person to be the owner of the home if the person does not offer to~~
17 ~~sell, exchange, or lease-purchase two or more manufactured homes in~~
18 ~~a 12-month period~~]; or

19 (2) an advertisement concerning real property on [~~to~~]
20 which there is a manufactured home that has been converted to real
21 property in accordance with Section 1201.2055 [~~permanently~~
22 ~~attached~~].

23 SECTION 8. Subsections (a), (b), and (c), Section 1201.102,
24 Occupations Code, are amended to read as follows:

25 (a) A licensed installer may employ unlicensed persons to
26 assist in performing installation functions provided that the
27 licensed installer maintains a list of the persons so employed. The

1 director may issue an order to prohibit a person who is not licensed
 2 as an installer from performing installation functions under the
 3 oversight of a licensed installer ~~[An employee who acts as an agent~~
 4 ~~of a license holder is covered by the holder's license and is not~~
 5 ~~required to hold an individual license].~~

6 (b) A licensee may engage another person who is not licensed
 7 under this chapter but possesses another license issued by the
 8 State of Texas to provide goods and services subject to that other
 9 license. Without limiting the generality of the foregoing, this
 10 includes engaging others to install, connect, or otherwise work on
 11 air conditioning, plumbing, and electrical systems ~~[Except as~~
 12 ~~provided by Section 1201.510, an independent contractor or business~~
 13 ~~entity may not operate under the license of another business entity~~
 14 ~~except as an agent or subcontractor of a licensed installer who is~~
 15 ~~responsible for an installation function performed by the agent or~~
 16 ~~subcontractor].~~

17 (c) An individual who ~~[In the case of a sole proprietorship,~~
 18 ~~partnership, or corporation that]~~ holds a retailer's license or
 19 broker's license or who is a related person of such a licensee ~~[, an~~
 20 ~~owner, partner, or officer of that entity]~~ is not required to apply
 21 for a salesperson's license ~~[if that owner, partner, or officer is~~
 22 ~~properly listed in the retailer's or broker's license application].~~

23 SECTION 9. Section 1201.103, Occupations Code, is amended
 24 by amending Subsections (a) and (d) and adding Subsection (a-1) to
 25 read as follows:

26 (a) An applicant for a license as a manufacturer, retailer,
 27 broker, rebuilder, or installer must file with the director a

license application containing:

(1) the legal name, address, and telephone number of the applicant and each person who will be a related person at the time the requested license is issued;

(2) all [the] trade names, and the names of all other business organizations, under [name by] which the applicant does business subject to this chapter [and, if incorporated], the name of each such business organization registered with the secretary of state, and the address of such [the] business organization; [and]

(3) the dates on which the applicant became the owner and operator of the business; and

(4) the location to which the license will apply.

(a-1) All required records of a licensee under Subsection (a) are to be maintained at the licensee's principal office or such other location within this state as the licensee may designate.

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

(1) file with the director an application that provides any information the director considers necessary and that is sponsored by a currently licensed ~~[bonded]~~ retailer or broker; and

(2) pay the required fee.

SECTION 10. Sections 1201.104 and 1201.105, Occupations Code, are amended to read as follows:

Sec. 1201.104. QUALIFICATIONS FOR LICENSE. (a) Except as provided by Subsection (e), as a requirement ~~[prerequisite]~~ for a manufacturer's, retailer's, broker's, installer's, salvage rebuilder's, or salesperson's license, a person who was not

1 licensed or registered with the department or a predecessor agency
 2 on September 1, 1987, must, not more than 12 months before applying
 3 for the person's first license under this chapter, attend and
 4 successfully complete 20 hours of instruction in the law, including
 5 instruction in consumer protection regulations. If the applicant
 6 is not an individual, the applicant must have at least one related
 7 person who meets this requirement [~~The director may not issue a~~
 8 ~~license to that person until the course of instruction is~~
 9 ~~completed~~].

10 (b) Each individual who will be a related person of the
 11 applicant must attend and successfully complete 20 hours of
 12 instruction in the law, including instruction in consumer
 13 protection regulations.

14 (c) On becoming a related person of a licensee, an
 15 individual must complete the next scheduled course of instruction
 16 offered after the date the individual became a related person. If
 17 the individual fails to complete such course successfully and in a
 18 timely manner, the individual is automatically barred from acting
 19 as a related person until the individual successfully completes
 20 such course.

21 (d) Except in the case of an applicant for a salesperson's
 22 license, successful completion of the course of instruction is a
 23 prerequisite to obtaining the license.

24 (e) An applicant for a salesperson's license may apply for a
 25 license without having completed the course of instruction provided
 26 that the person successfully completes the next scheduled course
 27 offered after the date of the person's licensure. If the person

1 fails to complete such course successfully and in a timely manner,
2 the person's license is automatically suspended until the person
3 successfully completes the course.

4 (f) The course of instruction must be offered at least
5 quarterly.

6 (g) The board shall adopt rules relating to course content
7 and approval. Classes must be live. Online or other electronic
8 classes are not permitted.

9 (h) An applicant for an initial installer's license shall
10 receive a license on a probationary basis. The person's
11 probationary status shall remain in effect until such time as a
12 sufficient number of installations completed by the person have
13 been inspected by the department and found not to have any
14 identified material violations of the department's rules. The
15 board, with the advice of the advisory committee to be established
16 under Section 1201.251, shall adopt rules to establish what
17 constitutes a sufficient number of installations under this
18 subsection.

19 (i) [~~(c) Instead of the course of instruction:~~

20 ~~[(1) a manufacturer may request that an authorized~~
21 ~~representative of the department present a one-day, in-plant~~
22 ~~training program; or~~

23 ~~[(2) the director may approve a training program for a~~
24 ~~license applicant that is conducted by a nonprofit educational~~
25 ~~institution or foundation.~~

26 ~~[(d) A manufacturer shall reimburse the department for the~~
27 ~~actual cost of a program presented under Subsection (c)(1).~~

1 ~~[(e)]~~ Subsection (a) does not apply to a license holder ~~[or~~
2 ~~registration holder]~~ who applies:

3 (1) for a license for an additional business location;
4 or

5 (2) to renew or reinstate a license~~[, or~~
6 ~~[(3) for a salesperson's license]~~.

7 (j) ~~[(f)]~~ An examination must ~~[may not]~~ be a requirement of
8 successful completion of any initial required course of instruction
9 under this section, but it is not a requirement for continuing
10 education classes ~~[made a prerequisite of licensing]~~.

11 Sec. 1201.105. SECURITY REQUIRED. (a) The department may
12 not issue or renew a license unless a bond or other security in a
13 form prescribed by the director is filed with the department as
14 provided by this subchapter. The bond or other security is payable
15 to the trust fund except for any amounts that are due directly to
16 the retailer under Section 1201.356(c).

17 (b) If a bond is filed, the bond must be issued by a company
18 authorized to do business in this state and must conform to
19 applicable provisions of the Insurance Code. If other security is
20 filed, that security must be maintained in or by a federally insured
21 depository ~~[banking]~~ institution located in this state.

22 (c) If the department experiences significant problems in
23 obtaining timely reimbursements from a surety or the surety has
24 experienced a deterioration in its financial condition, the board
25 may direct the director to stop accepting bonds issued by the
26 surety.

27 SECTION 11. Section 1201.106, Occupations Code, is amended

1 by amending Subsection (a) and adding Subsection (a-1) to read as
2 follows:

3 (a) An applicant for a license or a license holder shall
4 file a bond or other security under Section 1201.105 for the
5 issuance or renewal of a license in the following amount:

6 (1) \$100,000 for a manufacturer;

7 (2) \$50,000 for a retailer's principal location
8 ~~[retailer]~~;

9 (3) \$50,000 for each retailer's branch location;

10 (4) \$50,000 ~~[\$30,000]~~ for a rebuilder;

11 (5) ~~[(4)]~~ \$50,000 for a broker; or

12 (6) ~~[(5)]~~ \$50,000 ~~[\$10,000]~~ for an installer.

13 (a-1) Notwithstanding the provisions of Subsection (a), the
14 director may impose a greater fee for the licensing, renewal, or
15 relicensing of a person who, either directly, as a related person,
16 or through a related person, has been the subject of a license
17 revocation, has caused the trust fund to incur unreimbursed costs
18 or liabilities in excess of available surety bond coverage, or has
19 failed to pay an administrative penalty that has been assessed by
20 final order.

21 SECTION 12. Section 1201.108, Occupations Code, is amended
22 to read as follows:

23 Sec. 1201.108. SECURITY: CHANGE IN OWNERSHIP OR LOCATION.

24 (a) A new bond is not required for a change in:

25 (1) ownership of a licensee or a business entity under
26 which ~~[corporation that is]~~ a license holder conducts business; or

27 (2) location.

1 (b) A licensee shall notify the department of a change
2 described by Subsection (a) not later than the 10th day before the
3 date the change occurs.

4 (c) After a change described by Subsection (a), the licensee
5 shall provide to the department a proper endorsement to the
6 original bond showing that the bond continues to apply to the
7 license without interruption ~~[The director may require a proper~~
8 ~~endorsement of the original bond]~~.

9 SECTION 13. Subsections (a) and (b), Section 1201.113,
10 Occupations Code, are amended to read as follows:

11 (a) The board shall approve ~~[recognize, prepare,]~~ or
12 administer ~~[certification and]~~ continuing education programs for
13 licensees ~~[salespersons regulated]~~ under this chapter. A
14 continuing education program must be at least six hours long and
15 must include the current rules of the department and such other
16 matters as the board may deem relevant.

17 (b) Attendance at an approved or administered continuing
18 education course described by Subsection (a) is a prerequisite to
19 renewal of a license ~~[A person who holds a salesperson's license~~
20 ~~must participate in certification and continuing education~~
21 ~~programs as provided by Subsection (c)]~~.

22 SECTION 14. Section 1201.114, Occupations Code, is amended
23 to read as follows:

24 Sec. 1201.114. LICENSE EXPIRATION; PROBATIONARY LICENSE.

25 (a) Any license under this chapter other than a probationary ~~[A~~
26 ~~manufacturer's, retailer's, broker's, or installer's]~~ license is
27 valid for ~~[one year. A salesperson's license is valid for]~~ two

1 years. A license may be renewed as provided by the director. A
2 person whose license has been suspended or revoked or whose license
3 has expired may not engage in activities that require a license
4 until the license has been reinstated or renewed.

5 (b) If the director determines that a licensed salesperson
6 or installer should receive a probationary license, the director
7 may issue a probationary license on such terms and for such period
8 as are deemed reasonable. The issuance of a license on a
9 probationary basis, any one or more of the specific terms of the
10 probation, or the period of probation may be appealed before the
11 31st day after issuance of the probationary license by written
12 notice to the director. If appeal is made, the director shall set
13 the matter for a hearing before the State Office of Administrative
14 Hearings, and all administrative proceedings relating to the
15 issuance of the probationary license shall be deemed to be a
16 contested case under Chapter 2001, Government Code. If no appeal is
17 made, the probationary license shall be issued and shall remain in
18 effect in accordance with the terms specified ~~[The board by rule may~~
19 ~~adopt a system under which licenses expire on various dates during~~
20 ~~the year. For the year in which the license expiration date is~~
21 ~~changed, the department shall prorate license fees on a monthly~~
22 ~~basis so that each license holder pays only that portion of the~~
23 ~~license fee that is allocable to the number of months during which~~
24 ~~the license is valid. On renewal of the license on the new~~
25 ~~expiration date, the total license renewal fee is payable].~~

26 SECTION 15. Subchapter C, Chapter 1201, Occupations Code,
27 is amended by adding Section 1201.118 to read as follows:

1 Sec. 1201.118. RULES RELATING TO CERTAIN RELATED PERSONS.
2 The board shall adopt rules providing for additional review and
3 scrutiny of any application for an initial or renewal license that
4 involves a related person who has previously:

5 (1) been found in a final order to have participated in
6 one or more violations of this chapter that served as grounds for
7 the suspension or revocation of a license;

8 (2) been found to have engaged in activity subject to
9 this chapter without possessing the required license;

10 (3) caused the trust fund to incur unreimbursed
11 payments or claims; or

12 (4) failed to abide by the terms of a final order,
13 including the payment of any assessed administrative penalties.

14 SECTION 16. Section 1201.1505, Occupations Code, is amended
15 to read as follows:

16 Sec. 1201.1505. DEPOSIT ON SPECIALLY ORDERED MANUFACTURED
17 HOMES. A retailer may require a [an earnest money] deposit on a
18 specially ordered manufactured home ~~[only if:~~

19 ~~[(1) an earnest money contract has been signed by all~~
20 ~~parties,~~

21 ~~[(2) if applicable, the original binding loan~~
22 ~~commitment letter issued by the lender is delivered to the~~
23 ~~consumer; and~~

24 ~~[(3) the consumer has not rescinded the contract under~~
25 ~~Section 1201.1521].~~

26 SECTION 17. The heading to Section 1201.151, Occupations
27 Code, is amended to read as follows:

1 Sec. 1201.151. REFUNDS [~~REFUND OF DEPOSIT~~].

2 SECTION 18. Section 1201.151, Occupations Code, is amended
3 by amending Subsection (a) and adding Subsection (e) to read as
4 follows:

5 (a) Except as otherwise provided by this section, a
6 retailer[, ~~salesperson, or agent of the retailer~~] must refund a
7 consumer's deposit not later than the 15th day after the date that a
8 written request for the refund is received from the consumer.

9 (e) After a binding written agreement has been entered into
10 by a retailer and a consumer who gave a deposit and that deposit
11 becomes a down payment, if the consumer exercises a right of
12 rescission, the retailer shall, not later than the 15th day after
13 the date of the rescission, refund to the consumer all money and
14 other consideration received from the consumer, without offset or
15 deduction.

16 SECTION 19. Section 1201.1521, Occupations Code, is amended
17 to read as follows:

18 Sec. 1201.1521. RESCISSION OF CONTRACT FOR SALE, EXCHANGE,
19 OR LEASE-PURCHASE OF HOME. (a) A person who acquires a
20 manufactured home by purchase, exchange, or lease-purchase may, not
21 later than the third day after the date the applicable contract is
22 signed, rescind the contract without penalty or charge.

23 (b) Subject to rules adopted by the board, a consumer may
24 waive a right of rescission in the event of a bona fide emergency.
25 Such rules shall, to the extent practical, be modeled on the federal
26 rules for the waiver of a right of rescission under 12 C.F.R. Part
27 226.

1 SECTION 20. Section 1201.158, Occupations Code, is amended
2 to read as follows:

3 Sec. 1201.158. SALESPERSON. A licensed salesperson may
4 work only for the salesperson's sponsoring [~~for more than one~~]
5 retailer or broker [~~or at more than one sales location~~].

6 SECTION 21. Section 1201.159, Occupations Code, is amended
7 by amending Subsection (a) and adding Subsections (c) and (d) to
8 read as follows:

9 (a) Except as provided by Section 1201.456, a [A] broker shall
10 ensure that the seller gives the buyer the applicable disclosures and
11 warranties that the buyer would have received if the buyer had
12 purchased the manufactured home through a licensed retailer.

13 (c) A broker shall provide any person who engages the
14 broker's services with a written disclosure of which interests in
15 the transaction, if any, the broker represents.

16 (d) A broker may assist a person who is offering or engaging
17 in the sale, exchange, or lease-purchase of a manufactured home
18 only if that person possesses any license required by this chapter.

19 SECTION 22. Section 1201.161, Occupations Code, is amended
20 by amending Subsections (a) and (d) and adding Subsection (e) to
21 read as follows:

22 (a) Notwithstanding any other statute or rule or ordinance,
23 a licensed retailer or licensed installer is not required to obtain
24 a permit, certificate, or license or pay a fee to transport
25 manufactured housing to the place of installation except as
26 required by[+]

27 [~~(1) the department, or~~

1 ~~[(2)]~~ the Texas Department of Transportation under
2 Subchapter E, Chapter 623, Transportation Code.

3 (d) Unless the information provided for in Subsection (c) is
4 provided electronically, the ~~[The]~~ department shall pay the
5 reasonable cost of providing the copies or the list and information
6 under Subsection (c).

7 ~~(e) The copies and lists to be provided under this section~~
8 may be provided electronically.

9 SECTION 23. Section 1201.162, Occupations Code, is amended
10 to read as follows:

11 Sec. 1201.162. DISCLOSURE BY RETAILER AND LENDER.

12 (a) Before the completion of a credit application or more than one
13 day before entering into any agreement for a sale, exchange, or
14 lease purchase that will not be financed, the retailer ~~[or agent]~~
15 must provide to the consumer a written disclosure in the form
16 promulgated by the board. The disclosure shall be in at least
17 12-point type and must address matters of concern relating to costs
18 and obligations that may be associated with home ownership, matters
19 to be considered in making financing decisions, related costs that
20 may arise when purchasing a manufactured home, and such other
21 matters as the board may deem appropriate to promote informed
22 purchase, financing, and related decisions regarding the
23 acquisition and ownership of a manufactured home. The form shall
24 also conspicuously disclose the consumer's right of rescission.

25 ~~(b) [the following statement that is printed in at least~~
26 ~~12-point type and not attached to or combined with any other written~~
27 ~~material.]~~

1 ~~["When buying a manufactured home, there are a number of~~
2 ~~important considerations, including price, quality of~~
3 ~~construction, features, floor plan, and financing alternatives.~~

4 ~~["The United States Department of Housing and Urban~~
5 ~~Development (HUD) helps protect consumers through regulation and~~
6 ~~enforcement of HUD design and construction standards for~~
7 ~~manufactured homes. Manufactured homes that meet HUD standards are~~
8 ~~known as 'HUD-code manufactured homes.'~~ The Texas Department of
9 ~~Housing and Community Affairs regulates Texas manufacturers,~~
10 ~~retailers, brokers, salespersons, installers, and rebuilders of~~
11 ~~manufactured homes.~~

12 ~~["If you plan to place a manufactured home on land that you~~
13 ~~own or will buy, you should consider items such as:~~

14 ~~["ZONING AND RESTRICTIVE COVENANTS. Municipalities or~~
15 ~~subdivisions may restrict placement of manufactured homes on~~
16 ~~certain lots, may prohibit the placement of homes within a certain~~
17 ~~distance from property lines, may require that homes be a certain~~
18 ~~size, and may impose certain construction requirements. You may~~
19 ~~need to obtain building permits and homeowner association approval~~
20 ~~before you place a manufactured home on a certain lot. Contact the~~
21 ~~local municipality, county, and subdivision manager to find out if~~
22 ~~you can place the manufactured home of your choice on a certain lot.~~

23 ~~["WATER. Be sure that your lot has access to water. If you~~
24 ~~must drill a well, contact several drillers for bids. If water is~~
25 ~~available through a municipality, utility district, water~~
26 ~~district, or cooperative, you should inquire about the rates you~~
27 ~~will have to pay and the costs necessary to join the water system.~~

1 ~~["SEWER. If your lot is not serviced by a municipal sewer~~
2 ~~system or utility district, you will have to install an on-site~~
3 ~~sewer facility (commonly known as a septic system). There are a~~
4 ~~number of concerns or restrictions that will determine if your lot~~
5 ~~is adequate to support an on-site sewer facility. Check with the~~
6 ~~local county or a licensed private installer to determine the~~
7 ~~requirements that apply to your lot and the cost to install such a~~
8 ~~system.~~

9 ~~["HOMEOWNER ASSOCIATION FEES. Many subdivisions have~~
10 ~~mandatory assessments and fees that lot owners must pay. Check with~~
11 ~~the manager of the subdivision in which your lot is located to~~
12 ~~determine if any fees apply to your lot.~~

13 ~~["TAXES. Your home will be appraised and subject to ad~~
14 ~~valorem taxes as are other single-family residential structures.~~
15 ~~These taxes must be escrowed with your monthly payment, except that~~
16 ~~your lender is not obligated to impose an escrow requirement in a~~
17 ~~real property transaction involving a manufactured home if the~~
18 ~~lender is a federally insured financial institution and does not~~
19 ~~otherwise require the escrow of taxes, insurance premiums, fees, or~~
20 ~~other charges in connection with loans secured by residential real~~
21 ~~property. On closing, you will be notified of all provisions~~
22 ~~pertaining to federal truth in lending disclosures.~~

23 ~~["INSURANCE. Your lender may require you to obtain~~
24 ~~insurance that meets lender requirements and protects your~~
25 ~~investment. You should request quotes from the agent of your choice~~
26 ~~to obtain the insurance.~~

27 ~~["TYPES OF MORTGAGES AVAILABLE. The acquisition of a~~

~~manufactured home may be financed by a real estate mortgage or a chattel mortgage. A real estate mortgage may have a lower interest rate than a chattel mortgage.~~

~~["RIGHT OF RESCISSION. If you acquire a manufactured home, by purchase, exchange, or lease-purchase, you may, not later than the third day after the date the applicable contract is signed, rescind the contract without penalty or charge."]~~

~~[(d)]~~ A federally insured financial institution or lender approved or authorized by the United States Department of Housing and Urban Development as a mortgagee with direct endorsement underwriting authority that fully complies with federal Truth in Lending disclosures concerning the terms of a manufactured housing transaction is exempt from the disclosure provisions of this section.

(c) The right of rescission described in Subsection (a) shall apply only to the sale transaction between the retailer and the consumer.

~~[(e)]~~ Failure by the retailer to comply with the disclosure provisions of this section does not affect the validity of a subsequent conveyance or transfer of title of a manufactured home or otherwise impair a title or lien position of a person other than the retailer. The consumer shall continue to have the right of rescission with regard to the retailer until the end of the third day after the retailer delivers a copy of the disclosure required by Subsection (a). The consumer's execution of a signed receipt of a copy of the disclosure required by Subsection (a) shall constitute conclusive proof of the delivery of the disclosure. If the consumer

1 grants a person other than the retailer a lien on the manufactured
2 home, the right of rescission shall immediately cease on the filing
3 of the lien with the department.

4 SECTION 24. Section 1201.164, Occupations Code, is amended
5 to read as follows:

6 Sec. 1201.164. ADVANCE COPY OF [~~INSTALLMENT~~] CONTRACT AND
7 DISCLOSURE STATEMENTS; OFFER BY RETAILER. (a) In a transaction
8 that is to be financed and that will not be subject to the federal
9 Real Estate Settlement Procedures Act of 1974 (Pub. L. No. 93-533)
10 and its implementing regulations [~~chattel mortgage transaction~~
11 ~~involving an installment contract~~], a retailer shall deliver to a
12 consumer at least 24 hours before the contract is fully executed the
13 contract, with all required information included, signed by the
14 retailer. The delivery of the [~~installment~~] contract, with all
15 required information included, signed by the retailer constitutes a
16 firm offer by the retailer. Except as provided for in Subsection
17 (b), the [~~The~~] consumer may accept the offer not earlier than 24
18 hours after the delivery of the contract. If the consumer has not
19 accepted the offer within 72 hours after the delivery of the
20 contract, the retailer may withdraw the offer.

21 (b) The consumer may modify or waive the right to rescind
22 and the deadlines for disclosures before the execution of the
23 contract that are provided by Subsection (a) if the consumer
24 determines that the purchase of the manufactured home is needed to
25 meet a bona fide personal emergency. If the consumer has a bona
26 fide personal emergency that necessitates the immediate purchase of
27 the manufactured home, the consumer shall give the retailer a dated

1 written statement that describes the emergency, specifically
2 modifies or waives the notice periods and any right of rescission,
3 and bears the signature of all of the consumers entitled to the
4 disclosures and right of rescission. In such event the retailer
5 shall immediately give the consumer all of the disclosures required
6 by this code and sell the manufactured home without the required
7 waiting periods or the right of rescission. Printed forms for this
8 purpose are prohibited except in a county that has been declared
9 by the governor to be a major disaster area. If the governor
10 declares a county to be a major disaster area, the retailer may use
11 printed forms promulgated by the department. This exception shall
12 expire one year after the county has been declared a major disaster
13 area.

14 SECTION 25. Sections 1201.203, 1201.204, and 1201.205,
15 Occupations Code, are amended to read as follows:

16 Sec. 1201.203. FORMS; RULES. (a) The board [~~director~~]
17 shall [~~prescribe forms and~~] adopt rules and forms relating to:

- 18 (1) the manufacturer's certificate;
19 (2) the statement of ownership and location;
20 (3) the application for a statement of ownership and
21 location; and
22 (4) the issuance of an initial or revised [~~a~~]
23 statement of ownership [~~and location at the first retail sale and~~
24 ~~for a subsequent sale or transfer of a manufactured home~~].

25 (b) The board [~~director~~] shall adopt rules for the
26 documenting of the ownership and location of a manufactured home
27 that has been previously owned in this state or another state. The

1 rules must protect a lienholder recorded with the department ~~[on a~~
2 ~~statement of ownership and location, a certificate, or other~~
3 ~~document of title]~~.

4 Sec. 1201.204. MANUFACTURERS CERTIFICATE. (a) A
5 manufacturer's certificate must show:

6 (1) on a form prescribed by the director ~~[or on another~~
7 ~~document]~~, the original transfer of a manufactured home from the
8 manufacturer to the retailer; and

9 (2) on a form prescribed by the director, each
10 subsequent transfer of a manufactured home between retailers and
11 from retailer to owner, if the transfer from retailer to owner
12 involves a completed application for the issuance of a statement of
13 ownership and location.

14 (b) At the first retail sale of a manufactured home, a
15 manufacturer's certificate automatically converts to a document
16 that does not evidence any ownership interest in the manufactured
17 home described in the document. A security interest in inventory
18 evidenced by a properly recorded inventory finance lien ~~[the~~
19 ~~manufacturer's certificate]~~ automatically converts to a security
20 interest in proceeds and cash proceeds.

21 (c) After the first retail sale of a manufactured home, the
22 retailer must ~~[may]~~ submit the manufacturer's certificate for that
23 home to the department. If an application for an initial statement
24 of ownership is made without the required manufacturer's
25 certificate and the retailer does not provide it as required, the
26 department shall, on or before the issuance of the requested
27 statement of ownership and location, send written notice to each

1 party currently reflected on the department's records as having a
2 recorded lien on the inventory of that retailer. Failure to include
3 the original manufacturer's certificate with such an application
4 does not impair a consumer's ability to obtain, on submittal of an
5 otherwise complete application, a statement of ownership and
6 location free and clear of any liens other than liens created by or
7 consented to by the consumer.

8 Sec. 1201.205. STATEMENT OF OWNERSHIP AND LOCATION FORM. A
9 statement of ownership and location must be evidenced by a
10 board-approved form issued by the department setting forth
11 [provide]:

12 (1) the name [~~names~~] and address [~~addresses~~] of the
13 [~~purchaser and~~] seller and the name and, if it is different from the
14 location of the home, the mailing address of the new owner;

15 (2) the manufacturer's name and address and any model
16 designation, if available;

17 (3) in accordance with the board's [~~director's~~] rules:

18 (A) the outside dimensions of the manufactured
19 home when installed for occupancy, as measured to the nearest
20 one-half foot at the base of the home, exclusive of the tongue or
21 other towing device; and

22 (B) the approximate square footage of the home
23 when installed for occupancy;

24 (4) the identification number for each section or
25 module of the home;

26 (5) the physical address where [~~county of this state~~
27 ~~in which~~] the home is installed for occupancy, including the name of

1 the county, and, if it is different from the physical address, the
2 mailing address of the owner of the home;

3 (6) in chronological order of recordation, the date of
4 each lien, other than a tax lien, on the home and the name and
5 address of each lienholder, or, if a lien is not recorded, a
6 statement of that fact;

7 (7) a statement regarding tax liens as follows:

8 "On January 1st of each year, a tax lien comes
9 into existence on a manufactured home in favor of each
10 taxing unit having jurisdiction where the home is
11 actually located on January 1st. In order to be
12 enforced, any such lien must be recorded with the Texas
13 Department of Housing and Community Affairs -
14 Manufactured Housing Division as provided by law. You
15 may check that division's records through its website or
16 contact that division to learn any recorded tax liens.
17 To find out about the amount of any unpaid tax
18 liabilities, contact the tax office for the county
19 where the home was actually located on January 1st of
20 that year." ~~[the signature of the owner in ink, given~~
21 ~~on receipt of the document];~~

22 (8) a statement that if two or more eligible persons,
23 as determined by Section 1201.213, file with the application for
24 the issuance of a statement of ownership and location an agreement
25 signed by all the persons providing that the home is to be held
26 jointly with a right of survivorship, the director shall issue the
27 statement of ownership and location in all the names;

1 (9) the location of the home;

2 (10) a statement of whether the owner has elected to
3 treat the home as real property or personal property;

4 (11) statements of whether the home is a salvaged
5 manufactured home and whether the home is reserved for business use
6 only; and

7 (12) any other information the board ~~[director]~~
8 requires.

9 SECTION 26. Section 1201.2055, Occupations Code, is amended
10 by amending Subsection (b) and adding Subsection (i) to read as
11 follows:

12 (b) A statement of election under Subsection (a) must be
13 executed before a notary on the form of application for statement
14 and ownership and location promulgated by the board ~~[made by~~
15 ~~affidavit]~~.

16 (i) Notwithstanding the 60-day deadline specified in
17 Subsection (d), if the closing of a mortgage loan to be secured by
18 real property including the manufactured home is held, the loan is
19 funded, and a deed of trust covering the real property and all
20 improvements on the property is recorded and the licensed title
21 company or attorney who closed the loan failed to complete the
22 conversion to real property in accordance with this chapter, the
23 holder or servicer of the loan may apply for a statement of
24 ownership and location electing real property status, obtain a
25 certified copy of the statement of ownership and location, and make
26 the necessary filings and notifications to complete such conversion
27 at any time provided that:

1 (1) the record owner of the home, as reflected on the
2 department's records, has been given at least 60 days' prior written
3 notice at:

4 (A) the location of the home and, if it is
5 different, the mailing address of the owner as specified in the
6 department records; and

7 (B) any other location the holder or servicer
8 knows or believes, after a reasonable inquiry, to be an address
9 where the owner may have been or is receiving mail or is an address
10 of record; and

11 (2) such notification shall be given by certified
12 mail; and

13 (3) the department by rule shall require evidence that
14 the holder or servicer requesting such after-the-fact completion of
15 a real property election has complied with the requirements of this
16 subsection.

17 SECTION 27. Sections 1201.206, 1201.207, 1201.2075,
18 1201.2076, and 1201.208, Occupations Code, are amended to read as
19 follows:

20 Sec. 1201.206. APPLICATION FOR ISSUANCE OF STATEMENT OF
21 OWNERSHIP AND LOCATION. (a) [~~(b)~~] At the first retail sale of a
22 manufactured home, the retailer shall provide for the installation
23 of the home and ensure that the application for the issuance of a
24 statement of ownership and location is properly completed. The
25 consumer shall return the completed application to the retailer.
26 In accordance with Section 1201.204, the retailer shall surrender
27 to the department the original manufacturer's statement of origin

1 at the same time that the retailer applies for the first statement
 2 of ownership and location.

3 (b) [~~(c)~~] Not later than the 60th [30th] day after the date
 4 of the retail sale, the retailer shall provide to the department the
 5 completed application for the issuance of a statement of ownership
 6 and location. If for any reason the retailer does not timely comply
 7 with the requirements of this subsection, the consumer may apply
 8 for the issuance of the statement.

9 (c) [~~(d)~~] Not later than the 60th [30th] day after the date
 10 of each subsequent sale or transfer of a home that is considered to
 11 be personal property, the seller or transferor shall provide to the
 12 department a completed application for the issuance of a new
 13 statement of ownership and location. If for any reason the seller
 14 or transferor does not timely comply with the requirements of this
 15 subsection, the consumer may apply for the issuance of the
 16 statement.

17 (d) If the seller accepts a trade-in manufactured home as
 18 part of the consideration for the sale of another manufactured
 19 home, the seller shall file a completed application for the
 20 issuance of a new statement of ownership and location reflecting
 21 the change of ownership of the trade-in manufactured home from the
 22 prospective buyer to the seller. The seller shall file the
 23 application for the issuance of a new statement of ownership and
 24 location for the traded in manufactured home at the same time that
 25 the seller files the application for the issuance of a new statement
 26 of ownership and location for the manufactured home that was sold by
 27 the seller. If the seller is a retailer, the seller shall indicate

1 on the application for the issuance of the new statement of
2 ownership and location whether the trade-in manufactured home has
3 been added to the inventory of the retailer.

4 (e) Ownership of a manufactured home does not pass or vest
5 at a sale or transfer of the home until a completed application for
6 the issuance of a statement of ownership and location is filed with
7 the department.

8 (f) If the owner of a manufactured home relocates the home,
9 the owner shall apply for the issuance of a new statement of
10 ownership and location not later than the 60th [~~30th~~] day after the
11 date the home is relocated. The department shall require that the
12 owner submit evidence that the home was relocated in accordance
13 with the requirements of the Texas Department of Transportation.

14 (g) When the seller files an application for the issuance of
15 a statement of ownership and location for a used manufactured home
16 that is not in a retailer's inventory, the seller shall also file
17 with the department a statement from the tax assessor-collector
18 that there are no personal property taxes due on the manufactured
19 home that may have accrued on each January 1 that falls within the
20 18 months before the date of the sale.

21 (h) If a person selling a manufactured home to a consumer
22 for residential use fails to file with the department the
23 application for the issuance of a statement of ownership and
24 location and the appropriate filing fee before the 61st day after
25 the date of the sale, the department may assess a fee of at least
26 \$100 against the seller. The department shall have the authority to
27 enforce the collection of any fee from the seller through judicial

1 means. The department shall place on the application for the
2 issuance of a statement of ownership and location the following
3 legend in a clear and conspicuous manner:

4 "THE FILING OF AN APPLICATION FOR THE ISSUANCE OF A STATEMENT
5 OF OWNERSHIP AND LOCATION LATER THAN SIXTY (60) DAYS AFTER THE DATE
6 OF A SALE TO A CONSUMER FOR RESIDENTIAL USE MAY RESULT IN A FEE OF AT
7 LEAST ONE HUNDRED DOLLARS (\$100.00). ANY SUCH APPLICATION THAT IS
8 SUBMITTED LATE CANNOT BE PROCESSED UNTIL THIS FEE IS PAID IN FULL."

9 (i) When a properly completed notice of installation on the
10 department's promulgated form is filed that relates to a secondary
11 move, the notice must be accompanied by either:

12 (1) one true and correct copy of the original notice of
13 installation; or

14 (2) a certification that a true and correct copy of the
15 notice of installation has been provided to the chief appraiser for
16 the county in which the home was installed; the delivery of the copy
17 of the notice to the chief appraiser may be accomplished by either
18 certified mail or by electronic mailing of the electronically
19 reproduced document in a commonly readable format.

20 (i-1) If the method specified in Subsection (i)(2) is used
21 to report the installation, the department may adopt a discounted
22 fee for the filing of the notice of installation.

23 (j) In addition to providing each tax assessor-collector
24 the monthly report required by Section 1201.220, the department
25 shall, on request, provide a tax assessor-collector one copy of any
26 requested reported notice of installation.

27 (k) Notwithstanding any provision in this chapter to the

1 contrary, if a person has acquired a manufactured home and the owner
 2 of record and any intervening owners of liens or equitable
 3 interests cannot be located to assist in documenting the chain of
 4 title, the department may issue a statement of ownership and
 5 location to the person claiming ownership if the person can provide
 6 a supporting affidavit describing the chain of title and such
 7 reasonable supporting proof as the director may require.

8 Sec. 1201.207. ISSUANCE OF STATEMENT OF OWNERSHIP AND
 9 LOCATION. (a) Except as provided for in Subsection (a-1), the
 10 [The] department shall process any completed application for the
 11 issuance of a statement of ownership and location not later than the
 12 15th working day after the date the application is received by the
 13 department. If the department rejects an application, the
 14 department shall provide a clear and complete explanation of the
 15 reason for the rejection and instructions on how to cure any
 16 defects, if possible.

17 (a-1) For the period immediately following June 30th of each
 18 year, the department shall, except for applications relating to new
 19 manufactured homes and applications accompanied by a tax
 20 certificate, cease issuing statements of ownership and location
 21 until all tax liens filed with the department before June 30th have
 22 been processed and either recorded or rejected. During this period
 23 the department will post on its website a notice as to when it is
 24 anticipated that processing statements of ownership and location
 25 will resume and when it is anticipated that such processing will be
 26 within the 15-working-day time frame provided by Subsection (a).

27 (b) If the department issues a statement of ownership and

1 location for a manufactured home, the department shall maintain a
2 record of the issuance in its electronic records [~~place in its files~~
3 ~~the original statement of ownership and location~~] and shall mail a
4 [~~certified~~] copy to the owner and each [~~of the home and to any~~]
5 lienholder.

6 (c) Except with respect to any change in use, but subject to
7 Section 1201.2075, if the department has issued a statement of
8 ownership and location for a manufactured home, the department may
9 issue a subsequent statement of ownership and location for the home
10 only if all parties reflected in the department's records as having
11 an interest in the manufactured home give their written consent or
12 release their interest, either in writing or by operation of law, or
13 the department has followed the procedures provided by Section
14 1201.206(k) to document ownership and lien status. Once the
15 department issues a statement of ownership and location, the
16 department shall not alter the record of the ownership or lien
17 status of a manufactured home for any activity occurring before the
18 issuance of the statement of ownership and location without either
19 the written permission of the owner of record for the manufactured
20 home or a court order.

21 (d) Notwithstanding any other provision of this chapter, if
22 the consumer purchases a new manufactured home from a licensed
23 retailer in the ordinary course of business, whether or not a
24 statement of ownership and location has been issued for the
25 manufactured home, the consumer is a bona fide purchaser for value
26 without notice and is entitled to ownership of the manufactured
27 home free and clear of all liens and to a statement of ownership and

1 location reflecting the same on payment by the consumer of the
2 purchase price to the retailer. If there is an existing lien on the
3 new manufactured home perfected with the department, the owner of
4 the lien is entitled to recover the value of the lien from the
5 retailer.

6 Sec. 1201.2075. CONVERSION FROM PERSONAL PROPERTY TO REAL
7 PROPERTY. (a) Except as provided by Subsection (b) or Section
8 1201.206(k), the department may not issue a statement of ownership
9 and location for a manufactured home that is being converted from
10 personal property to real property until:

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

13 (2) each lienholder gives written consent, to be
14 placed on file with the department.

15 (b) The department may issue a statement of ownership and
16 location before the release of any liens or the consent of any
17 lienholders as required by this section [~~only~~] if the department
18 releases a certified copy of the statement to:

19 (1) a licensed title insurance company that has issued
20 a commitment to issue a title insurance policy covering all prior
21 liens on the home in connection with a loan that the title company
22 has closed; or

23 (2) a federally insured financial institution or
24 licensed attorney who has obtained from a licensed title insurance
25 company a title insurance policy covering all prior liens on the
26 home.

27 Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL

1 PROPERTY. (a) The department may not issue a statement of
2 ownership and location for a manufactured home that is being
3 converted from real property to personal property until the
4 department has inspected the home and determined that it is
5 habitable and has notified the appropriate tax assessor-collector
6 of the conversion and:

7 (1) each lien, including a tax lien, on the home is
8 released by the lienholder; or

9 (2) each lienholder, including a taxing unit, gives
10 written consent, to be placed on file with the department.

11 (b) For the purposes of Subsection (a)(1), the department
12 may rely on a commitment for title insurance, a title insurance
13 policy, or a lawyer's title opinion to determine that any liens on
14 real property have been released.

15 Sec. 1201.208. PAYMENT OF TAXES REQUIRED FOR ISSUANCE OF
16 STATEMENT OF OWNERSHIP AND LOCATION. (a) Any licensee who sells,
17 exchanges, or lease-purchases a new manufactured home to any
18 consumer is responsible for the payment of all required sales and
19 use tax on such home [~~The department may not issue a statement of~~
20 ~~ownership and location for a new manufactured home installed for~~
21 ~~occupancy in this state unless the state sales and use tax has been~~
22 ~~paid~~].

23 (b) If it is determined that a new manufactured home was
24 sold, exchanged, or lease-purchased without the required sales and
25 use tax being paid, the payment shall be made from the fund, up to
26 the available penal amount of the licensee's bond or the remaining
27 balance of the security for the license, and a claim for

1 reimbursement shall be filed with the licensee's surety or the
2 amount deducted from the security for the license [~~Proof of payment~~
3 ~~may be shown in any manner prescribed by the department~~].

4 SECTION 28. Section 1201.210, Occupations Code, is amended
5 by amending Subsection (c) and adding Subsection (d) to read as
6 follows:

7 (c) A notice of appeal and request for hearing must be filed
8 with the director not later than the 30th day after the date of
9 notice of the director's action. If appeal is not timely made, the
10 revocation or suspension described in the notice of the director's
11 action becomes final.

12 (d) Until a revocation or suspension has become final, the
13 department shall place a hold on any activity relating to the
14 statement of ownership and location other than the recordation of
15 liens, including tax liens.

16 SECTION 29. Subsection (b), Section 1201.214, Occupations
17 Code, is amended to read as follows:

18 (b) An owner or lienholder may provide to the department a
19 ~~the~~ document of title and any additional information required by
20 the department and request that the department issue a statement of
21 ownership and location to replace the document of title. The
22 department shall mail to the owner or lienholder a ~~certified~~ copy
23 of the statement of ownership and location issued under this
24 subsection.

25 SECTION 30. Subsection (a), Section 1201.216, Occupations
26 Code, is amended to read as follows:

27 (a) If the owner of a manufactured home notifies the

1 department that the owner intends to treat the home as real property
2 or to reserve its use for a business purpose or salvage, the
3 department shall indicate on the statement of ownership and
4 location for the home that:

5 (1) the owner of the home has elected to treat the home
6 as real property or to reserve its use for a business purpose or
7 salvage; and

8 (2) except as provided by Section 1201.2055(h), the
9 home is [department] no longer ~~[considers the home to be]~~ a
10 manufactured home for purposes of regulation under this chapter or
11 of recordation of liens, including tax liens.

12 SECTION 31. Section 1201.217, Occupations Code, is amended
13 by amending Subsections (b) and (c) and adding Subsection (f) to
14 read as follows:

15 (b) Before declaring a manufactured home abandoned, the
16 owner of real property on which the home is located must send a
17 notice of intent to declare the home abandoned to the owner of the
18 home, ~~[and]~~ all lienholders at the addresses listed on the home's
19 statement of ownership and location on file with the department, and
20 and the tax collector for each taxing unit that imposes ad valorem
21 taxes on the real property where the home is located. The notice
22 must include the address where the home is currently located. If
23 the person giving such notice knows that the person to whom the
24 notice is being given is no longer at and receiving mail at such
25 address, a reasonable effort shall be made to locate the person and
26 give the person notice at an address where the person is receiving
27 mail. Mailing of the notice by certified mail, return receipt

requested, postage prepaid, to the persons required to be notified by this subsection constitutes conclusive proof of compliance with this subsection.

(c) On receipt of a notice of intent to declare a manufactured home abandoned, the owner of the home or a lienholder may enter the real property on which the home is located to remove the home. The real property owner must disclose to the owner or lienholder seeking to remove the home the location of the home and grant the person reasonable access to the home. A person removing a home is responsible to the real property owner for any damage to the real property resulting from the removal of the home.

(f) This section does not apply if the person who owns the real property has now, or has ever owned, an interest in the manufactured home.

SECTION 32. Sections 1201.219 and 1201.220, Occupations Code, are amended to read as follows:

Sec. 1201.219. PERFECTION AND EFFECT OF LIENS. (a) A lien on manufactured homes in inventory is perfected only by filing the lien ~~[a security agreement]~~ with the department on the required form ~~[in a form that contains the information the director requires]~~. Once perfected, the lien applies to the manufactured homes in the inventory as well as to any proceeds from the sale of those homes. The department may suspend or revoke the license of a retailer who fails to satisfy a perfected inventory lien ~~[under the terms of the security agreement]~~.

(b) Except as provided by Subsection (a), a lien on a manufactured home is perfected only by filing with the department

1 the notice of lien on a form provided by the department. The form
 2 shall require the disclosure of the original dollar amount of the
 3 lien and the name and address of the person in whose name the
 4 manufactured home is listed on the tax roll. The department shall
 5 disclose on its website the date of each lien filing, the original
 6 amount of the lien claimed by each filing, and the fact that the
 7 amount shown does not include additional sums including interest,
 8 penalties, and attorney's fees. The statement required by Section
 9 1201.205(7) [~~recordation of a lien with the department~~] is notice
 10 to all persons that the lien exists. Except as expressly provided
 11 by Chapter 32, Tax Code, a lien recorded with the department has
 12 priority, according to the chronological order of recordation, over
 13 another lien or claim against the manufactured home. Tax liens
 14 shall be filed by the tax collector for any taxing unit having the
 15 power to tax the manufactured home. A single filing by a tax
 16 collector is a filing for all the taxing units for which the tax
 17 collector is empowered to collect.

18 (c) Notwithstanding any other provision of this or any other
 19 law [~~subchapter~~], the filing of a lien security agreement [~~by a~~
 20 ~~secured party perfecting a lien~~] on the inventory of a retailer does
 21 not prevent a buyer in the ordinary course of business, as defined
 22 by Section 1.201, Business & Commerce Code, from acquiring good and
 23 marketable title free of that lien [~~interest~~], and the department
 24 may not consider that [~~security interest as a~~] lien for the purpose
 25 of title issuance.

26 Sec. 1201.220. REPORT TO COUNTY TAX ASSESSOR-COLLECTOR.

27 (a) The department shall provide to each county tax

1 assessor-collector in this state a monthly report that, for each
2 manufactured home reported as having been installed in the county
3 during the preceding month and for each manufactured home
4 previously installed in the county for which a transfer of
5 ownership was recorded by the issuance of a statement of ownership
6 and location during the preceding month, lists:

7 (1) the name of the owner of the home;

8 (2) the name of the manufacturer of the home, if
9 available;

10 (3) the model designation of the home, if available;

11 (4) the identification number of each section or
12 module of the home;

13 (5) the address or location where the home was
14 reported as ~~[is]~~ installed; and

15 (6) the reported date of the installation of the home.

16 (b) The director shall provide a copy of the report to the
17 chief appraiser of the appraisal district established for the
18 county in which the home is reported as installed.

19 SECTION 33. The heading to Section 1201.251, Occupations
20 Code, is amended to read as follows:

21 Sec. 1201.251. STANDARDS AND REQUIREMENTS ADOPTED BY BOARD
22 ~~[DIRECTOR]~~.

23 SECTION 34. Section 1201.251, Occupations Code, is amended
24 by amending Subsection (a) and adding Subsections (d) and (e) to
25 read as follows:

26 (a) The board ~~[director]~~ shall adopt standards and
27 requirements for:

1 (1) the installation and construction of manufactured
2 housing that are reasonably necessary to protect the health,
3 safety, and welfare of the occupants and the public; and

4 (2) the construction of HUD-code manufactured homes in
5 compliance with the federal standards and requirements established
6 under the National Manufactured Housing Construction and Safety
7 Standards Act of 1974 (42 U.S.C. Section 5401 et seq.).

8 (d) In order to ensure that the determinations required by
9 this section are properly made by qualified persons:

10 (1) the board's rules may provide for the approval of
11 foundation systems and devices that have been approved by licensed
12 engineers; and

13 (2) any generic installation standards promulgated by
14 rule shall first be reviewed by an advisory committee established
15 by the board comprised of representatives of manufacturers,
16 installers, and manufacturers of stabilization systems or devices,
17 including one or more licensed engineers.

18 (e) The advisory committee established by Subsection (d)
19 shall make a report to the board setting forth each comment and
20 concern over any proposed rules. The members of the committee shall
21 have no personal liability for providing this advice.

22 SECTION 35. Subsection (a), Section 1201.252, Occupations
23 Code, is amended to read as follows:

24 (a) A local governmental unit of this state may not adopt a
25 standard for the construction or installation of manufactured
26 housing in the local governmental unit that is different from a
27 standard adopted by the board [~~director~~] unless, after a hearing,

1 the board expressly approves the proposed standard.

2 SECTION 36. Sections 1201.253, 1201.254, and 1201.255,
3 Occupations Code, are amended to read as follows:

4 Sec. 1201.253. HEARING ON STANDARD OR REQUIREMENT. The
5 director shall publish notice and conduct a public hearing [~~in~~
6 ~~accordance with Sections 1201.054 and 1201.060~~] before:

7 (1) adopting a standard or requirement authorized by
8 this subchapter;

9 (2) amending a standard authorized by this subchapter;
10 or

11 (3) approving a standard proposed by a local
12 governmental unit under Section 1201.252.

13 Sec. 1201.254. EFFECTIVE DATE OF REQUIREMENT OR STANDARD.
14 Each requirement or standard that is adopted, modified, amended, or
15 repealed by the board [~~director~~] must state its effective date [~~as~~
16 ~~provided by Section 1201.054~~].

17 Sec. 1201.255. INSTALLATION OF MANUFACTURED HOUSING.
18 (a) Except as authorized under Section 1201.252, manufactured
19 housing that is installed must be installed in compliance with the
20 standards and rules adopted and orders issued by the department. An
21 uninstalled manufactured home may not be occupied for any purpose.

22 (b) An installer may not install a manufactured home at a
23 location on a site that has evidence of ponding, runoff under heavy
24 rains, or bare uncompacted soil unless the installer first obtains
25 the owner's signature on a form promulgated by the board disclosing
26 that such conditions may contribute to problems with the
27 stabilization system for that manufactured home, including

1 possible damage to that home, and the owner accepts that risk
2 ~~[director]~~.

3 SECTION 37. Subsection (b), Section 1201.301, Occupations
4 Code, is amended to read as follows:

5 (b) In enforcing this chapter, the director may authorize a
6 state inspector to travel inside or outside of the state to inspect
7 a licensee ~~[manufacturing facility]~~.

8 SECTION 38. The heading to Section 1201.302, Occupations
9 Code, is amended to read as follows:

10 Sec. 1201.302. INSPECTION BY LOCAL GOVERNMENTAL UNITS
11 ~~[ENTITIES OTHER THAN DEPARTMENT]~~.

12 SECTION 39. Subsections (a) and (b), Section 1201.302,
13 Occupations Code, are amended to read as follows:

14 (a) To ensure that a manufactured home sold or installed in
15 this state complies with the standards code, the director may by
16 contract provide for a federal agency or an agency or political
17 subdivision of this state or another state to perform an inspection
18 or inspection program under this chapter or under rules adopted by
19 the board ~~[director]~~.

20 (b) On request, the department shall authorize a local
21 governmental unit in this state to perform an inspection or
22 enforcement activity related to the construction of a foundation
23 system or the erection or installation of manufactured housing at a
24 homesite under a contract or other official designation and rules
25 adopted by the board ~~[director]~~. The department may withdraw the
26 authorization if the local governmental unit fails to follow the
27 rules, interpretations, and written instructions of the

1 department.

2 SECTION 40. Subsections (a) and (b), Section 1201.351,
3 Occupations Code, are amended to read as follows:

4 (a) The manufacturer of a new HUD-code manufactured home
5 shall warrant, in a separate written document, that:

6 (1) the home is constructed or assembled in accordance
7 with all building codes, standards, requirements, and regulations
8 prescribed by the United States Department of Housing and Urban
9 Development under the National Manufactured Housing Construction
10 and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.);
11 and

12 (2) the home and all appliances and equipment included
13 in the home are free from defects in materials or workmanship except
14 for cosmetic defects.

15 (b) The manufacturer's warranty is in effect until at least
16 the first anniversary of the date of initial installation of the
17 home at the consumer's homesite or the closing of the consumer's
18 purchase or acquisition of an already installed new home.

19 SECTION 41. Sections 1201.352 through 1201.355,
20 Occupations Code, are amended to read as follows:

21 Sec. 1201.352. RETAILER'S WARRANTY ON A NEW HUD-CODE
22 MANUFACTURED HOME. (a) The retailer of a new HUD-code
23 manufactured home shall warrant to the consumer in writing that:

24 (1) installation of the home at the initial homesite
25 was or will be, as applicable, completed in accordance with all
26 department standards, rules, orders, and requirements; and

27 (2) appliances and equipment included with the sale of

1 the home and installed by the retailer are or will be:

2 (A) installed in accordance with the
3 instructions or specifications of the manufacturers of the
4 appliances or equipment; and

5 (B) free from defects in materials or
6 workmanship, provided, however, that the warranty may expressly
7 disclaim or limit any warranty regarding cosmetic defects.

8 (b) The retailer's warranty on a new HUD-code manufactured
9 home is in effect until the first anniversary of the later of the
10 date of initial installation of the home at the consumer's homesite
11 or the closing of the consumer's purchase or acquisition of the
12 home.

13 (c) Before the signing of a binding retail installment sales
14 contract or other binding purchase agreement on a new HUD-code
15 manufactured home, the retailer must give the consumer a copy of:

16 (1) the manufacturer's warranty;

17 (2) the retailer's warranty;

18 (3) the warranties given by the manufacturers of
19 appliances or equipment included with the home; and

20 (4) the name and address of the manufacturer or
21 retailer to whom the consumer is to give notice of a warranty
22 service request.

23 (d) Not later than the 30th day after the installation of a
24 new HUD-code manufactured home, the retailer shall deliver to the
25 consumer a copy of the warranty given by the licensed installer.

26 Sec. 1201.353. NOTICE OF NEED FOR WARRANTY SERVICE.

27 (a) The consumer shall give written notice to the manufacturer,

1 ~~[or]~~ retailer, or installer, as applicable, of a need for warranty
2 service or repairs.

3 (b) Written notice to the department is deemed to be notice
4 to the manufacturer, ~~[or]~~ retailer, or installer commencing three
5 business days after receipt and forwarding of the notice by the
6 department to the licensee by regular mail or electronic mail of a
7 scanned copy of the notice.

8 Sec. 1201.354. CORRECTIVE ACTION REQUIRED. The
9 manufacturer, ~~[or]~~ retailer, or installer, as applicable, shall
10 take appropriate corrective action within a reasonable period as
11 required by department rules to fulfill the written warranty
12 obligation.

13 Sec. 1201.355. CONSUMER COMPLAINT HOME INSPECTION. (a) If
14 the manufacturer, ~~[or]~~ retailer, or installer does not provide the
15 consumer with proper warranty service, the consumer may, at any
16 time, request the department to perform a consumer complaint home
17 inspection. The department may not charge a fee for the inspection.

18 (b) On payment of the required inspection fee, the
19 manufacturer, ~~[or]~~ retailer, or installer may request the
20 department to perform a consumer complaint home inspection if the
21 manufacturer, ~~[or]~~ retailer, or installer:

22 (1) believes the consumer's complaints are not covered
23 by the warranty of the manufacturer, ~~[or]~~ retailer, or installer,
24 as applicable;

25 (2) believes that the warranty service was properly
26 provided; or

27 (3) disputes responsibility concerning the warranty

1 obligation.

2 (c) The department shall perform a consumer complaint home
3 inspection not later than the 30th day after the date of receipt of
4 a request for the inspection.

5 (d) Notwithstanding any other provision of this section,
6 the department may make an inspection at any time if it believes
7 that there is a reasonable possibility that a condition exists that
8 would present an imminent threat to health or safety.

9 SECTION 42. Subsections (a), (b), and (c), Section
10 1201.356, Occupations Code, are amended to read as follows:

11 (a) Not later than the 10th day after the date of a
12 consumer complaint home inspection, the department shall send a
13 written report and any order to the consumer, manufacturer, ~~and~~
14 retailer, and installer by certified mail, return receipt
15 requested.

16 (b) The report shall specify:

17 (1) each of the consumer's complaints; and

18 (2) whether the complaint is covered by ~~either~~ the
19 manufacturer's, ~~or~~ retailer's, or installer's warranty and, if
20 so, which of those warranties.

21 (c) The director shall issue to the manufacturer, ~~or~~
22 retailer, or installer an appropriate order for corrective action
23 by the manufacturer, ~~or~~ retailer, or installer specifying a
24 reasonable period for completion of the corrective action. With
25 regard to new manufactured homes, both the installer and the
26 retailer are responsible for the warranty of installation. If the
27 department determines that a complaint is covered by the

1 installation warranty, the director shall issue the order to the
2 installer for the corrective action. If the installer fails to
3 perform the corrective action, the installer shall be subject to
4 the provisions of Section 1201.357. In that instance, the director
5 shall issue the same order for corrective action to the retailer
6 with a new time frame not to exceed 10 days unless additional time
7 is needed for compliance upon a showing of good cause. If the
8 retailer is compelled to perform corrective action because of the
9 failure of the installer to comply with the director's order, the
10 retailer may seek reimbursement from the installer. If the
11 installer does not pay the reimbursement before the 31st day after
12 the reimbursement is sought, the retailer may seek reimbursement
13 from the bond of the installer. The period for the performance of
14 any required warranty work may be shortened by the director as much
15 as is feasible if the warranty work is believed necessary to address
16 a possible imminent threat to health or safety.

17 SECTION 43. Sections 1201.357 and 1201.358, Occupations
18 Code, are amended to read as follows:

19 Sec. 1201.357. FAILURE TO PROVIDE WARRANTY SERVICE.
20 (a) If the manufacturer, [or] retailer, or installer, as
21 applicable, fails to provide warranty service within a [the] period
22 specified by the director [under Section 1201.356], the
23 manufacturer, [or] retailer, or installer must show good cause in
24 writing as to why the manufacturer, [or] retailer, or installer
25 failed to provide the service.

26 (b) If the manufacturer, [or] retailer, or installer, as
27 applicable, fails or refuses to provide warranty service in

1 accordance with the department order under Section 1201.356, the
2 director shall hold an informal meeting [~~a hearing~~] at which the
3 manufacturer, ~~or~~ retailer, or installer must show cause as to why
4 the manufacturer's, ~~or~~ retailer's, or installer's license should
5 not be suspended or revoked and at which the consumer may express
6 the person's views. Following the meeting, the director shall
7 either resolve the matter by agreed order, dismiss the matter if no
8 violation is found to have occurred, or institute an administrative
9 action, which may include license suspension or revocation, the
10 assessment of administrative penalties, or a combination of such
11 actions.

12 (c) If the manufacturer, ~~or~~ retailer, or installer is
13 unable to provide warranty service in accordance with the
14 department order under Section 1201.356 as a result of an action of
15 the consumer, the manufacturer, ~~or~~ retailer, or installer must
16 make that allegation in the written statement required by
17 Subsection (a). The department shall investigate the allegation,
18 and if the department determines that the allegation is credible,
19 the department shall issue a new order specifying the date and time
20 of the proposed corrective action. The department shall send the
21 order to the consumer and the manufacturer, ~~or~~ retailer, or
22 installer, as applicable, by certified mail, return receipt
23 requested. If the consumer refuses to comply with the department's
24 new order, the manufacturer, ~~or~~ retailer, or installer, as
25 applicable:

26 (1) is discharged from the obligations imposed by the
27 relevant department orders;

1 (2) has no liability to the consumer with regard to
2 that warranty; and

3 (3) is not subject to an action by the department for
4 failure to provide warranty service.

5 Sec. 1201.358. FAILURE TO SHOW GOOD CAUSE; HEARING RESULTS.

6 (a) Failure by the manufacturer, ~~[or]~~ retailer, or installer to
7 show good cause under Section 1201.357(a) is a sufficient basis for
8 suspension or revocation of the manufacturer's, ~~[or]~~ retailer's, or
9 installer's license.

10 (b) If the director determines that an order was incorrect
11 regarding a warranty obligation, the director shall issue a final
12 order stating the correct warranty obligation and the right of the
13 manufacturer, installer, or retailer to indemnification from one of
14 the other parties ~~[after the hearing under Section 1201.357(b), the~~
15 ~~director determines that the order under Section 1201.356 was~~
16 ~~correct in the determination of the warranty obligation of the~~
17 ~~manufacturer or retailer, failure or refusal by the manufacturer or~~
18 ~~retailer to comply with the order is a sufficient cause for~~
19 ~~suspension or revocation of the manufacturer's or retailer's~~
20 ~~license. If the director determines that the order was incorrect~~
21 ~~regarding that obligation, the director shall issue a final order~~
22 ~~stating the correct obligation and the right of the manufacturer or~~
23 ~~retailer to indemnification from the other]~~.

24 (c) The director may issue an order:

25 (1) directing a manufacturer, ~~[or]~~ retailer, or
26 installer whose license is not revoked and who is not out of
27 business to perform the warranty obligation of a manufacturer, ~~[or]~~

1 retailer, or installer whose license is revoked or who is out of
2 business; and

3 (2) giving the manufacturer, ~~[or]~~ retailer, or
4 installer performing the obligation the right of indemnification
5 against another party ~~[the other]~~.

6 (d) A manufacturer, ~~[or]~~ retailer, or installer entitled to
7 indemnification under this section is a consumer for purposes of
8 Subchapter I and may recover actual damages ~~[and attorney's fees]~~
9 from the trust fund.

10 SECTION 44. Section 1201.361, Occupations Code, is amended
11 to read as follows:

12 Sec. 1201.361. INSTALLERS WARRANTY. (a) For all
13 ~~[secondary] installations [not covered by the retailer's warranty~~
14 ~~described by Section 1201.352 and for the installation of all used~~
15 ~~manufactured homes]~~, the installer shall give the manufactured home
16 owner a written warranty that the installation of the home was
17 performed in accordance with all department standards, rules,
18 orders, and requirements. The warranty for the installation of a
19 new HUD-code manufactured home is to be given by the retailer, who
20 is responsible for installation. If the retailer subcontracts this
21 function to a licensed installer, the retailer and installer are
22 jointly and severally responsible for performance of the warranty.

23 (b) The warranty must conspicuously disclose the
24 requirement that the consumer notify the installer of any claim in
25 writing in accordance with the terms of the warranty. Unless the
26 warranty provides for a longer period, the installer or retailer
27 has no obligation or liability under the persons warranty for any

1 defect described in a written notice received from the consumer
2 more than two years after the later of the date of purchase or the
3 date of ~~the~~ installation.

4 SECTION 45. Subchapter H, Chapter 1201, Occupations Code,
5 is amended by adding Section 1201.362 to read as follows:

6 Sec. 1201.362. INSPECTIONS NOT LIMITED; CORRECTIONS.

7 (a) Nothing in this chapter shall limit the ability of the
8 department to inspect a manufactured home at any time.

9 (b) Notwithstanding the limitations and terms of any
10 warranty, the director may, whenever the department identifies any
11 aspect of an installation that does not conform to applicable
12 requirements, order the licensee who performed the installation to
13 correct it, or, if that licensee is no longer licensed, reassign
14 correction to a licensed installer and reimburse the person from
15 the fund for the costs of correction.

16 SECTION 46. Section 1201.401, Occupations Code, is amended
17 to read as follows:

18 Sec. 1201.401. MANUFACTURED HOMEOWNERS' RECOVERY TRUST
19 FUND. The manufactured homeowners' recovery trust fund is a
20 dedicated fund held in trust for carrying out the specific purposes
21 of the ~~[an account in the general revenue]~~ fund.

22 SECTION 47. Subsection (a), Section 1201.402, Occupations
23 Code, is amended to read as follows:

24 (a) The director shall administer the trust fund ~~[as trustee~~
25 ~~of that fund]~~.

26 SECTION 48. Subsection (b), Section 1201.404, Occupations
27 Code, is amended to read as follows:

1 (b) The trust fund and the director are not liable to the
2 consumer if the trust fund does not have the money necessary to pay
3 the actual damages [~~and attorney's fees~~] determined to be payable.
4 The director shall record the date and time of receipt of each
5 verified complaint and, as money becomes available, pay the
6 consumer whose claim is the earliest by date and time to have been
7 found to be verified and properly payable.

8 SECTION 49. Section 1201.405, Occupations Code, is amended
9 by adding Subsections (f) and (g) to read as follows:

10 (f) The trust fund is not liable for and the director may not
11 pay actual damages:

12 (1) to reimburse an affiliate or related person of a
13 licensee, except when the director issues an order under Sections
14 1201.358(c) and (d);

15 (2) to correct matters that are solely cosmetic in
16 nature; or

17 (3) to or for attorney's fees; or

18 (4) to address other matters, unless the matters
19 involve:

20 (A) a breach of warranty;

21 (B) a failure to return or apply as agreed money
22 received from a consumer or money for which the consumer was
23 obligated; or

24 (C) the breach of an agreement to provide goods
25 or services necessary to the safe and habitable use of a
26 manufactured home such as steps, air conditioning, access to
27 utilities, or access to sewage and wastewater treatment.

1 (g) The board by rule may place reasonable limits on the
2 costs that may be approved for payment from the trust fund,
3 including the costs of reassigned warranty work, and require
4 consumers making claims that may be subject to reimbursement from
5 the trust fund to provide estimates establishing that the cost will
6 be reasonable. Such rules may also specify such procedures and
7 requirements as the board may deem necessary and advisable for the
8 administration of the trust fund.

9 SECTION 50. Sections 1201.406 and 1201.407, Occupations
10 Code, are amended to read as follows:

11 Sec. 1201.406. PROCEDURE FOR RECOVERY FROM TRUST FUND.

12 (a) To recover from the trust fund, a consumer must file a written,
13 sworn complaint in the form required by the director not later than
14 the second anniversary of:

15 (1) the date of the alleged act or omission causing the
16 actual damages; or

17 (2) the date the act or omission is discovered or
18 should reasonably have been discovered.

19 (b) On receipt of a verified complaint, the department
20 shall:

21 (1) notify each appropriate license holder and the
22 issuer of any surety bond issued in connection with their licenses;
23 [and]

24 (2) investigate the claim and issue a preliminary
25 determination, giving the consumer, the licensee, and any surety an
26 opportunity to resolve the matter by agreement or to dispute the
27 preliminary determination.

(c) If the matter being investigated is not resolved by agreement or is disputed by written notice to the director before the 31st day after the date of the preliminary determination, the preliminary determination shall automatically become final and the director shall make demand on the surety or deduct any payable amount of the claim from the licensee's security ~~[to determine:~~

~~[(A) the validity of the claim; and
[(B) whether the complaint can be resolved by remedial action of the license holder].~~

Sec. 1201.407. DISAGREEMENT OF PARTIES; INFORMAL DISPUTE RESOLUTION PROCESS. (a) If a preliminary determination is disputed, the ~~[license holders or a license holder and a consumer disagree as to responsibility for a complaint, the]~~ department shall conduct an informal dispute resolution process, including a home inspection if appropriate, to resolve the dispute.

(b) For a preliminary determination that has been disputed ~~[claim determined]~~ to become final and ~~[be]~~ valid, the department shall make any changes the director determines to be appropriate and issue another written ~~[a]~~ preliminary determination ~~[during the informal dispute resolution process]~~ as to the responsibility and liability of the manufacturer, retailer, broker, and installer.

(c) Before making a final determination, the department shall allow ~~[provide]~~ a license holder 10 days ~~[an opportunity]~~ to comment on this ~~[the]~~ preliminary determination.

(d) After consideration of the comments, if any, the director shall issue a final determination.

(e) The final determination may be appealed to the board on

1 or before the 10th day after the date of its issuance by giving
 2 written notice to the director, who shall place the matter before
 3 the board at the next meeting held on a date for which the matter
 4 could be publicly posted as required by Chapter 551, Government
 5 Code.

6 (f) Any ~~[The department shall notify a license holder's~~
 7 ~~surety and give the surety an opportunity to participate in the~~
 8 ~~informal dispute resolution process if the license holder:~~

9 ~~[(1) is out of business;~~

10 ~~[(2) is no longer licensed; or~~

11 ~~[(3) has filed for liquidation or reorganization in~~
 12 ~~bankruptcy.~~

13 ~~[(c) If, after receiving notice of the claim, a license~~
 14 ~~holder or the license holder's surety fails or refuses to~~
 15 ~~participate in the informal dispute resolution process, the]~~
 16 license holder or surety, as applicable, is bound by the
 17 department's final determination of responsibility and liability.

18 SECTION 51. Subsections (a) and (b), Section 1201.409,
 19 Occupations Code, are amended to read as follows:

20 (a) Except as otherwise provided by Subchapter C, the trust
 21 fund shall be reimbursed by the surety on a bond or from other
 22 security filed under Subchapter C for the amount of a claim that[+]

23 ~~[(1)]~~ is paid out of the trust fund by the director to
 24 a consumer in accordance with this subchapter~~[, and~~

25 ~~[(2) resulted from an act or omission of the license~~
 26 ~~holder who filed the bond or other security].~~

27 (b) Payment by the surety or from the other security must be

1 made not later than the 30th day after the date of ~~[receipt of]~~
2 notice from the director that a consumer claim has been paid.

3 SECTION 52. Section 1201.410, Occupations Code, is amended
4 to read as follows:

5 Sec. 1201.410. INFORMATION ON RECOVERY FROM TRUST FUND
6 ~~[INFORMATIONAL PAMPHLET]~~. ~~[(a)]~~ The director shall prepare
7 information for notifying ~~[a pamphlet informing]~~ consumers of their
8 rights to recover from the trust fund, shall post the information on
9 the department's website, and shall make printed copies available
10 on request.

11 ~~[(b) The director may contract with a private party for the~~
12 ~~printing and distribution of the pamphlet.]~~

13 SECTION 53. Subsection (b), Section 1201.451, Occupations
14 Code, is amended to read as follows:

15 (b) Not later than the 60th ~~[30th]~~ day after the effective
16 date of the transfer of ownership or the date the seller or
17 transferor obtains possession of the necessary and properly
18 executed documents, the seller or transferor shall forward to the
19 purchaser or transferee the necessary, executed documents. If the
20 seller or transferor fails to forward the documents on a timely
21 basis, the purchaser or transferee may apply directly for the
22 documents. On receipt of the documents, the purchaser or
23 transferee shall apply for the issuance of a statement of ownership
24 and location.

25 SECTION 54. Subsection (b), Section 1201.457, Occupations
26 Code, is amended to read as follows:

27 (b) If a used manufactured home is reserved for business use

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

12 SECTION 55. Section 1201.459, Occupations Code, is amended
 13 to read as follows:

14 Sec. 1201.459. COMPLIANCE NOT REQUIRED FOR SALE FOR
 15 COLLECTION OF DELINQUENT TAXES. (a) In selling a manufactured
 16 home to collect delinquent taxes, a tax assessor-collector
 17 [~~collector~~] is not required to comply with this subchapter or
 18 another provision of this chapter relating to the sale of a used
 19 manufactured home.

20 (b) If a [~~the~~] home does not have a serial number, seal, or
 21 label, the tax appraiser or tax assessor-collector [~~collector~~] may:

- 22 (1) apply to the department for a seal;
 - 23 (2) pay the applicable fee; and
 - 24 (3) recover that fee as part of the cost of the sale of
- 25 the home if the tax appraiser or assessor-collector assumes full
 26 responsibility for the affixation of a seal to the home and the seal
 27 is actually affixed on the home.

1 (c) A ~~[The]~~ seal issued to a tax appraiser or ~~[the]~~ tax
2 assessor-collector ~~[collector]~~ is for identification purposes only
3 and does not imply that:

4 (1) the home is habitable; or

5 (2) a purchaser of the home at a tax sale may obtain a
6 new statement of ownership and location from the department without
7 an inspection for habitability.

8 SECTION 56. The heading to Section 1201.461, Occupations
9 Code, is amended to read as follows:

10 Sec. 1201.461. SALVAGED MANUFACTURED HOME; CRIMINAL
11 PENALTY.

12 SECTION 57. Section 1201.461, Occupations Code, is amended
13 by adding Subsections (g) and (h) to read as follows:

14 (g) A county or other unit of local government that
15 identifies a manufactured home within its jurisdiction that has
16 been declared salvage may impose on that home such inspection,
17 correction, and other requirements as it could apply if the home
18 were not a manufactured home.

19 (h) A licensee may not participate in the sale, exchange,
20 lease-purchase, or installation for use as a dwelling of a
21 manufactured home that is salvage and that has not been repaired in
22 accordance with this chapter and the department's rules. An act
23 that is prohibited by this subsection is deemed to be a practice
24 that constitutes an imminent threat to health or safety and is
25 subject to the imposition of penalties and other sanctions provided
26 for by this chapter. A violation of this subsection is a Class B
27 misdemeanor.

1 SECTION 58. Section 1201.503, Occupations Code, is amended
2 to read as follows:

3 Sec. 1201.503. PROHIBITED ALTERATION. Before the sale to a
4 consumer of a new manufactured home to which a label has been
5 attached and before installation of the home, a manufacturer,
6 retailer, broker, or installer may not alter the home or cause the
7 home to be altered without obtaining prior written approval from a
8 licensed engineer and providing evidence of such approval to the
9 department.

10 SECTION 59. Subsection (a), Section 1201.506, Occupations
11 Code, is amended to read as follows:

12 (a) A retailer or broker:

13 (1) shall comply with Subtitles A and B, Title 4,
14 Finance Code, and the Truth in Lending Act (15 U.S.C. Section 1601
15 et seq.); ~~and~~

16 (2) may not advertise an interest rate or finance
17 charge that is not expressed as an annual percentage rate; and

18 (3) shall comply with all applicable provisions of the
19 Finance Code.

20 SECTION 60. Subchapter K, Chapter 1201, Occupations Code,
21 is amended by adding Section 1201.513 to read as follows:

22 Sec. 1201.513. DISPOSITION OF TRADE-INS AND OCCUPANCY OF
23 HOMES BEFORE CLOSING. (a) A retailer may not sell a trade-in
24 manufactured home before the closing of the sale in connection with
25 which the retailer receives the trade-in.

26 (b) A retailer may not knowingly permit a consumer to occupy
27 a manufactured home that is the subject of a sale, exchange, or

1 lease-purchase to that consumer before the closing of any required
2 financing unless the consumer is first given a form adopted by the
3 board disclosing that if for any reason the financing does not
4 close, the consumer may be required to vacate the home.

5 SECTION 61. Sections 1201.551, 1201.552, and 1201.553,
6 Occupations Code, are amended to read as follows:

7 Sec. 1201.551. DENIAL OF LICENSE; DISCIPLINARY ACTION.

8 (a) The director[~~, after notice as provided for under Section~~
9 ~~1201.054 and a hearing as provided by Sections 1201.054 and~~
10 ~~1201.060,~~] may deny, permanently revoke, or suspend for a definite
11 period and specified sales location or geographic area a license if
12 the director determines that the applicant or license holder:

13 (1) knowingly and wilfully violated this chapter or a
14 rule adopted or order issued under this chapter;

15 (2) unlawfully retained or converted money, property,
16 or any other thing of value from a consumer in the form of a down
17 payment, sales or use tax, deposit, or insurance premium;

18 (3) failed repeatedly to file with the department a
19 completed [~~timely provide to a consumer an~~] application for a
20 statement of ownership and location before the 61st day after the
21 date of the sale of a manufactured home as required by Section
22 1201.206 or the date of the installation, whichever occurred later
23 [~~and any information necessary to complete the application~~];

24 (4) failed to give or breached a manufactured home
25 warranty required by this chapter or by the Federal Trade
26 Commission;

27 (5) engaged in a false, misleading, or deceptive act

1 or practice as described by Subchapter E, Chapter 17, Business &
2 Commerce Code;

3 (6) failed to provide or file a report required by the
4 department for the administration or enforcement of this chapter;

5 (7) provided false information on an application,
6 report, or other document filed with the department;

7 (8) acquired a criminal record during the five-year
8 period preceding the application date that, in the opinion of the
9 director, makes the applicant unfit for licensing; ~~[or]~~

10 (9) failed to file a bond or other security for each
11 location as required by Subchapter C; or

12 (10) has had another license issued by this state
13 revoked or suspended.

14 (b) The director ~~[department]~~ may suspend or revoke a
15 license if, after receiving notice of a claim, the license holder or
16 the license holder's surety fails or refuses to pay a final claim
17 paid from the trust fund for which demand for reimbursement was made
18 ~~[participate in the informal dispute resolution process described~~
19 ~~by Section 1201.407].~~

20 Sec. 1201.552. ~~[HEARING CONCERNING]~~ LICENSE REVOCATION,
21 SUSPENSION, OR DENIAL; HEARING. The director may issue an order to
22 revoke, suspend, or deny a new or renewal license. If, before the
23 31st day after an order revoking, suspending, or denying a license
24 is issued, the person against whom the order is issued requests a
25 hearing by giving written notice to the director, the director
26 shall set a hearing before the State Office of Administrative
27 Hearings. If the person does not request a hearing before the 31st

1 day after the date the order is issued, the order becomes final.
2 Any administrative proceedings relating to the revocation,
3 suspension, or denial of a license under this subsection shall be a
4 contested case under Chapter 2001, Government Code. The board
5 shall issue an order after receiving a proposal for decision ~~[shall~~
6 ~~conduct a hearing involving the denial, renewal, revocation, or~~
7 ~~suspension of a license in accordance with Chapter 2001, Government~~
8 ~~Code]~~.

9 Sec. 1201.553. JUDICIAL REVIEW. Judicial review of any
10 ~~[an]~~ order, decision, or determination of the board ~~[director]~~ is
11 instituted by filing a petition with a district court in Travis
12 County as provided by Chapter 2001, Government Code.

13 SECTION 62. Section 1201.605, Occupations Code, is amended
14 to read as follows:

15 Sec. 1201.605. ADMINISTRATIVE PENALTY. (a) The director
16 may assess against a person who fails to comply with ~~[obtain or~~
17 ~~maintain a license as required by]~~ this chapter, the rules adopted
18 under this chapter, or any final order of the department an
19 administrative penalty in an amount not to exceed \$10,000 for each
20 violation of this chapter and:

- 21 (1) reasonable attorney's fees;
- 22 (2) administrative costs;
- 23 (3) witness fees;
- 24 (4) investigative costs; and
- 25 (5) deposition expenses.

26 (b) The director may assess against a licensee ~~[retailer]~~
27 who fails to provide information to a consumer as required by this

chapter an administrative penalty in an amount not to exceed:

- (1) \$1,000 for the first violation;
- (2) \$2,000 for the second violation; and
- (3) \$4,000 for each subsequent violation.

(c) In determining the amount of an administrative penalty assessed under this section, the director shall consider:

- (1) the seriousness of the violation;
- (2) the history of previous violations;
- (3) the amount necessary to deter future violations;
- (4) efforts made to correct the violation; and
- (5) any other matters that justice may require.

(d) The director may impose an administrative penalty in accordance with this section. If, before the 31st day after the date a person receives notice of the imposition of an administrative penalty, the person requests a hearing by giving written notice to the director, the director shall set a hearing before the State Office of Administrative Hearings. If the person does not request a hearing before the 31st day after the date the person receives notice of the imposition of the administrative penalty, the penalty becomes final. Any administrative proceedings relating to the imposition of an administrative penalty under this subsection shall be a contested case under Chapter 2001, Government Code. The board shall issue an order after receiving a proposal for decision.

SECTION 63. Subchapter M, Chapter 1201, Occupations Code, is amended by adding Sections 1201.607 through 1201.611 to read as follows:

1 Sec. 1201.607. ISSUANCE OF ORDERS AND REQUESTS FOR
2 HEARINGS. Any order issued by the director under this chapter, if
3 not appealed before the 31st day after the date the order was
4 issued, shall automatically become a final order. If the person
5 made the subject of the order files a written request for a hearing
6 with the director, the order shall be deemed to have been appealed
7 and shall be a contested case under Chapter 2001, Government Code.
8 The director shall set any appealed order for a hearing before the
9 State Office of Administrative Hearings, and the board shall issue
10 a final order after receiving and reviewing the proposal for
11 decision issued pursuant to such hearing.

12 Sec. 1201.608. INSPECTION OF LICENSEE RECORDS. (a) The
13 department may inspect a licensee's records during normal business
14 hours without advance notice if the director believes that such
15 inspection is necessary to prevent a violation of this chapter, to
16 protect a consumer or another licensee, or to assist another state
17 or federal agency in an investigation.

18 (b) The director may request or issue subpoenas for a
19 licensee's records.

20 (c) The department may carry out "sting" or undercover
21 investigations in accordance with board-adopted rules if the
22 director believes such action to be appropriate in order to detect
23 and address suspected violations of this chapter.

24 (d) While an investigation is pending, information obtained
25 by the department in connection with that investigation is
26 confidential unless disclosure of the information is specifically
27 permitted or required by other law.

1 Sec. 1201.609. ACTING WITHOUT LICENSE; CRIMINAL PENALTY. A
2 person who is not exempt under this chapter and who, without first
3 obtaining a license required under this chapter, performs an act
4 that requires a license under this chapter commits an offense. An
5 offense under this section is a Class B misdemeanor. A second or
6 subsequent conviction for an offense under this section is a Class A
7 misdemeanor.

8 Sec. 1201.610. CEASE AND DESIST. (a) If the director has
9 reasonable cause to believe that a person licensed under this
10 chapter has violated or is about to violate any provision of this
11 chapter or rules adopted by the department under this chapter, the
12 director may issue without notice and hearing an order to cease and
13 desist from continuing a particular action or an order to take
14 affirmative action, or both, to enforce compliance with this
15 chapter.

16 (b) The director may issue an order to any licensee to cease
17 and desist from violating any law, rule, or written agreement or to
18 take corrective action with respect to any such violations if the
19 violations in any way are related to the sale, financing, or
20 installation of a manufactured home or the providing of goods or
21 services in connection with the sale, financing, or installation of
22 a manufactured home unless the matter that is the basis of such
23 violation is expressly subject to inspection and regulation by
24 another state agency; provided, however, that if any matter
25 involves a law that is subject to any other administration or
26 interpretation by another agency, the director shall consult with
27 the person in charge of the day-to-day administration of that

1 agency before issuing an order.

2 (c) An order issued under Subsection (a) or (b) must contain
3 a reasonably detailed statement of the facts on which the order is
4 based. If a person against whom the order is issued requests a
5 hearing before the 31st day after the date the order is issued, the
6 director shall set and give notice of a hearing. The hearing shall
7 be governed by Chapter 2001, Government Code. Based on the findings
8 of fact, conclusions of law, and recommendations of the hearings
9 officer, the board by order may find that a violation has occurred
10 or has not occurred.

11 (d) If a hearing is not requested under Subsection (c)
12 before the 31st day after the date an order is issued, the order is
13 considered final and not appealable.

14 (e) The director, after giving notice, may impose against a
15 person who violates a cease and desist order an administrative
16 penalty in an amount not to exceed \$1,000 for each day of the
17 violation. In addition to any other remedy provided by law, the
18 director may institute in district court a suit for injunctive
19 relief and for the collection of the administrative penalty. A bond
20 is not required of the director with respect to injunctive relief
21 granted under this subsection.

22 (f) If a person fails to pay an administrative penalty that
23 has become final or fails to comply with an order of the director
24 that has become final, in addition to any other remedy provided by
25 law, the director, after not less than 10 days' notice to the
26 person, may without a prior hearing suspend the person's license.
27 The suspension shall continue until the person has complied with

1 the cease and desist order or paid the administrative penalty.
2 During the period of suspension, the person may not perform any act
3 requiring a license under this chapter, and all compensation
4 received by the person during the period of suspension is subject to
5 forfeiture to the person from whom it was received.

6 (g) An order of suspension under Subsection (f) may be
7 appealed. An appeal is a contested case governed by Chapter 2001,
8 Government Code. A hearing of an appeal of an order of suspension
9 issued under Subsection (f) shall be held not later than the 15th
10 day after the date of receipt of the notice of appeal. The
11 appellant shall be provided at least three days' notice of the time
12 and place of the hearing.

13 (h) An order revoking the license of a retailer, broker,
14 installer, or salesperson may provide that the person is
15 prohibited, without obtaining prior written consent of the
16 director, from being a related person of a licensee.

17 Sec. 1201.611. SANCTIONS AND PENALTIES. (a) The board
18 shall adopt rules relating to the administrative sanctions that may
19 be enforced against a person regulated by the department.

20 (b) If a person charged with the violation accepts the
21 determination of the director, the director shall issue an order
22 approving the determination and ordering that the person pay the
23 recommended penalty.

24 (c) Not later than the 30th day after the date on which the
25 decision is final, the person charged shall:

26 (1) pay the penalty in full; or

27 (2) if the person files a petition for judicial review

1 contesting the fact of the violation, the amount of the penalty, or
2 both the fact of the violation and the amount of the penalty:

3 (A) forward the amount assessed to the department
4 for deposit in an escrow account;

5 (B) in lieu of payment into escrow, post with the
6 department a supersedeas bond for the amount of the penalty, in a
7 form approved by the director and effective until judicial review
8 of the decision is final; or

9 (C) without paying the amount of the penalty or
10 posting the supersedeas bond, pursue judicial review.

11 (d) A person charged with a penalty who is financially
12 unable to comply with Subsection (c)(2) is entitled to judicial
13 review if the person files with the court, as part of the person's
14 petition for judicial review, a sworn statement that the person is
15 unable to meet the requirements of that subsection.

16 (e) If the person charged does not pay the penalty and does
17 not pursue judicial review, the department or the attorney general
18 may bring an action for the collection of the penalty.

19 (f) Judicial review of the order of the director assessing
20 the penalty is subject to the substantial evidence rule and shall be
21 instituted by filing a petition with a district court in Travis
22 County.

23 (g) If, after judicial review, the penalty is reduced or not
24 assessed, the director shall remit to the person charged the
25 appropriate amount, plus accrued interest if the penalty has been
26 paid, or shall execute a release of the bond if a supersedeas bond
27 has been posted. The accrued interest on amounts remitted by the

1 director under this subsection shall be paid at a rate equal to the
2 rate charged on loans to depository institutions by the New York
3 Federal Reserve Bank and shall be paid for the period beginning on
4 the date the assessed penalty is paid to the director and ending on
5 the date the penalty is remitted.

6 (h) A penalty collected under this section shall be
7 deposited in the trust fund.

8 (i) All proceedings conducted under this section and any
9 review or appeal of those proceedings are subject to Chapter 2001,
10 Government Code.

11 (j) If it appears that a person is in violation of, or is
12 threatening to violate, any provision of this chapter or a rule or
13 order related to the administration and enforcement of the
14 manufactured housing program, the attorney general, on behalf of
15 the director, may institute an action for injunctive relief to
16 restrain the person from continuing the violation and for civil
17 penalties not to exceed \$1,000 for each violation and not exceeding
18 \$250,000 in the aggregate. A civil action filed under this
19 subsection shall be filed in district court in Travis County. The
20 attorney general and the director may recover reasonable expenses
21 incurred in obtaining injunctive relief under this subsection,
22 including court costs, reasonable attorney's fees, investigative
23 costs, witness fees, and deposition expenses.

24 SECTION 64. Subsection (b), Section 2306.6022, Government
25 Code, is amended to read as follows:

26 (b) The division shall make available on its website
27 ~~[provide to the person filing the complaint and to each person who~~

1 ~~is a subject of the complaint a copy of]~~ the division's policies and
2 procedures relating to complaint investigation and resolution and
3 shall provide copies of such information on request.

4 SECTION 65. Subchapter AA, Chapter 2306, Government Code,
5 is amended by adding Section 2306.6024 to read as follows:

6 Sec. 2306.6024. PARTICIPATION IN DEPARTMENT PROGRAMS. The
7 division may meet the requirements of Sections 2306.6017,
8 2306.6018, and 2306.6019 by participating in programs of the
9 department.

10 SECTION 66. Subsection (d), Section 2306.0724, Government
11 Code, is amended to read as follows:

12 (d) A housing sponsor who fails to file a report in a timely
13 manner is subject to the following sanctions, as determined by the
14 department:

15 (1) denial of a request for additional funding; or

16 (2) an administrative penalty in an amount not to
17 exceed \$1,000, assessed in the manner provided for an
18 administrative penalty under Section 1201.611, Occupations Code
19 ~~[2306.6023]~~.

20 SECTION 67. Subsection (k), Section 2306.186, Government
21 Code, is amended to read as follows:

22 (k) The department shall assess an administrative penalty
23 on development owners who fail to contract for the third-party
24 physical needs assessment and make the identified repairs as
25 required by this section. The department may assess the
26 administrative penalty in the same manner as an administrative
27 penalty assessed under Section 1201.611, Occupations Code

1 ~~[2306.6023]~~. The penalty is computed by multiplying \$200 by the
2 number of dwelling units in the development and must be paid to the
3 department. The office of the attorney general shall assist the
4 department in the collection of the penalty and the enforcement of
5 this subsection.

6 SECTION 68. Subsections (a) and (b), Section 11.432, Tax
7 Code, are amended to read as follows:

8 (a) For a manufactured home to qualify for an exemption
9 under Section 11.13 ~~[of this code]~~, the application for the
10 exemption must be accompanied by a copy of the statement of
11 ownership and location for the manufactured home issued by the
12 manufactured housing division of the Texas Department of Housing
13 and Community Affairs under Section 1201.207, Occupations Code,
14 showing that the individual applying for the exemption is the owner
15 of the manufactured home or be accompanied by a verified copy of the
16 purchase contract showing that the applicant is the purchaser of
17 the manufactured home, unless a photostatic copy of the current
18 title page for the home is displayed on the computer website of the
19 Texas Department of Housing and Community Affairs. The appraisal
20 district may rely upon the computer records of the Texas Department
21 of Housing and Community Affairs to determine whether a
22 manufactured home qualifies for an exemption.

23 (b) The land on which a manufactured home is located
24 qualifies for an exemption under Section 11.13 only if:

25 (1) the manufactured home qualifies for an exemption
26 as provided by Subsection (a); and

27 (2) the manufactured home is listed together with the

1 land on which it is located under Section 25.08. The consumer is
2 entitled to obtain the homestead exemptions provided by Section
3 11.13 regardless of whether the owner has elected to treat the home
4 as real property or personal property and regardless of whether the
5 home is listed on the tax rolls with the real property to which it is
6 attached or separately.

7 SECTION 69. Section 31.072, Tax Code, is amended by adding
8 Subsection (i) to read as follows:

9 (i) Notwithstanding Subsection (a), if the property owner
10 requesting a collector to establish an escrow account under this
11 section is the owner of a manufactured home and the escrow account
12 is to be used solely to provide for the payment of property taxes
13 collected by the collector on the property owner's manufactured
14 home, the collector shall enter into a contract with the property
15 owner under this section.

16 SECTION 70. Section 32.03, Tax Code, is amended to read as
17 follows:

18 Sec. 32.03. RESTRICTIONS ON PERSONAL PROPERTY TAX LIEN.

19 (a) Except as provided by Subsection (a-1), a tax lien may not be
20 enforced against personal property transferred to a buyer in
21 ordinary course of business as defined by Section 1.201(9) of the
22 Business & Commerce Code for value who does not have actual notice
23 of the existence of the lien.

24 (a-1) With regard to a manufactured home, a tax lien may be
25 recorded at any time not later than six months after the end of the
26 year for which the tax was owed. A tax lien on a manufactured home
27 may be enforced if it has been recorded in accordance with the laws

in effect at the time of the recordation of the lien. A properly recorded tax lien may not be enforced against a new manufactured home that is owned by a person who acquired the manufactured home from a retailer as a buyer in the ordinary course of business ~~[A tax lien against a manufactured home may not be enforced unless it has been recorded with the Texas Department of Housing and Community Affairs as provided by Section 1201.219, Occupations Code:~~

~~[(1) before October 1, 2005; or~~

~~[(2) not later than six months after the end of the year for which the tax was owed].~~

(a-2) A person may not transfer title of a manufactured home until all tax liens perfected on the home timely filed with the Texas Department of Housing and Community Affairs have been extinguished or satisfied and released and any personal property taxes on the manufactured home which accrued on each January 1 that falls within the 18 months preceding the date of the sale have been paid. This subsection does not apply to the sale of a manufactured home in inventory.

(b) A bona fide purchaser for value or the holder of a lien recorded on a ~~[the]~~ manufactured home statement of ownership and location is not required to pay any taxes that have not been recorded with the Texas Department of Housing and Community Affairs. In this section, manufactured home has the meaning assigned by Section 32.015(b). Unless a tax lien has been filed timely with the Texas Department of Housing and Community Affairs, no taxing unit, nor anyone acting on its behalf, may use a tax warrant or any other method to attempt to execute or foreclose on

1 the manufactured home as a result of the unfiled tax lien.

2 (c) A taxpayer may designate in writing which tax year will
3 be credited with a particular payment. If a taxpayer pays all the
4 amounts owing for a given year, the taxing unit shall issue a
5 receipt for the payment of the taxes for the designated year.

6 (d) Notwithstanding any other provision of this section, if
7 a manufactured home was omitted from the tax roll for either or both
8 of the two preceding tax years, the taxing unit may file a tax lien
9 within the 150-day period following the date on which the tax
10 becomes delinquent.

11 (e) If personal property taxes on a manufactured home have
12 not been levied by the taxing unit, the taxing unit shall provide
13 the prospective buyer of the manufactured home with an estimated
14 amount of taxes computed by multiplying the taxable value of the
15 manufactured home, according to the most recent certified appraisal
16 roll for the taxing unit, by the taxing unit's adopted tax rate for
17 the preceding tax year. In order to enable the transfer of the
18 manufactured home, the tax collector shall accept the payment of
19 the estimated personal property taxes and issue a certification to
20 the Texas Department of Housing and Community Affairs that the
21 estimated taxes are being held in escrow until the taxes are levied.
22 Once the taxes are levied, the tax collector shall apply the
23 escrowed sums to the levied taxes. At the time the tax collector
24 accepts the payment of the taxes, the tax collector shall notify the
25 taxpayer that the payment of the estimated taxes is an estimate that
26 may be raised once the appraisal rolls for the year are certified.
27 The tax collector shall notify the new owner of the manufactured

1 home that the new owner may be liable for the payment of any
2 difference between the tax established by the certified appraisal
3 roll and the estimate actually paid.

4 SECTION 71. Section 347.403, Finance Code, is amended to
5 read as follows:

6 Sec. 347.403. AMOUNTS THAT MAY BE RECOVERED BY REAL
7 PROPERTY OWNER. (a) In addition to the recovery of the rental
8 charges from the tenant, the owner of real property who is required
9 to retain legal counsel to recover the amounts subject to the
10 possessory lien under Section 347.402 is entitled to recover from
11 the tenant:

12 (1) other actual damages;

13 (2) attorney's fees; and

14 (3) court costs.

15 (b) The ownership of a security interest in a manufactured
16 home does not create an obligation of the creditor to pay for the
17 rental of real property on which the home is located or any other
18 damages solely because of the existence of the security interest.

19 (c) If the owner of a security interest in a manufactured
20 home takes no action with regard to the manufactured home, the owner
21 of the security interest shall not be liable to either the owner of
22 the real property or the owner of the manufactured home for any
23 damages accruing with regard to real property on which the
24 manufactured home is located. The creation of the possessory lien
25 as described by Section 347.402 shall take precedence over all
26 perfected liens on the manufactured home other than tax liens. As
27 to all parties other than the owner of the manufactured home and any

1 person that executed the lease agreement for the real property, the
2 owner of the real property shall look exclusively to the guarantor,
3 cosigner, other collateral, and the sale of the manufactured home
4 to recover the owner's damages related to the rental of the real
5 property on which the manufactured home is located.

6 SECTION 72. (a) The following provisions of the
7 Occupations Code are repealed:

- 8 (1) Section 1201.059;
9 (2) Section 1201.112;
10 (3) Subsections (c) through (g), Section 1201.113;
11 (4) Section 1201.163;
12 (5) Subsections (c) and (d), Section 1201.214; and
13 (6) Section 1201.408.

14 (b) Section 2306.6023, Government Code, is repealed.

15 SECTION 73. The change in law made by this Act applies only
16 to the sale, exchange, or lease-purchase of a new or used
17 manufactured home on or after the effective date of this Act. A
18 sale, exchange, or lease-purchase of a new or used manufactured
19 home before the effective date of this Act is governed by the law in
20 effect on the date of the sale, exchange, or lease purchase, and the
21 former law is continued in effect for that purpose.

22 SECTION 74. Except as otherwise provided by this Act, the
23 changes in law made by this Act apply only to a license issued or
24 renewed by the Texas Department of Housing and Community Affairs on
25 or after January 1, 2008. An issuance or renewal that occurs before
26 January 1, 2008, is governed by the law in effect immediately before
27 that date, and the former law is continued in effect for that

1 purpose.

2 SECTION 75. The change in law made by this Act applies only
3 to an offense committed on or after the effective date of this Act.
4 An offense committed before the effective date of this Act is
5 governed by the law in effect when the offense was committed, and
6 the former law is continued in effect for that purpose. For
7 purposes of this section, an offense was committed before the
8 effective date of this Act if any element of the offense was
9 committed before that date.

10 SECTION 76. The changes in law made by this Act to
11 provisions of the Tax Code apply only to an ad valorem tax year that
12 begins on or after January 1, 2008. The changes in law made to those
13 provisions do not affect a tax lien that attached to property for a
14 tax year that began before January 1, 2008, and the law in effect
15 immediately before January 1, 2008, is continued in effect for
16 purposes of the tax lien.

17 SECTION 77. This Act takes effect immediately if it
18 receives a vote of two-thirds of all the members elected to each
19 house, as provided by Section 39, Article III, Texas Constitution.
20 If this Act does not receive the vote necessary for immediate
21 effect, this Act takes effect September 1, 2007.