

SENATE AMENDMENTS

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By: Haggerty

H.B. No. 1460

A BILL TO BE ENTITLED

AN ACT

relating to licensing, acquisition, and regulation of manufactured housing; providing penalties.

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

SECTION 1. Section 1201.003, Occupations Code, is amended by amending Subdivisions (5), (13), (20), and (23-a) and adding Subdivisions (1-a), (17-a), (18-a), and (25) to read as follows:

(1-a) "Affiliate" means a person who, with respect to a license holder, is under the common control of a third person who has the power to:

(A) directly or indirectly vote 25 percent or more interest in the license holder or an entity under the authority of the license holder;

(B) establish policy for the license holder, directly or through a related person; or

(C) hire, elect, or otherwise designate related persons for the license holder.

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

(13) "Lease-purchase" means entering into:

(A) a lease contract for a manufactured home in which the lessor retains title; or

(B) another agreement that contains ~~containing~~ a provision conferring on the lessee an option to purchase a

1 manufactured home.

2 (17-a) "New manufactured home" means a manufactured
3 home that is not a used manufactured home, regardless of its age.

4 (18-a) "Related person" means a person who, directly
5 or indirectly with respect to a license holder:

6 (A) participates in management, policy
7 decisions, or day-to-day activities subject to this chapter; or

8 (B) has been found by the department in a final
9 order to be a related person.

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

14 (23-a) "Statement of ownership and location" means a
15 statement issued by the department and setting forth:

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

19 (B) other information required by this chapter.

20 (25) "Used manufactured home" means a manufactured
21 home for which a statement of ownership and location has been issued
22 or a manufactured home that has been occupied for any use, except
23 that the term does not include:

24 (A) a manufactured home used as a sales model at a
25 licensed retail location; or

26 (B) a manufactured home that:

27 (i) was sold as a new manufactured home;

1 (ii) was installed but never occupied;
2 (iii) had a statement of ownership and
3 location issued with respect to the home; and
4 (iv) was taken back from the consumer
5 because of a first payment default or an agreement to rescind or
6 unwind the transaction.

7 SECTION 2. Section 1201.008, Occupations Code, is amended
8 by adding Subsection (e) to read as follows:

9 (e) Notwithstanding a zoning law or any other law, unless
10 prohibited by an ordinance or charter of a home-rule or general law
11 municipality, if a manufactured home occupies a specific lot in a
12 municipality, the owner of the manufactured home may move the
13 manufactured home from that lot and place another manufactured home
14 on the lot, provided that the replacement is a newer manufactured
15 home and at least as large in living space as the manufactured home
16 that was initially located on the lot.

17 SECTION 3. Section 1201.053(a), Occupations Code, is
18 amended to read as follows:

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

21 (1) comply with the National Manufactured Housing
22 Construction and Safety Standards Act of 1974 (42 U.S.C. Section
23 5401 et seq.), including adopting and enforcing rules reasonably
24 required to implement the notification and correction procedures
25 provided by 42 U.S.C. Section 5414; and

26 (2) provide for the effective enforcement of all
27 HUD-code manufactured housing construction and safety standards in

1 order to have the state plan authorized by the National
2 Manufactured Housing Construction and Safety Standards Act of 1974
3 (42 U.S.C. Section 5401 et seq.) approved by the secretary of
4 housing and urban development.

5 SECTION 4. Sections 1201.054(b) and (d), Occupations Code,
6 are amended to read as follows:

7 (b) If requested by any member of the public, the board
8 shall hold a hearing on any rule that the board proposes to adopt,
9 other than a rule proposed for adoption under emergency rulemaking.
10 The board must provide notice of a hearing under this subsection not
11 later than the 10th day before the date the hearing is scheduled to
12 be held. If a rule is adopted under emergency rulemaking, only the
13 requirements of Chapter 2001, Government Code, apply [A proposed
14 rule must be published in the Texas Register before the 30th day
15 preceding the date of a public hearing set to consider the testimony
16 of interested persons. Notice of the time and place of the public
17 hearing must be published in the Texas Register before the 30th day
18 preceding the date of the hearing].

19 (d) A rule takes effect on the 30th day after the date of
20 publication of notice that the rule has been adopted, except that a
21 rule relating to an installation standard [~~standards~~] may not take
22 effect later than the 60th day after the date of publication of
23 notice unless:

24 (1) the board determines that an earlier effective
25 date is required to meet an emergency; and

26 (2) the installation standard is adopted under the
27 emergency rulemaking provisions of Chapter 2001, Government Code.

1 SECTION 5. Section 1201.058, Occupations Code, is amended
2 to read as follows:

3 Sec. 1201.058. [~~AMOUNT OF~~] FEES. (a) The board shall
4 establish in reasonable amounts [~~the~~] fees [~~imposed under Sections~~
5 ~~1201.055-1201.057 in amounts that are reasonable and necessary~~] to
6 cover any purpose under [~~the cost of administering~~] this chapter.
7 If the department rules under this chapter provide an option to file
8 a document electronically, the department may charge a discounted
9 fee for the electronic filing.

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

14 (c) A fee imposed by this chapter or a rule under this
15 chapter is:

16 (1) earned on the date the applicable payment is
17 received by the department; and

18 (2) not subject to refund.

19 (d) Notwithstanding Subsection (c), the director may, in
20 limited and appropriate circumstances and in accordance with rules
21 adopted by the board, approve the refund of fees.

22 SECTION 6. Sections 1201.101(d), (f), and (g), Occupations
23 Code, are amended to read as follows:

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

27 (f) A person may not act as a salesperson of manufactured

1 housing unless the person holds a salesperson's license. A
2 retailer or broker may not employ or otherwise use the services of a
3 salesperson who is not licensed. A licensed salesperson may not
4 participate in a sale of a manufactured home unless the sale is
5 through the retailer or the broker who sponsored the salesperson's
6 application as required by Section 1201.103(d).

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

12 (1) a person who is not required to hold a license as
13 described by Section 1201.102 [~~to whom a statement of ownership and~~
14 ~~location has been issued showing the person to be the owner of the~~
15 ~~home if the person does not offer to sell, exchange, or~~
16 ~~lease-purchase two or more manufactured homes in a 12-month~~
17 ~~period~~]; or

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

22 SECTION 7. Sections 1201.102(a), (b), and (c), Occupations
23 Code, are amended to read as follows:

24 (a) A licensed installer may employ an unlicensed person to
25 assist the installer in performing installation functions if the
26 licensed installer supervises the unlicensed person and maintains a
27 list of all unlicensed persons employed. The director may issue an

1 order to prohibit a person who is not licensed as an installer from
2 performing installation functions without the supervision of a
3 licensed installer.

4 (b) A license holder may engage a person who is not licensed
5 under this chapter but holds another license issued by this state to
6 provide goods and services in accordance with that license,
7 including the installation or connection of air conditioning,
8 plumbing, or electrical systems.

9 (c) A person who [~~An employee who acts as an agent of a~~
10 ~~license holder is covered by the holder's license and is not~~
11 ~~required to hold an individual license.~~

12 [~~(b) Except as provided by Section 1201.510, an independent~~
13 ~~contractor or business entity may not operate under the license of~~
14 ~~another business entity except as an agent or subcontractor of a~~
15 ~~licensed installer who is responsible for an installation function~~
16 ~~performed by the agent or subcontractor.~~

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

23 SECTION 8. Section 1201.103, Occupations Code, is amended
24 by amending Subsections (a) and (d) and adding Subsection (c-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

1 license application containing:

2 (1) the legal name, address, and telephone number of
3 the applicant and each person who is anticipated to be a related
4 person at the time the license is issued;

5 (2) each ~~[the]~~ trade name and the name of each business
6 organization ~~[name]~~ by which the applicant does business under this
7 chapter and~~[, if incorporated, the name registered with the~~
8 ~~secretary of state and]~~ the address of each ~~[the]~~ business
9 organization; [and]

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

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

13 (c-1) The applicant shall maintain, at the applicant's
14 principal office or another location designated by the applicant
15 within this state, all records required of the applicant under this
16 chapter.

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

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

21 (2) pay the required fee.

22 SECTION 9. Section 1201.104, Occupations Code, is amended
23 to read as follows:

24 Sec. 1201.104. QUALIFICATIONS FOR LICENSE. (a) Except as
25 provided by Subsection (e), as a requirement ~~[prerequisite]~~ for a
26 manufacturer's, retailer's, broker's, installer's, or rebuilder's
27 license, a person who was not licensed or registered with the

1 department or a predecessor agency on September 1, 1987, must,
2 within the year preceding the date of the application for the
3 person's initial 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 employ at least one related
7 person who meets the requirement described by this subsection.

8 (b) Each individual who is a related person of the applicant
9 must attend and successfully complete 20 hours of instruction in
10 the law described by Subsection (a). The individual must complete
11 the next course of instruction offered after the date on which the
12 individual becomes a related person. The individual is
13 automatically barred from acting as a related person until the
14 individual successfully completes the course of instruction
15 required by Subsection (a).

16 (c) An applicant for a salesperson's license must
17 successfully complete the next course of instruction offered after
18 the date the person is licensed. A salesperson who fails to
19 successfully complete the course of instruction described by
20 Subsection (a) will automatically have the person's license
21 suspended until the person successfully completes the course of
22 instruction.

23 (d) ~~[The director may not issue a license to that person~~
24 ~~until the course of instruction is completed.~~

25 ~~[(b)]~~ The course of instruction must be offered at least
26 quarterly.

27 (e) The board shall adopt rules regarding the content of the

1 course of instruction and the requirements for board approval of
2 the course of instruction, including a rule requiring the course to
3 be presented live and a rule prohibiting any electronic
4 transmission of the course.

5 ~~(f) [(c) Instead of the course of instruction.~~

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

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

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

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

16 (1) for a license for an additional business location;
17 or

18 (2) to renew or reinstate a license[, or

19 ~~[(3) for a salesperson's license].~~

20 (g) Successful passage of an [(f) An] examination must
21 [may not] be a prerequisite for the successful completion of an
22 initial course of instruction required under this section, but may
23 not be a prerequisite for continuing education courses [made a
24 prerequisite of licensing].

25 SECTION 10. Section 1201.105, Occupations Code, is amended
26 to read as follows:

27 Sec. 1201.105. SECURITY REQUIRED. (a) The department may

1 not issue or renew a license unless a bond or other security in a
2 form prescribed by the director is filed with the department as
3 provided by this subchapter. The bond or other security is payable
4 to the trust fund except for any amount that is due directly to the
5 retailer under this chapter.

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

11 (c) If the department is unable to obtain timely
12 reimbursements from a surety or the department determines that a
13 surety has experienced a deterioration in its financial condition,
14 the board may direct the director to discontinue the acceptance of
15 bonds issued by that surety.

16 SECTION 11. Section 1201.106, Occupations Code, is amended
17 by amending Subsection (a) and adding Subsection (a-1) to read as
18 follows:

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

22 (1) \$100,000 for a manufacturer;

23 (2) \$50,000 for a retailer's principal location
24 [~~retailer~~];

25 (3) \$50,000 for each additional branch location of a
26 retailer;

27 (4) \$50,000 [~~\$30,000~~] for a rebuilder;

1 (5) [~~(4)~~] \$50,000 for a broker; or

2 (6) \$25,000 [~~(5)~~—\$10,000] for an installer.

3 (a-1) The director may increase the fee amounts under
4 Subsection (a) with respect to the issuance of an initial, renewal,
5 or subsequent license based on an application described by Section
6 1201.118.

7 SECTION 12. Section 1201.108, Occupations Code, is amended
8 to read as follows:

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

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

11 (1) ownership of a license holder or a business entity
12 under which the [~~corporation that is a~~] license holder conducts
13 business; or

14 (2) location.

15 (b) A license holder shall notify the department not later
16 than the 10th day before the date of a change described in
17 Subsection (a).

18 (c) The license holder shall provide to the department
19 [~~director may require~~] a proper endorsement of the original bond to
20 avoid an interruption in the application of the bond to the license.

21 SECTION 13. Subchapter C, Chapter 1201, Occupations Code,
22 is amended by adding Section 1201.1125 to read as follows:

23 Sec. 1201.1125. PROBATIONARY INSTALLER'S OR SALESPERSON'S
24 LICENSE. (a) An applicant for an initial installer's license
25 receives the license only on a probationary basis until the
26 department inspects a sufficient number of installations performed
27 by the installer and fails to find an identified material violation

1 of this chapter or the rules adopted under this chapter. The board,
2 with the advice of the advisory committee established under Section
3 1201.251, shall adopt rules to determine the number of successful
4 installations required for termination of the probationary period
5 under this subsection.

6 (b) The board shall adopt rules under which the director may
7 elect to issue a renewal installer's license or an initial or
8 renewal salesperson's license on a probationary basis.

9 (c) If the director determines that a salesperson or
10 installer should receive a probationary license under Subsection
11 (b), the director may issue the probationary license on the terms
12 and for the period the director considers reasonable in accordance
13 with the rules adopted under that subsection.

14 (d) A person who is issued a probationary license under
15 Subsection (b) may appeal by written notice to the director the
16 terms of the license or the period for which the license is issued
17 not later than the 30th day after the date the license is issued. If
18 the license holder appeals under this subsection, the director
19 shall set the matter for a hearing to be conducted by the State
20 Office of Administrative Hearings. The hearing and any related
21 administrative proceedings are considered to be a contested case
22 subject to Chapter 2001, Government Code.

23 (e) If the license holder does not appeal as permitted by
24 Subsection (d), the probationary license remains in effect for the
25 period and in accordance with the terms specified in the license.

26 SECTION 14. Section 1201.113, Occupations Code, is amended
27 to read as follows:

1 Sec. 1201.113. [~~CERTIFICATION AND~~] CONTINUING EDUCATION
2 PROGRAMS. (a) The department [~~board~~] shall approve [~~recognize,~~
3 ~~prepare,~~] or administer [~~certification and~~] continuing education
4 programs for license holders [~~salespersons regulated~~] under this
5 chapter. A continuing education program must:

6 (1) be at least six hours in length; and

7 (2) include the current rules of the department under
8 this chapter and other matters the department considers relevant.

9 (b) As a prerequisite for license renewal, a license holder
10 must attend a [~~A person who holds a salesperson's license must~~
11 ~~participate in certification and~~] continuing education course
12 approved or administered by the department under this section
13 [~~programs as provided by Subsection (c)].~~

14 [~~(c) To prepare or administer a certification or continuing~~
15 ~~education program under this section, the board may contract with:~~

16 [~~(1) a private, nonprofit organization that qualifies~~
17 ~~for an exemption from federal income taxation under Section 501(a),~~
18 ~~Internal Revenue Code of 1986, by being listed as an exempt~~
19 ~~organization under Section 501(c)(3) of that code, or~~

20 [~~(2) an educational institution.~~

21 [~~(d) To be considered for a contract under Subsection (c),~~
22 ~~an organization or institution must submit an application. The~~
23 ~~board may charge an application fee to be set by the board in an~~
24 ~~amount necessary to pay the costs of processing the application.~~

25 [~~(e) A salesperson must complete eight hours of~~
26 ~~certification and continuing education programs not later than the~~
27 ~~90th day after the date the salesperson's initial license is~~

1 ~~issued. To renew a salesperson's license, a salesperson regulated~~
2 ~~under this chapter must complete an additional eight hours of~~
3 ~~certification and continuing education programs for each renewal.~~
4 ~~The programs must be presented by a board-approved organization or~~
5 ~~educational institution and must include instruction in applicable~~
6 ~~state and federal law, consumer protection regulations, and ethical~~
7 ~~standards.~~

8 ~~[(f) The department shall issue an appropriate certificate~~
9 ~~to a person who completes a certification program and participates~~
10 ~~in a continuing education program under this section.~~

11 ~~[(g) The board shall suspend the license of a salesperson~~
12 ~~regulated under this chapter who does not complete the programs as~~
13 ~~required by this section. The board shall reinstate the license on~~
14 ~~the salesperson's completion of the programs.]~~

15 SECTION 15. Section 1201.114, Occupations Code, is amended
16 to read as follows:

17 Sec. 1201.114. LICENSE EXPIRATION. A license issued under
18 this chapter, other than a probationary license, ~~[(a) A~~
19 ~~manufacturer's, retailer's, broker's, or installer's license is~~
20 ~~valid for one year. A salesperson's license]~~ is valid for two
21 years. A license may be renewed as provided by the director. A
22 person whose license has been suspended or revoked or whose license
23 has expired may not engage in activities that require a license
24 until the license has been reinstated or renewed.

25 ~~[(b) The board by rule may adopt a system under which~~
26 ~~licenses expire on various dates during the year. For the year in~~
27 ~~which the license expiration date is changed, the department shall~~

1 ~~prorate license fees on a monthly basis so that each license holder~~
2 ~~pays only that portion of the license fee that is allocable to the~~
3 ~~number of months during which the license is valid. On renewal of~~
4 ~~the license on the new expiration date, the total license renewal~~
5 ~~fee is payable.]~~

6 SECTION 16. Subchapter C, Chapter 1201, Occupations Code,
7 is amended by adding Section 1201.118 to read as follows:

8 Sec. 1201.118. ADDITIONAL PROCEDURES FOR CERTAIN LICENSE
9 APPLICATIONS. The board shall adopt rules providing for the
10 additional review and scrutiny of an initial, renewal, or
11 subsequent license application that involves an applicant or a
12 related person who has previously:

13 (1) in a final order issued by the department, been
14 found to have:

15 (A) participated in one or more violations of
16 this chapter that served as grounds for the suspension or
17 revocation of a license; or

18 (B) engaged in activity subject to this chapter
19 without holding the required license;

20 (2) caused the trust fund to incur unreimbursed
21 payments or claims; or

22 (3) failed to fulfill the terms of a final order,
23 including the payment of any assessed administrative penalties.

24 SECTION 17. Section 1201.1505, Occupations Code, is amended
25 to read as follows:

26 Sec. 1201.1505. DEPOSIT ON SPECIALLY ORDERED MANUFACTURED
27 HOMES. A retailer may require a a [~~an earnest money~~] deposit on a

1 specially ordered manufactured home [~~only if:~~
2 [~~(1) an earnest money contract has been signed by all~~
3 ~~parties,~~
4 [~~(2) if applicable, the original binding loan~~
5 ~~commitment letter issued by the lender is delivered to the~~
6 ~~consumer, and~~
7 [~~(3) the consumer has not rescinded the contract under~~
8 ~~Section 1201.1521]~~].

9 SECTION 18. The heading to Section 1201.151, Occupations
10 Code, is amended to read as follows:

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

12 SECTION 19. Section 1201.151, Occupations Code, is amended
13 by amending Subsection (a) and adding Subsection (e) to read as
14 follows:

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

19 (e) Not later than the 15th day after the date a consumer
20 exercises the consumer's right of rescission as provided by Section
21 1201.1521, the retailer shall refund to the consumer all money and
22 other consideration received from the consumer without offset or
23 deduction if the retailer and the consumer entered into a binding
24 written agreement under which the consumer submitted to the
25 retailer a deposit that was a down payment for the home.

26 SECTION 20. Section 1201.1521, Occupations Code, is amended
27 to read as follows:

1 Sec. 1201.1521. RESCISSION OF CONTRACT FOR SALE, EXCHANGE,
2 OR LEASE-PURCHASE OF HOME. (a) A person who acquires a
3 manufactured home by purchase, exchange, or lease-purchase may, not
4 later than the third day after the date the applicable contract is
5 signed, rescind the contract without penalty or charge. The right
6 of rescission applies only to a transaction between a retailer and a
7 consumer.

8 (b) Subject to rules adopted by the board, a consumer may
9 modify or waive for a bona fide personal financial emergency the
10 consumer's right to rescind the contract without penalty or charge.
11 The rules adopted by the board shall, to the extent practicable, be
12 modeled on the federal rules for the modification or waiver of a
13 right of rescission under Title 12, Code of Federal Regulations,
14 Part 226.

15 SECTION 21. Section 1201.158, Occupations Code, is amended
16 to read as follows:

17 Sec. 1201.158. SALESPERSON. A licensed salesperson may
18 work only for the person's sponsoring [~~for more than one~~] retailer
19 or broker [~~or at more than one sales location~~].

20 SECTION 22. Section 1201.159, Occupations Code, is amended
21 by amending Subsection (a) and adding Subsections (c) and (d) to
22 read as follows:

23 (a) A broker shall ensure that the seller gives the buyer
24 the applicable disclosures and warranties that the buyer would have
25 received if the buyer had purchased the manufactured home through a
26 licensed retailer unless the seller is a consumer in a transaction
27 as provided by Section 1201.456.

1 (c) A broker in a transaction under this chapter shall
2 provide to a person who engages the broker's services a written
3 disclosure of any interest that the broker represents in the
4 transaction.

5 (d) A broker may assist a person who is offering or
6 otherwise engaging in the sale, exchange, or lease-purchase of a
7 manufactured home only if that person holds a license required by
8 this chapter.

9 SECTION 23. Section 1201.161, Occupations Code, is amended
10 by amending Subsections (a) and (d) and adding Subsection (e) to
11 read as follows:

12 (a) Notwithstanding any other statute or rule or ordinance,
13 a licensed retailer or licensed installer is not required to obtain
14 a permit, certificate, or license or pay a fee to transport
15 manufactured housing to the place of installation except as
16 required by[+]

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

20 (d) The copies of permits and the lists and information
21 required under this section may be provided electronically.

22 (e) The department shall pay the reasonable cost of
23 providing the materials required [~~copies or the list and~~
24 ~~information~~] under Subsection (b) or (c) unless the materials are
25 provided electronically.

26 SECTION 24. Sections 1201.162(a) and (e), Occupations Code,
27 are amended to read as follows:

1 (a) Before the completion of a credit application or not
2 later than one day before entering into an agreement for a sale,
3 exchange, or lease-purchase that will not be financed, the retailer
4 [~~or agent~~] must provide to the consumer a written disclosure in a
5 form prescribed by rules adopted by the board. The disclosure form
6 shall:

7 (1) be printed in at least 12-point type;

8 (2) address matters of concern relating to the costs
9 and obligations that may be associated with manufactured home
10 ownership, matters to be considered in making any financing
11 decisions, related costs that may arise in acquiring a manufactured
12 home, and other matters the board considers appropriate to promote
13 informed decision-making by the consumer with respect to the
14 acquisition and ownership of a manufactured home; and

15 (3) conspicuously disclose the consumer's right of
16 rescission. [~~the following statement that is printed in at least~~
17 12-point type and not attached to or combined with any other written
18 material:

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

22 [~~The United States Department of Housing and Urban~~
23 ~~Development (HUD) helps protect consumers through regulation and~~
24 ~~enforcement of HUD design and construction standards for~~
25 ~~manufactured homes. Manufactured homes that meet HUD standards are~~
26 ~~known as 'HUD-code manufactured homes.'~~ The Texas Department of
27 Housing and Community Affairs regulates Texas manufacturers,

1 ~~retailers, brokers, salespersons, installers, and rebuilders of~~
2 ~~manufactured homes.~~

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

5 ~~["ZONING AND RESTRICTIVE COVENANTS. Municipalities or~~
6 ~~subdivisions may restrict placement of manufactured homes on~~
7 ~~certain lots, may prohibit the placement of homes within a certain~~
8 ~~distance from property lines, may require that homes be a certain~~
9 ~~size, and may impose certain construction requirements. You may~~
10 ~~need to obtain building permits and homeowner association approval~~
11 ~~before you place a manufactured home on a certain lot. Contact the~~
12 ~~local municipality, county, and subdivision manager to find out if~~
13 ~~you can place the manufactured home of your choice on a certain lot.~~

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

19 ~~["SEWER. If your lot is not serviced by a municipal sewer~~
20 ~~system or utility district, you will have to install an on-site~~
21 ~~sewer facility (commonly known as a septic system). There are a~~
22 ~~number of concerns or restrictions that will determine if your lot~~
23 ~~is adequate to support an on-site sewer facility. Check with the~~
24 ~~local county or a licensed private installer to determine the~~
25 ~~requirements that apply to your lot and the cost to install such a~~
26 ~~system.~~

27 ~~["HOMEOWNER ASSOCIATION FEES. Many subdivisions have~~

1 ~~mandatory assessments and fees that lot owners must pay. Check with~~
2 ~~the manager of the subdivision in which your lot is located to~~
3 ~~determine if any fees apply to your lot.~~

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

14 ~~["INSURANCE. Your lender may require you to obtain insurance~~
15 ~~that meets lender requirements and protects your investment. You~~
16 ~~should request quotes from the agent of your choice to obtain the~~
17 ~~insurance.~~

18 ~~["TYPES OF MORTGAGES AVAILABLE. The acquisition of a~~
19 ~~manufactured home may be financed by a real estate mortgage or a~~
20 ~~chattel mortgage. A real estate mortgage may have a lower interest~~
21 ~~rate than a chattel mortgage.~~

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

26 (e) Failure by the retailer to comply with the disclosure
27 provisions of this section does not affect the validity of a

1 subsequent conveyance or transfer of title of a manufactured home
2 or otherwise impair a title or lien position of a person other than
3 the retailer. The consumer's execution of a signed receipt of a
4 copy of the notice required by Subsection (a) constitutes
5 conclusive proof that the notice was delivered. If the consumer
6 grants a person other than the retailer a lien on the manufactured
7 home, the right of rescission immediately ceases on the date the
8 lien is filed with the department.

9 SECTION 25. Section 1201.164, Occupations Code, is amended
10 to read as follows:

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

25 (b) Before the execution of the contract, the consumer may
26 modify or waive the consumer's right to rescind the contract or the
27 waiting period provided by Subsection (a) if the consumer

1 determines that the acquisition of the manufactured home is needed
2 for a bona fide personal financial emergency. If the consumer has a
3 bona fide personal financial emergency that requires the immediate
4 acquisition of the manufactured home, the consumer shall give the
5 retailer a dated written statement that describes the personal
6 financial emergency, specifically modifies or waives the waiting
7 period or the right of rescission, as applicable, and bears the
8 signature of each consumer who is entitled to the waiting period or
9 right of rescission. On receipt of the written statement described
10 by this subsection, the retailer shall immediately provide to the
11 consumer all of the disclosures required by this subchapter and
12 engage in the transaction without reference to the required waiting
13 period or the right of rescission.

14 (c) A form printed for the purpose of Subsection (b) may be
15 used only:

16 (1) with respect to a manufactured home that is to be
17 located in an area that has been declared by the governor to be a
18 disaster area as provided by Section 418.014, Government Code; and

19 (2) until the first anniversary of the date the
20 governor declared the area to be a disaster area.

21 SECTION 26. Section 1201.203, Occupations Code, is amended
22 to read as follows:

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

25 (1) the manufacturer's certificate;

26 (2) the statement of ownership and location;

27 (3) the application for a statement of ownership and

1 location; and

2 (4) the issuance of an initial or revised [a]
3 statement of ownership and location [~~at the first retail sale and~~
4 ~~for a subsequent sale or transfer of a manufactured home~~].

5 (b) The board [~~director~~] shall adopt rules for the
6 documenting of the ownership and location of a manufactured home
7 that has been previously owned in this state or another state. The
8 rules must protect the holder of a lien [~~a lienholder~~] recorded with
9 the department [~~on a statement of ownership and location, a~~
10 ~~certificate, or other document of title~~].

11 SECTION 27. Section 1201.204, Occupations Code, is amended
12 to read as follows:

13 Sec. 1201.204. MANUFACTURER'S CERTIFICATE. (a) A
14 manufacturer's certificate must show:

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

18 (2) on a form prescribed by the board [~~director~~], each
19 subsequent transfer of a manufactured home between retailers and
20 from retailer to owner, if the transfer from retailer to owner
21 involves a completed application for the issuance of a statement of
22 ownership and location.

23 (b) At the first retail sale of a manufactured home, a
24 manufacturer's certificate automatically converts to a document
25 that does not evidence any ownership interest in the manufactured
26 home described in the document. A security interest in inventory
27 evidenced by a properly recorded inventory lien [~~the manufacturer's~~

1 ~~certificate~~] automatically converts to a security interest in
2 proceeds and cash proceeds.

3 (c) After the first retail sale of a manufactured home, the
4 retailer shall ~~may~~ submit the manufacturer's certificate for that
5 home to the department. If an application for an initial statement
6 of ownership and location is made without the required
7 manufacturer's certificate and the retailer does not produce the
8 certificate as required by this subsection, the department shall,
9 on or before the issuance of the requested statement of ownership
10 and location, send written notice to that effect to each party
11 currently reflected in the department's records as having a
12 recorded lien on the inventory of that retailer. Failure to include
13 the manufacturer's certificate with an application described by
14 this subsection does not impair a consumer's ability to obtain, on
15 submitting an otherwise complete application, a statement of
16 ownership and location free from a lien other than a lien created by
17 or consented to by the consumer.

18 SECTION 28. Section 1201.205, Occupations Code, is amended
19 to read as follows:

20 Sec. 1201.205. STATEMENT OF OWNERSHIP AND LOCATION FORM. A
21 statement of ownership and location must be issued on a
22 board-approved form and must provide:

23 (1) the name ~~names~~ and address ~~addresses~~ of the
24 ~~[purchaser and]~~ seller and the name and address of the new owner, if
25 the owner's address is different from the address of the home;

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

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

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

6 (B) the approximate square footage of the home
7 when installed for occupancy;

8 (4) the identification number for each section or
9 module of the home;

10 (5) the physical address of the real property on [the
11 ~~county of this state in]~~ which the home has been [is] installed for
12 occupancy, including the name of the county and, if different from
13 the address of the home, the address of the new owner of the home;

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

18 (7) a statement regarding tax liens which must state:

19 "On January 1st of each year, a tax lien is placed on a
20 manufactured home in favor of each taxing unit with taxing
21 authority over the real property on which the home is located. To
22 enforce that lien, the lien must be recorded with the manufactured
23 housing division of the Texas Department of Housing and Community
24 Affairs, as provided by law. You may check that division's records
25 through its Internet website or contact the division to identify
26 any recorded tax liens. To identify the amount of unpaid tax
27 liability, contact the taxing unit for the county in which the home

1 is located on January 1st of that year" [~~the signature of the owner~~
2 ~~in ink, given on receipt of the document~~];

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

9 (9) [~~the location of the home,~~

10 [~~(10)~~] a statement of whether the owner has elected to
11 treat the home as real property or personal property;

12 (10) [~~(11)~~] statements of whether the home is a
13 salvaged manufactured home and whether the home is reserved for
14 business use only; and

15 (11) [~~(12)~~] any other information the board
16 [~~director~~] requires.

17 SECTION 29. Section 1201.2055, Occupations Code, is amended
18 by amending Subsection (b) and adding Subsections (i) and (j) to
19 read as follows:

20 (b) A statement of election under Subsection (a) must be
21 executed before a notary on the board-approved form [~~made by~~
22 ~~affidavit~~].

23 (i) Notwithstanding Subsection (d), if a mortgage loan made
24 in connection with a transaction under this chapter is to be secured
25 by real property that includes the manufactured home, the mortgage
26 loan is funded, and a deed of trust covering the real property and
27 all improvements on the real property is recorded, but the licensed

1 title company or attorney who closed the loan failed to complete the
2 conversion of the manufactured home to real property in accordance
3 with this chapter, the holder or servicer of the mortgage loan at
4 any time may apply for a statement of ownership and location,
5 including making an election in the application with respect to
6 real property status, and may obtain from the department a
7 certified copy of the statement of ownership and location if, not
8 later than the 60th day before the date of an application for a
9 statement of ownership and location electing real property status,
10 the record owner of the home, as reflected in the department's
11 records, has been provided written notice by certified mail at:

12 (1) the physical address of the location of the home
13 and, if the address of the record owner is different from that of
14 the location of the home, the mailing address of the owner; and

15 (2) any other location known or believed after a
16 reasonable inquiry by the holder or servicer of the loan to be an
17 address at which the owner may receive mail or an address of record.

18 (j) The board by rule shall require evidence that the
19 mortgage loan holder or servicer applying for a real property
20 election has complied with the requirements of this section.

21 SECTION 30. Section 1201.206, Occupations Code, is amended
22 by amending Subsections (b), (c), (d), and (f) and adding
23 Subsections (g) through (i) to read as follows:

24 (b) At the first retail sale of a manufactured home, the
25 retailer shall provide for the installation of the home and ensure
26 that the application for the issuance of a statement of ownership
27 and location is properly completed and submitted. The consumer

1 shall return the completed application to the retailer. The
2 retailer shall surrender to the department the manufacturer's
3 certificate in accordance with Section 1201.204 and the
4 manufacturer's statement of origin at the same time that the
5 retailer submits the application for the first statement of
6 ownership and location.

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

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

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

27 (g) If the seller accepts a used manufactured home as part

1 of the consideration for the sale of another manufactured home, the
2 seller shall provide to the department a completed application for
3 the issuance of a new statement of ownership and location
4 reflecting the change of ownership of the used manufactured home
5 from the previous owner of the used manufactured home to the seller
6 at the same time that the seller files the completed application for
7 the issuance of a statement of ownership and location for the
8 manufactured home that was sold by the seller in that transaction.
9 If the seller is a retailer, on the application for the issuance of
10 the new statement of ownership and location for the used
11 manufactured home the seller shall indicate whether that home has
12 been added to the inventory of the retailer.

13 (h) At the time the seller files an application for the
14 issuance of a statement of ownership and location for a used
15 manufactured home that has not been added to a retailer's
16 inventory, the seller shall file with the department a written
17 statement from the tax assessor-collector that there are no
18 personal property taxes on the manufactured home that have accrued
19 within the 18-month period preceding the date of the transaction in
20 which the seller acquired the used manufactured home.

21 (i) If a person who sells 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 within the applicable
25 period, the department may assess an additional fee of not less than
26 \$100 against the seller. The department may enforce the collection
27 of the additional fee from the seller through a judicial

1 proceeding. The department shall place on the application for the
2 statement of ownership and location the following statement in a
3 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). A LATE APPLICATION CANNOT BE
8 PROCESSED UNTIL THE FEE DESCRIBED BY THIS PARAGRAPH IS PAID IN
9 FULL."

10 SECTION 31. Subchapter E, Chapter 1201, Occupations Code, is
11 amended by adding Section 1201.2061 to read as follows:

12 Sec. 1201.2061. NOTICE OF INSTALLATION. (a) A notice of
13 installation must be filed with the department on the board's
14 prescribed form. If the installation involves a secondary
15 relocation of the home, the notice must be accompanied by:

16 (1) a copy of the original notice of installation; or
17 (2) certification that a copy of the original notice
18 of installation has been provided to the chief appraiser of the
19 county in which the home is installed.

20 (b) The notice required by Subsection (a) may be delivered
21 by certified mail or by electronic transmission of the document in a
22 commonly readable format.

23 (c) If the method to report the installation of a relocated
24 home is the method specified by Subsection (a)(2), the department
25 may adopt a discounted fee for filing the notice of installation.

26 (d) In addition to providing each tax assessor-collector
27 with the monthly report required by Section 1201.220, the

1 department shall, on request, provide a tax assessor-collector with
2 one copy of any reported notice of installation.

3 SECTION 32. Subchapter E, Chapter 1201, Occupations Code,
4 is amended by adding Section 1201.2062 to read as follows:

5 Sec. 1201.2062. DIFFICULTY IN DOCUMENTING CHAIN OF TITLE.
6 Notwithstanding any provision in this chapter, if a person acquires
7 a manufactured home and the owner of record and an intervening owner
8 of a lien on the home cannot be located to assist in documenting the
9 chain of title, the department may issue a statement of ownership
10 and location to the person claiming ownership if that person
11 submits an application for the statement and provides:

12 (1) a supporting affidavit describing the chain of
13 title and the status of any liens; and

14 (2) any reasonable supporting proof that the director
15 may require.

16 SECTION 33. Section 1201.207, Occupations Code, is amended
17 to read as follows:

18 Sec. 1201.207. ISSUANCE OF STATEMENT OF OWNERSHIP AND
19 LOCATION. (a) Except as provided for in Subsection (a-1), the
20 [The] department shall process any completed application for the
21 issuance of a statement of ownership and location not later than the
22 15th working day after the date the application is received by the
23 department. If the department rejects an application, the
24 department shall provide a clear and complete explanation of the
25 reason for the rejection and instructions on how to cure any
26 defects, if possible.

27 (a-1) As soon as practicable after June 30 of each year, the

1 department shall, except for applications relating to new
2 manufactured homes and applications accompanied by tax
3 certificates, discontinue its issuance of statements of ownership
4 and location until all tax liens filed with the department before
5 June 30 in relation to manufactured homes are processed and
6 recorded or rejected. The department shall post on its Internet
7 website a notice as to the anticipated date on which the department
8 intends to begin issuing statements of ownership and location again
9 and the anticipated date on which the department intends to again
10 comply with the period for processing applications prescribed by
11 Subsection (a).

12 (b) If the department issues a statement of ownership and
13 location for a manufactured home, the department shall maintain a
14 record of the statement of ownership and location in its electronic
15 records [~~place in its files the original statement of ownership and~~
16 ~~location~~] and shall mail a [~~certified~~] copy to the record owner of
17 the home and to each [~~any~~] lienholder.

18 (c) Except with respect to any change in use, but subject to
19 Section 1201.2075, if the department has issued a statement of
20 ownership and location for a manufactured home, the department may
21 issue a subsequent statement of ownership and location for the home
22 only if all parties reflected in the department's records as having
23 an interest in the manufactured home give their written consent or
24 release their interest, [~~either~~] in writing, [~~or~~] by operation of
25 law, or by the department's procedures provided by Section
26 1201.2062 to document ownership and lien status. After the
27 department has issued a statement of ownership and location, the

1 department may not alter the record of the ownership or lien status
2 of a manufactured home for activity that occurred before the
3 issuance of the statement of ownership and location unless the
4 department:

5 (1) obtains the written permission of the owner of
6 record for the manufactured home or a court order; or

7 (2) determines that an exception is necessary in
8 accordance with rules adopted by the board.

9 (d) Notwithstanding any other provision of this chapter, if
10 the consumer purchases a new manufactured home from a retailer in
11 the ordinary course of business, regardless of whether a statement
12 of ownership and location has been issued for the manufactured
13 home, the consumer is a bona fide purchaser for value without the
14 need to provide any notice and is entitled to ownership of the
15 manufactured home free of all liens and entitled to a statement of
16 ownership and location to that effect on payment by the consumer of
17 the purchase price to the retailer. If an existing lien on the
18 manufactured home is perfected with the department, the owner of
19 the lien is entitled to recover the value of the lien from the
20 retailer.

21 SECTION 34. Section 1201.2075, Occupations Code, is amended
22 to read as follows:

23 Sec. 1201.2075. CONVERSION FROM PERSONAL PROPERTY TO REAL
24 PROPERTY. (a) Except as provided by Subsection (b) or Section
25 1201.2062, the department may not issue a statement of ownership
26 and location for a manufactured home that is being converted from
27 personal property to real property until:

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

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

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

9 (1) a licensed title insurance company that has issued
10 a commitment to issue a title insurance policy covering all prior
11 liens on the home in connection with a loan that the title company
12 has closed; or

13 (2) a federally insured financial institution or
14 licensed attorney who has obtained from a licensed title insurance
15 company a title insurance policy covering all prior liens on the
16 home.

17 SECTION 35. Section 1201.2076, Occupations Code, is amended
18 to read as follows:

19 Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL
20 PROPERTY. (a) Except as provided by Subsection (b) or Section
21 1201.2062, the [~~The~~] department may not issue a statement of
22 ownership and location for a manufactured home that is being
23 converted from real property to personal property until the
24 department has inspected the home and determined that it is
25 habitable and has notified the appropriate tax assessor-collector
26 of the conversion and:

27 (1) each lien, including a tax lien, on the home is

1 released by the lienholder; or

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

4 (b) The department may rely on a commitment for title
5 insurance, a title insurance policy, or an attorney's title opinion
6 to determine that a lien on real property has been released as
7 required by Subsection (a).

8 SECTION 36. Section 1201.208, Occupations Code, is amended
9 to read as follows:

10 Sec. 1201.208. PAYMENT OF TAXES REQUIRED FOR ISSUANCE OF
11 STATEMENT OF OWNERSHIP AND LOCATION. (a) A license holder who
12 sells, exchanges, or lease-purchases a new manufactured home to a
13 consumer shall pay the required sales and use tax on the home [~~The~~
14 ~~department may not issue a statement of ownership and location for a~~
15 ~~new manufactured home installed for occupancy in this state unless~~
16 ~~the state sales and use tax has been paid].~~

17 (b) If a license holder sells, exchanges, or
18 lease-purchases a home without paying the required sales and use
19 tax, the payment shall be made from the trust fund for an amount not
20 more than the maximum amount available in bond or other security
21 required by Section 1201.106 for the person's license. The trust
22 fund may file with the license holder's surety a claim for
23 reimbursement in the amount deducted from the trust fund under this
24 section [~~Proof of payment may be shown in any manner prescribed by~~
25 ~~the department].~~

26 SECTION 37. Section 1201.210, Occupations Code, is amended
27 by amending Subsection (c) and adding Subsection (d) to read as

1 follows:

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

6 (d) The department shall prohibit any activity with respect
7 to the statement of ownership and location other than the
8 recordation of liens, including tax liens, until a revocation or
9 suspension has become final.

10 SECTION 38. Section 1201.214(b), Occupations Code, is
11 amended to read as follows:

12 (b) An owner or lienholder may provide to the department a
13 [the] document of title and any additional information required by
14 the department and request that the department issue a statement of
15 ownership and location to replace the document of title. The
16 department shall mail to the owner or lienholder a certified copy of
17 the statement of ownership and location issued under this
18 subsection.

19 SECTION 39. Section 1201.216(a), Occupations Code, is
20 amended to read as follows:

21 (a) If the owner of a manufactured home notifies the
22 department that the owner intends to treat the home as real property
23 or to reserve its use for a business purpose or salvage, the
24 department shall indicate on the statement of ownership and
25 location for the home that:

26 (1) the owner of the home has elected to treat the home
27 as real property or to reserve its use for a business purpose or

1 salvage; and

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

6 SECTION 40. Section 1201.217, Occupations Code, is amended
7 by amending Subsections (b) and (c) and adding Subsection (f) to
8 read as follows:

9 (b) Before declaring a manufactured home abandoned, the
10 owner of real property on which the home is located must send a
11 notice of intent to declare the home abandoned to the record owner
12 of the home, [~~and~~] all lienholders at the addresses listed on the
13 home's statement of ownership and location on file with the
14 department, and the tax assessor-collector for each taxing unit
15 that imposes ad valorem taxes on the real property on which the home
16 is located. The notice must include the physical address at which
17 the home is currently located. If the person giving notice knows
18 that the person for whom the notice is intended does not reside and
19 is no longer receiving mail at that address, a reasonable effort
20 shall be made to locate the person for whom the notice is intended
21 and to give the person notice at an address where the person
22 receives mail. Mailing of the notice by certified mail, return
23 receipt requested, postage prepaid, to the persons required to be
24 notified by this subsection constitutes conclusive proof of
25 compliance with this subsection.

26 (c) On receipt of a notice of intent to declare a
27 manufactured home abandoned, the owner of the home or a lienholder

1 may enter the real property on which the home is located to remove
2 the home. The real property owner must disclose to the owner or
3 lienholder seeking to remove the home the location of the home and
4 must grant that person reasonable access to the home. A person who
5 removes the home is responsible to the real property owner for any
6 damage to the real property resulting from the removal of the home.

7 (f) This section does not apply if the person who owns or
8 previously owned an interest in the manufactured home, or that
9 person's affiliate or related person:

10 (1) owns the real property on which the home is
11 located; or

12 (2) claims that the home is abandoned.

13 SECTION 41. Sections 1201.219(a), (b), and (c), Occupations
14 Code, are amended to read as follows:

15 (a) A lien on manufactured homes in inventory is perfected
16 only by filing the lien [a security agreement] with the department
17 on the required form [in a form that contains the information the
18 director requires]. Once perfected, the lien applies to the
19 manufactured homes in the inventory as well as to any proceeds from
20 the sale of those homes. The department may suspend or revoke the
21 license of a retailer who fails to satisfy a perfected inventory
22 lien under the terms of the security agreement.

23 (b) Except as provided by Subsection (a), a lien on a
24 manufactured home is perfected only by filing with the department
25 the notice of lien on the required [a] form [provided by the
26 department]. The form must require the disclosure of the original
27 dollar amount of the lien as well as the name and address of the

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

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

24 SECTION 42. Section 1201.220, Occupations Code, is amended
25 to read as follows:

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 in the notice of installation to the
3 department as having been installed in the county during the
4 preceding month and for each manufactured home previously installed
5 in the county for which a transfer of ownership was recorded by the
6 issuance of a statement of ownership and location during the
7 preceding month, lists:

- 8 (1) the name of the owner of the home;
- 9 (2) the name of the manufacturer of the home, if
10 available;
- 11 (3) the model designation of the home, if available;
- 12 (4) the identification number of each section or
13 module of the home;
- 14 (5) the address or location where the home was
15 reported as [~~is~~] installed; and
- 16 (6) the reported date of the installation of the home.

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

20 SECTION 43. Section 1201.251, Occupation Code, is amended
21 by amending Subsection (a) and adding Subsection (d) to read as
22 follows:

23 (a) In accordance with Subsection (d), the board [~~The~~
24 ~~director~~] shall adopt standards and requirements for:

- 25 (1) the installation and construction of manufactured
26 housing that are reasonably necessary to protect the health,
27 safety, and welfare of the occupants and the public; and

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

5 (d) To ensure that the standards and requirements adopted
6 under this section are recommended by qualified persons, the board
7 may adopt rules that provide for the approval of foundation systems
8 and devices by licensed engineers. A generic installation standard
9 adopted by rule shall first be reviewed by an advisory committee
10 established by the board. The advisory committee must include one
11 or more engineers in addition to representatives of manufacturers,
12 installers, and manufacturers of stabilization systems or devices.
13 The advisory committee shall submit a report to the board providing
14 each comment and concern regarding any proposed rule. The members
15 of the committee are not personally liable for providing the advice
16 to the board.

17 SECTION 44. Section 1201.253, Occupations Code, is amended
18 to read as follows:

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

22 (1) adopting a standard or requirement authorized by
23 this subchapter;

24 (2) amending a standard authorized by this subchapter;

25 or

26 (3) approving a standard proposed by a local
27 governmental unit under Section 1201.252.

1 SECTION 45. Section 1201.255, Occupations Code, is amended
2 to read as follows:

3 Sec. 1201.255. INSTALLATION OF MANUFACTURED HOUSING. (a)
4 Except as authorized under Section 1201.252, manufactured housing
5 that is installed must be installed in compliance with the
6 standards and rules adopted and orders issued under this chapter.
7 An uninstalled manufactured home may not be occupied for any
8 purpose [issued by the director].

9 (b) An installer may not install a manufactured home at a
10 location that has evidence of ponding, run-off under heavy rains,
11 or bare uncompacted soil unless:

12 (1) the installer obtains the owner's signature on a
13 form adopted by the board disclosing that such conditions may
14 contribute to problems with the stabilization system for that
15 manufactured home, including possible damage to that home; and

16 (2) the owner accepts that risk in writing.

17 SECTION 46. Section 1201.301(b), Occupations Code, is
18 amended to read as follows:

19 (b) In enforcing this chapter, the director may authorize a
20 state inspector to travel inside or outside of the state to inspect
21 the [a-manufacturing] facility of a license holder.

22 SECTION 47. The heading to Section 1201.302, Occupations
23 Code, is amended to read as follows:

24 Sec. 1201.302. INSPECTION BY STATE AGENCIES AND LOCAL
25 GOVERNMENTAL UNITS [ENTITIES OTHER THAN DEPARTMENT].

26 SECTION 48. Section 1201.302(a), Occupations Code, is
27 amended to read as follows:

1 (a) To ensure that a manufactured home sold or installed in
2 this state complies with the standards code, the director may by
3 contract provide for [~~a federal agency or~~] an agency or political
4 subdivision of this state or another state to perform an inspection
5 or inspection program under this chapter or under rules adopted by
6 the board [~~director~~].

7 SECTION 49. Subchapter G, Chapter 1201, Occupations Code,
8 is amended by adding Section 1201.306 to read as follows:

9 Sec. 1201.306. ENGINEER APPROVAL OF INSPECTION COMPONENTS.

10 In the inspection of the installation of a manufactured home under
11 this chapter the department may use or permit the use of a device or
12 procedure that has been reviewed and approved by a licensed
13 engineer if the use complies with any instructions, conditions, or
14 other requirements specified by that engineer.

15 SECTION 50. Sections 1201.351(a) and (b), Occupations Code,
16 are amended to read as follows:

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

19 (1) the home is constructed or assembled in accordance
20 with all building codes, standards, requirements, and regulations
21 prescribed by the United States Department of Housing and Urban
22 Development under the National Manufactured Housing Construction
23 and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.);
24 and

25 (2) the home and all appliances and equipment included
26 in the home are free from defects in materials or workmanship, other
27 than cosmetic defects.

1 (b) The manufacturer's warranty is in effect until at least
2 the first anniversary of the date of initial installation of the
3 home at the consumer's homesite or the date of closing of the
4 consumer's acquisition of a new home that has already been
5 installed, as applicable.

6 SECTION 51. Section 1201.352, Occupations Code, is amended
7 to read as follows:

8 Sec. 1201.352. RETAILER'S WARRANTY ON NEW HOME. (a) The
9 retailer of a new HUD-code manufactured home shall warrant to the
10 consumer in writing that:

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

14 (2) appliances and equipment included with the sale of
15 the home and installed by the retailer are or will be:

16 (A) installed in accordance with the
17 instructions or specifications of the manufacturers of the
18 appliances or equipment; and

19 (B) free from defects in materials or
20 workmanship, except as provided by Subsection (a-1).

21 (a-1) The retailer may expressly disclaim or limit any
22 warranty regarding cosmetic defects.

23 (b) The retailer's warranty on a new HUD-code manufactured
24 home is in effect until the first anniversary of the date of the:

25 (1) [date of] initial installation of the home at the
26 consumer's homesite; or

27 (2) closing of the consumer's acquisition of the home

1 if the home has already been installed.

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

5 (1) the manufacturer's warranty;

6 (2) the retailer's warranty;

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

9 (4) the name and address of the manufacturer or
10 retailer to whom the consumer is to give notice of a warranty
11 service request.

12 (d) Not later than the 30th day after the date of
13 installation of the home, the retailer shall deliver to the
14 consumer a copy of the warranty given to the retailer by the
15 licensed installer.

16 SECTION 52. Section 1201.353, Occupations Code, is amended
17 to read as follows:

18 Sec. 1201.353. NOTICE OF NEED FOR WARRANTY SERVICE. (a)
19 The consumer shall give written notice to the manufacturer, ~~or~~
20 retailer, or installer, as applicable, of a need for warranty
21 service or repairs.

22 (b) Written notice to the department is considered to be
23 notice to the manufacturer, ~~or~~ retailer, or installer beginning
24 on the third business day after the date the department forwards to
25 the applicable license holder the notice by regular mail or by
26 electronic mail as a scanned copy of the notice.

27 SECTION 53. Section 1201.354, Occupations Code, is amended

1 to read as follows:

2 Sec. 1201.354. CORRECTIVE ACTION REQUIRED. The
3 manufacturer, ~~[or]~~ retailer, or installer, as applicable, shall
4 take appropriate corrective action within a reasonable period as
5 required by department rules to fulfill the written warranty
6 obligation.

7 SECTION 54. Section 1201.355, Occupations Code, is amended
8 by amending Subsections (a) and (b) and adding Subsection (d) to
9 read as follows:

10 (a) If the manufacturer, ~~[or]~~ retailer, or installer does
11 not provide the consumer with proper warranty service, the consumer
12 may, at any time, request the department to perform a consumer
13 complaint home inspection. The department may not charge a fee for
14 the inspection.

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

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

22 (2) believes that the warranty service was properly
23 provided; or

24 (3) disputes responsibility concerning the warranty
25 obligation.

26 (d) Notwithstanding any other provision of this section,
27 the department may perform a home inspection at any time if the

1 department determines that there is a reasonable possibility that a
2 condition of the manufactured home may present an imminent threat
3 to public health or safety. The department shall obtain an
4 inspection search warrant if required by other law.

5 SECTION 55. Section 1201.356, Occupations Code, is amended
6 by amending Subsections (a), (b), and (c) and adding Subsections
7 (f), (g), and (h) to read as follows:

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

12 (b) The report shall specify:

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

14 (2) whether the complaint is covered by either the
15 manufacturer's, installer's, or retailer's warranty and, if so,
16 which of those warranties.

17 (c) The director shall issue to the manufacturer, installer,
18 installer, or retailer an appropriate order for corrective action
19 by the manufacturer, installer, or retailer, specifying a
20 reasonable period for completion of the corrective action.

21 (f) The installer and retailer are responsible for the
22 warranty of installation on new HUD-code manufactured homes. If
23 the department determines that a complaint is covered by the
24 installation warranty, the director shall issue to the installer an
25 order requiring corrective action. If the installer fails to
26 perform the corrective action, the installer is subject to the
27 provisions of Section 1201.357 and the director shall issue the

1 same order for corrective action to the retailer with an additional
2 period, not to exceed 10 days, allowed for performing the
3 corrective action, unless additional time for compliance is needed,
4 as established by a showing of good cause by the retailer.

5 (g) If the retailer is required to perform the corrective
6 action under Subsection (f) because of the installer's failure to
7 comply with the director's order, the retailer may seek
8 reimbursement from the installer.

9 (h) Notwithstanding Subsection (f), the period for
10 performing the required warranty work may be shortened by the
11 director as much as reasonably possible if the warranty work may be
12 necessary to address an imminent threat to public health or safety.

13 SECTION 56. Section 1201.357, Occupations Code, is amended
14 to read as follows:

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

22 (b) If the manufacturer, ~~[or]~~ retailer, or installer, as
23 applicable, fails or refuses to provide warranty service in
24 accordance with the department order under Section 1201.356, the
25 director shall hold an informal meeting ~~[a hearing]~~ at which the
26 manufacturer, ~~[or]~~ retailer, or installer must show cause as to why
27 the manufacturer's, ~~[or]~~ retailer's, or installer's license should

1 not be suspended or revoked. The consumer may express the
2 consumer's views at the informal meeting. Following the meeting,
3 the director shall:

4 (1) resolve the matter by agreed order;

5 (2) dismiss the matter if no violation is found to have
6 occurred; or

7 (3) institute an administrative action that may
8 include suspension, revocation, assessment of administrative
9 penalties, or any combination of those actions.

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

24 (1) is discharged from the obligations imposed by the
25 relevant department orders;

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

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

3 SECTION 57. Section 1201.358, Occupations Code, is amended
4 to read as follows:

5 Sec. 1201.358. FAILURE TO SHOW GOOD CAUSE; ADDITIONAL
6 ORDERS ISSUED BY DIRECTOR [~~HEARING RESULTS~~]. (a) Failure by the
7 manufacturer, [~~or~~] retailer, or installer, as applicable, to show
8 good cause under Section 1201.357(a) is a sufficient basis for
9 suspension or revocation of the manufacturer's, [~~or~~] retailer's, or
10 installer's license.

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

22 (c) The director may issue an order:

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

1 (2) giving the manufacturer or retailer performing the
2 obligation the right of indemnification against the other.

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

7 SECTION 58. Section 1201.361, Occupations Code, is amended
8 to read as follows:

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

21 (b) The warranty must conspicuously disclose the
22 requirement that the consumer notify the installer of any claim in
23 writing in accordance with the terms of the warranty. Unless the
24 warranty provides for a longer period, the installer has no
25 obligation or liability under a warranty for a new manufactured
26 home for any defect described in a written notice received from the
27 consumer more than one year ~~[two years]~~ after the date of

1 acquisition of a home that has already been installed, as
2 applicable, or the date of the installation.

3 SECTION 59. Subchapter H, Chapter 1201, Occupations Code,
4 is amended by adding Section 1201.362 to read as follows:

5 Sec. 1201.362. ADDITIONAL CORRECTIVE ACTION
6 AUTHORITY. Notwithstanding the limitations and terms of a
7 warranty, if during any inspection the department identifies an
8 aspect of an installation that does not conform to the applicable
9 requirements, the director may:

10 (1) order the license holder who performed the
11 installation to correct the defect; or

12 (2) if that license holder is no longer licensed,
13 issue an order directing another licensed installer to correct the
14 installation and reimburse the installer from the trust fund for
15 the costs of that corrective action.

16 SECTION 60. Section 1201.402(a), Occupations Code, is
17 amended to read as follows:

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

20 SECTION 61. Section 1201.404(b), Occupations Code, is
21 amended to read as follows:

22 (b) The trust fund and the director are not liable to the
23 consumer if the trust fund does not have the money necessary to pay
24 the actual damages [~~and attorney's fees~~] determined to be payable.
25 The director shall record the date and time of receipt of each
26 verified complaint and, as money becomes available, pay the
27 consumer whose valid claim is the earliest by date and time.

1 SECTION 62. Section 1201.405, Occupations Code, is amended
2 by adding Subsections (f) and (g) to read as follows:

3 (f) The trust fund is not liable and the director may not pay
4 attorney's fees or actual damages:

5 (1) to reimburse an affiliate or related person of a
6 license holder, unless the director issues an order under Section
7 1201.358(c);

8 (2) to correct a defect that is solely cosmetic in
9 nature; or

10 (3) to address matters not provided for in this
11 subchapter, unless those matters involve:

12 (A) a breach of warranty;

13 (B) a failure to return or apply in accordance
14 with a written agreement money received from a consumer or to which
15 the consumer was entitled; or

16 (C) the breach of an agreement to provide goods
17 or services necessary to the safe and habitable use of a
18 manufactured home, including an agreement for goods or services
19 involving steps, air conditioning, access to utilities, or sewage
20 and wastewater treatment.

21 (g) The board by rule may place reasonable limits on the
22 costs that may be approved for payment from the trust fund,
23 including payments made under Section 1201.358, and may require
24 consumers making claims that may be subject to reimbursement from
25 the trust fund to provide reasonable estimates establishing those
26 costs. The rules adopted by the board may specify procedures and
27 requirements the board considers necessary and advisable for the

1 administration of the trust fund.

2 SECTION 63. Section 1201.406, Occupations Code, is amended
3 to read as follows:

4 Sec. 1201.406. PROCEDURE FOR RECOVERY FROM TRUST FUND. (a)
5 To recover from the trust fund, a consumer must file a written,
6 sworn complaint in the form required by the director not later than
7 the second anniversary of:

8 (1) the date of the alleged act or omission causing the
9 actual damages; or

10 (2) the date the act or omission is discovered or
11 should reasonably have been discovered.

12 (b) On receipt of a verified complaint, the department
13 shall:

14 (1) notify each appropriate license holder and the
15 issuer of any surety bond related to the license; [and]

16 (2) investigate the claim;

17 (3) issue a preliminary determination on the claim;

18 and

19 (4) give the consumer, the license holder, and any
20 surety related to the license:

21 (A) an opportunity to resolve the matter by
22 agreement; or

23 (B) the opportunity to dispute the preliminary
24 determination.

25 (c) If the matter is not resolved as provided by Subsection
26 (b)(4) before the 30th day after the date the preliminary
27 determination is issued, the preliminary determination

1 automatically becomes final and the director shall make demand on
2 the surety or deduct any payable amount of the claim from the
3 license holder's security [~~to determine:~~

4 [~~(A) the validity of the claim, and~~

5 [~~(B) whether the complaint can be resolved by~~
6 ~~remedial action of the license holder]~~.

7 SECTION 64. Section 1201.407, Occupations Code, is amended
8 to read as follows:

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

15 (b) For a preliminary determination that had been disputed
16 [~~claim determined]~~ to become final and [~~be]~~ valid, the department
17 shall make any changes in the determination the director considers
18 to be appropriate and issue another written [~~a]~~ preliminary
19 determination [~~during the informal dispute resolution process]~~ as
20 to the responsibility and liability of the manufacturer, retailer,
21 broker, and installer.

22 (c) Before making a final determination, the department
23 shall provide a license holder a period of 10 days [~~an opportunity]~~
24 to comment on the preliminary determination.

25 (d) After considering the comments made in relation to the
26 preliminary determination, if any, the director shall issue a final
27 determination.

1 (e) Not later than the 10th day after the date of its
2 issuance, the final determination may be appealed to the board by
3 giving written notice to the director, who shall submit the matter
4 to the board for consideration at the next meeting for which the
5 matter can be publicly posted in the manner as required by Chapter
6 551, Government Code.

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

10 [~~(1) is out of business,~~

11 [~~(2) is no longer licensed, or~~

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

14 [~~(e) If, after receiving notice of the claim, a license~~
15 ~~holder or the license holder's surety fails or refuses to~~
16 ~~participate in the informal dispute resolution process, the~~
17 ~~license] holder or surety, as applicable, is bound by the~~

18 department's final determination of responsibility and liability.

19 SECTION 65. Sections 1201.409(a) and (b), Occupations Code,
20 are amended to read as follows:

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

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

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

1 (b) Payment by the surety or from the other security must be
2 made not later than the 30th day after the date of [~~receipt of~~
3 notice from the director that a consumer claim has been paid.

4 SECTION 66. Section 1201.410, Occupations Code, is amended
5 to read as follows:

6 Sec. 1201.410. CONSUMER INFORMATION [~~INFORMATIONAL~~
7 ~~PAMPHLET~~]. [~~(a)~~] The director shall prepare information for [a
8 ~~pamphlet informing]~~ consumers of their rights to recover from the
9 trust fund. The director shall make the information available to
10 consumers:

- 11 (1) on the department's Internet website; and
12 (2) in hard-copy format to any member of the public who
13 submits a request for the information.

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

16 SECTION 67. Section 1201.451(b), Occupations Code, is
17 amended to read as follows:

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

1 issuance of a statement of ownership and location.

2 SECTION 68. Section 1201.453, Occupations Code, is amended
3 to read as follows:

4 Sec. 1201.453. HABITABILITY. Manufactured housing is
5 habitable only if:

6 (1) there is no defect or deterioration in or damage to
7 the home that creates a dangerous situation;

8 (2) the plumbing, heating, and electrical systems are
9 in safe working order;

10 (3) the walls, floor, and roof are:

11 (A) free from a substantial opening that was not
12 designed; and

13 (B) structurally sound; and

14 (4) all exterior doors and windows are in place and
15 operate properly.

16 SECTION 69. Section 1201.457(b), Occupations Code, is
17 amended to read as follows:

18 (b) A person may not [~~The purchaser of a used manufactured~~
19 ~~home for business use or the purchaser of a salvaged manufactured~~
20 ~~home may not sell, exchange, or lease-purchase the home for use as a~~
21 ~~dwelling or~~] knowingly allow another [~~any~~] person to occupy or use
22 the home as a dwelling unless the director issues a new statement of
23 ownership and location indicating that the home is no longer
24 reserved for business use or salvage. On the purchaser's
25 application to the department for issuance of a new statement of
26 ownership and location, the department shall inspect the home and,
27 if the department determines that the home is habitable, issue the

1 statement of ownership and location.

2 SECTION 70. Section 1201.459, Occupations Code, is amended
3 to read as follows:

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

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

- 12 (1) apply to the department for a seal;
13 (2) pay the applicable fee; and
14 (3) recover that fee as part of the cost of the sale of
15 the home.

16 (b-1) The tax appraiser or the tax assessor-collector
17 assumes full responsibility for affixing to the home a seal issued
18 to the tax appraiser or the tax assessor-collector under Subsection
19 (b).

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

- 23 (1) the home is habitable; or
24 (2) a purchaser of the home at a tax sale may obtain a
25 new statement of ownership and location from the department without
26 an inspection for habitability.

27 SECTION 71. Section 1201.461, Occupations Code, is amended

1 by adding Subsections (g) and (h) to read as follows:

2 (g) A political subdivision of this state that identifies a
3 manufactured home within its jurisdiction as a salvaged
4 manufactured home may impose with respect to that home an
5 inspection, a requirement for corrective action, or other
6 requirements that would apply if the home were not a salvaged
7 manufactured home.

8 (h) A license holder may not participate in the sale,
9 exchange, lease-purchase, or installation for use as a dwelling of
10 a manufactured home that is salvaged and that has not been repaired
11 as required by this chapter and the rules adopted under this
12 chapter. The sale, exchange, lease-purchase, or installation of a
13 salvaged manufactured home for use as a dwelling constitutes an
14 imminent threat to public health or safety. A license holder that
15 participates in a sale, exchange, lease-purchase, or installation
16 in violation of this section:

17 (1) is subject to the imposition of penalties and
18 other sanctions provided for in this chapter; and

19 (2) commits an offense punishable as a Class B
20 misdemeanor.

21 SECTION 72. Section 1201.503, Occupations Code, is amended
22 to read as follows:

23 Sec. 1201.503. PROHIBITED ALTERATION. Before the sale to a
24 consumer of a new manufactured home to which a label has been
25 attached and before installation of the home, a manufacturer,
26 retailer, broker, or installer may not alter the home or cause the
27 home to be altered without obtaining prior written approval from a

1 licensed engineer and delivering that written approval to the
2 department.

3 SECTION 73. Section 1201.506(a), Occupations Code, is
4 amended to read as follows:

5 (a) A retailer or broker:

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

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

11 (3) shall comply with all applicable provisions of the
12 Finance Code.

13 SECTION 74. Section 1201.509, Occupations Code, is amended
14 to read as follows:

15 Sec. 1201.509. PROHIBITED RETENTION OF DEPOSIT. A
16 retailer [~~, salesperson, or agent of the retailer~~] may not refuse to
17 refund a consumer's deposit except as provided by Section 1201.151.

18 SECTION 75. Subchapter K, Occupations Code, is amended by
19 adding Section 1201.513 to read as follows:

20 Sec. 1201.513. DISPOSITION OF CERTAIN USED MANUFACTURED
21 HOMES; OCCUPANCY OF HOMES PRIOR TO CLOSING. (a) A retailer may not
22 sell or otherwise transfer a used manufactured home acquired in
23 exchange for another manufactured home before completing the
24 transaction involving the other manufactured home.

25 (b) A retailer may not knowingly permit a consumer to occupy
26 a manufactured home that is the subject of a sale, exchange, or
27 lease-purchase before the closing of any required financing unless

1 the consumer is first given a form adopted by the board disclosing
2 that if for any reason the financing does not close, the consumer
3 may be required to vacate the home.

4 SECTION 76. Section 1201.551, Occupations Code, is amended
5 to read as follows:

6 Sec. 1201.551. DENIAL OF LICENSE; DISCIPLINARY
7 ACTION. (a) The director [~~after notice as provided for under~~
8 ~~Section 1201.054 and a hearing as provided by Sections 1201.054 and~~
9 ~~1201.060,~~] may deny, permanently revoke, or suspend for a definite
10 period and specified sales location or geographic area a license if
11 the director determines that the applicant or license holder:

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

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

17 (3) repeatedly failed to file with the department
18 completed applications [~~timely provide to a consumer an~~
19 ~~application~~] for statements [~~a statement~~] of ownership and location
20 in the time and manner required by this chapter [~~and any information~~
21 ~~necessary to complete the application~~];

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

25 (5) engaged in a false, misleading, or deceptive act
26 or practice as described by Subchapter E, Chapter 17, Business &
27 Commerce Code;

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

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

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

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

10 (10) has had any other license issued by this state
11 revoked or suspended by this state or a political subdivision or
12 agency of this state.

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

19 SECTION 77. Section 1201.552, Occupations Code, is amended
20 to read as follows:

21 Sec. 1201.552. HEARING CONCERNING LICENSE. The director
22 may issue an order to revoke, suspend, or deny a new or renewal
23 license. If not later than the 30th day after the date the order is
24 issued the person against whom that order is issued requests a
25 hearing by giving written notice to the director, the director
26 shall set a hearing to be conducted by the State Office of
27 Administrative Hearings. If appeal is not timely made, the order

1 becomes final. The hearing and any related administrative
2 proceeding is a contested case under Chapter 2001, Government Code.
3 The board shall issue an order after receiving a proposal for
4 decision related to the case [~~shall conduct a hearing involving the~~
5 ~~denial, renewal, revocation, or suspension of a license in~~
6 ~~accordance with Chapter 2001, Government Code~~].

7 SECTION 78. Section 1201.553, Occupations Code, is amended
8 to read as follows:

9 Sec. 1201.553. JUDICIAL REVIEW. Judicial review of an
10 order, decision, or determination of the board or 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 79. 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 or the rules adopted
18 under this chapter, or a final order adopted or issued as provided
19 by this chapter, an administrative penalty in an amount not to
20 exceed \$10,000 for each 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 license holder
27 [~~retailer~~] who fails to provide information to a consumer as

1 required by this chapter an administrative penalty in an amount not
2 to exceed:

- 3 (1) \$1,000 for the first violation;
- 4 (2) \$2,000 for the second violation; and
- 5 (3) \$4,000 for each subsequent violation.

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

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

13 (d) If not later than the 30th day after the date the person
14 receives notice of an administrative penalty the person against
15 whom the penalty is issued requests a hearing by giving written
16 notice to the director, the director shall set a hearing to be
17 conducted by the State Office of Administrative Hearings. If
18 appeal is not timely made, the administrative penalty becomes
19 final. The hearing and any related administrative proceeding is a
20 contested case under Chapter 2001, Government Code. The board shall
21 issue an order after receiving a proposal for decision related to
22 the case.

23 SECTION 80. Subchapter M, Chapter 1201, Occupations Code,
24 is amended by adding Sections 1201.607 through 1201.611 to read as
25 follows:

26 Sec. 1201.607. ISSUANCE OF ORDERS AND REQUESTS FOR
27 HEARINGS. An order issued by the director under this chapter

1 automatically becomes a final order if the order is not appealed
2 before the 30th day after the date the order is issued. If the
3 person to whom the order is issued files a written request for a
4 hearing with the director, the order is considered to have been
5 appealed and is a contested case under Chapter 2001, Government
6 Code. The director shall set any appealed order for a hearing
7 before the State Office of Administrative Hearings. The board
8 shall issue a final order after receiving and reviewing the
9 proposal for decision related to the case.

10 Sec. 1201.608. INSPECTION OF LICENSE HOLDER RECORDS. (a)

11 The department may inspect a license holder's records during normal
12 business hours without advance notice if the director determines
13 that an inspection is necessary to:

- 14 (1) prevent a violation of this chapter;
15 (2) protect a consumer or another license holder; or
16 (3) assist another state or federal agency in an
17 investigation.

18 (b) The director may request or issue a subpoena for the
19 license holder's records.

20 (c) If the director determines that it is appropriate to
21 detect and address suspected violations of this chapter, the
22 department may carry out an undercover investigation in accordance
23 with board-adopted rules.

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. CRIMINAL PENALTY FOR PERFORMING ACTION
2 WITHOUT PROPER LICENSE. (a) A person who is not required to hold a
3 license under this chapter commits an offense if the person
4 performs an act that requires a license under this chapter.

5 (b) An offense under this section is a Class B misdemeanor.
6 A subsequent conviction for an offense under this section is
7 punishable as a Class A 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 or intends to violate a provision of this chapter or the
11 rules adopted under this chapter, to enforce compliance with this
12 chapter the director may issue to the license holder without notice
13 and hearing an order to cease and desist from continuing a
14 particular action or an order to take affirmative action, or both.

15 (b) The director may issue an order to a license holder to
16 cease and desist from violating any law, rule, or written agreement
17 or to take corrective action with respect to the violation if the
18 license holder in any way is performing an action that relates to
19 the sale, financing, or installation of a manufactured home or
20 relates to providing goods or services in connection with the sale,
21 financing, or installation of a manufactured home, provided that if
22 the matter involves a law that is subject to administration or
23 interpretation by a state agency other than the department, the
24 director shall consult with the person in charge of the day-to-day
25 administration of that agency before issuing the order. The
26 director may not issue an order under this subsection with respect
27 to a matter that is subject to inspection and regulation by a state

1 agency other than the department.

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 made. If a person against whom the order is issued requests a
5 hearing, the director shall set and give notice of a hearing. The
6 hearing is governed by Chapter 2001, Government Code. Based on the
7 findings of fact, conclusions of law, and recommendations of the
8 hearings officer, the board by order may find that a violation has
9 or has not occurred.

10 (d) If a hearing is not requested under Subsection (c)
11 before the 30th day after the date on which an order is issued, the
12 order is considered final and not appealable.

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

21 (f) If a person fails to pay an administrative penalty that
22 has become final or fails to comply with an order of the director
23 that has become final, in addition to any other remedy provided
24 under law, the director, after the expiration of the 10-day period
25 following the date the director provides notice to the person, may,
26 without a prior hearing, suspend the person's license. The
27 suspension continues until the person has complied with the cease

1 and desist order or paid the administrative penalty. During the
2 period of suspension:

3 (1) the person whose license has been suspended may
4 not perform an act that requires a license under this chapter; and

5 (2) all compensation received by the person during the
6 period of suspension is subject to forfeiture to the person from
7 whom the compensation was received.

8 (g) An order of suspension under Subsection (f) may be
9 appealed. An appeal is a contested case governed by Chapter 2001,
10 Government Code. A hearing of an appeal of an order of suspension
11 issued under Subsection (f) must be held not later than the 15th day
12 after the date of receipt of the notice of appeal. The appellant
13 shall be provided notice of the time and place of the hearing not
14 later than the third day before the hearing is scheduled to occur.

15 (h) An order revoking the license of a retailer, broker,
16 installer, or salesperson may prohibit the person from being a
17 related person of a license holder unless the person obtains the
18 prior written consent of the director.

19 Sec. 1201.611. SANCTIONS AND PENALTIES. (a) The board
20 shall adopt rules relating to the administrative sanctions.

21 (b) If the person charged with a violation accepts the
22 director's determination with respect to an administrative
23 penalty, the director shall issue an order approving the
24 determination and ordering the person to pay the recommended
25 penalty.

26 (c) Not later than the 30th day after the date on which the
27 director's determination becomes final, the person charged shall:

1 (1) pay the penalty in full; or

2 (2) if the person files a petition for judicial review
3 contesting the facts of the violation, the amount of the penalty, or
4 both the facts of the violation and the amount of the penalty:

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

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

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

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

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

21 (f) Judicial review of the director's order assessing the
22 penalty is subject to the substantial evidence rule.

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

1 the director under this subsection shall be paid at a rate equal to
2 the 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 that the assessed penalty is paid to the director and
5 ending on 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 division director, may institute an action for injunctive
16 relief to restrain the person from continuing the violation and for
17 a civil penalty of not more than \$1,000 for each violation and of
18 not more than \$250,000 in the aggregate. A civil action filed under
19 this subsection must be filed in a district court in Travis County.
20 The attorney general and the director may recover reasonable
21 expenses incurred in obtaining injunctive relief under this
22 subsection, including court costs, reasonable attorney's fees,
23 investigative costs, witness fees, and deposition expenses.

24 SECTION 81. Section 2306.0724, Government Code, is amended
25 by amending Subsection (d) and adding Subsection (e) to read as
26 follows:

27 (d) A housing sponsor who fails to file a report in a timely

1 manner is subject to the following sanctions, as determined by the
2 department:

- 3 (1) denial of a request for additional funding; or
4 (2) an administrative penalty in an amount not to
5 exceed \$1,000, assessed in the manner provided for an
6 administrative penalty under Subsection (e) [~~Section 2306.6023~~].

7 (e) In determining the amount of an administrative penalty
8 assessed under this section, the department shall consider:

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

14 SECTION 82. Section 2306.186, Government Code, is amended
15 by amending Subsection (k) and adding Subsection (m) to read as
16 follows:

17 (k) The department shall assess an administrative penalty
18 on development owners who fail to contract for the third-party
19 physical needs assessment and make the identified repairs as
20 required by this section. The department may assess the
21 administrative penalty in the same manner as an administrative
22 penalty assessed under Subsection (m) [~~Section 2306.6023~~]. The
23 penalty is computed by multiplying \$200 by the number of dwelling
24 units in the development and must be paid to the department. The
25 office of the attorney general shall assist the department in the
26 collection of the penalty and the enforcement of this subsection.

27 (m) In determining the amount of an administrative penalty

1 assessed under this section, the department shall consider:

2 (1) the seriousness of the violation;

3 (2) the history of previous violations;

4 (3) the amount necessary to deter future violations;

5 (4) efforts made to correct the violation; and

6 (5) any other matters that justice may require.

7 SECTION 83. Section 2306.6022(b), Government Code, is
8 amended to read as follows:

9 (b) The division shall make available on its Internet
10 website [~~provide to the person filing the complaint and to each~~
11 ~~person who is a subject of the complaint a copy of~~] the division's
12 policies and procedures relating to complaint investigation and
13 resolution and provide a hard copy of that information to those
14 persons on request by those persons.

15 SECTION 84. Section 11.432, Tax Code, is amended by
16 amending Subsection (a) and adding Subsection (b-1) to read as
17 follows:

18 (a) For a manufactured home to qualify for an exemption
19 under Section 11.13 of this code, the application for the exemption
20 must be accompanied by:

21 (1) a copy of the statement of ownership and location
22 for the manufactured home issued by the manufactured housing
23 division of the Texas Department of Housing and Community Affairs
24 under Section 1201.207, Occupations Code, showing that the
25 individual applying for the exemption is the owner of the
26 manufactured home;

27 (2) [~~or be accompanied by~~] a verified copy of the

1 purchase contract showing that the applicant is the purchaser of
2 the manufactured home;

3 (3) a photostatic copy of the current title page for
4 the manufactured home as that page is displayed on the Internet
5 website of the Texas Department of Housing and Community Affairs;
6 or

7 (4) the applicable computer records of the Texas
8 Department of Housing and Community Affairs.

9 (b-1) The consumer is entitled to obtain the homestead
10 exemptions provided by Section 11.13 regardless of whether:

11 (1) an owner has elected to treat the manufactured
12 home as real property or personal property; or

13 (2) the home is listed on the tax rolls together with
14 the real property to which it is attached or is listed separately
15 from that property.

16 SECTION 85. Section 31.072, Tax Code, is amended by adding
17 Subsection (i) to read as follows:

18 (i) Notwithstanding Subsection (a), if the escrow account
19 will be used solely to provide for the payment of property taxes
20 collected on the property owner's manufactured home, the collector
21 shall enter into a contract under this section with a property owner
22 who:

23 (1) owns the manufactured home; and

24 (2) requests the establishment of the escrow account.

25 SECTION 86. Section 32.03, Tax Code, is amended by amending
26 Subsections (a-1), (a-2), and (b) and adding Subsections (b-1),
27 (b-2), and (b-3) to read as follows:

1 (a-1) With regard to a manufactured home, a tax lien may be
2 recorded at any time not later than the expiration of the six-month
3 period following the end of the calendar year for which the tax was
4 owed. The tax lien may be enforced if it has been recorded in
5 accordance with the laws in effect at the time of the recordation of
6 the lien. A properly recorded tax lien may not be enforced against
7 the owner of a new manufactured home who acquired the manufactured
8 home from a retailer as a buyer in the ordinary course of business
9 ~~[A tax lien against a manufactured home may not be enforced unless~~
10 ~~it has been recorded with the Texas Department of Housing and~~
11 ~~Community Affairs as provided by Section 1201.219, Occupations~~
12 ~~Code.~~

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

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

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

24 (b) A bona fide purchaser for value or the holder of a lien
25 recorded on the manufactured home statement of ownership and
26 location is not required to pay any taxes that have not been
27 recorded with the Texas Department of Housing and Community

1 Affairs. In this section, "manufactured home" has the meaning
2 assigned by Section 32.015(b). Unless a tax lien has been filed in
3 a timely manner with the Texas Department of Housing and Community
4 Affairs, a taxing unit or an agent of the taxing unit may not use a
5 tax warrant or any other method to attempt to execute or foreclose
6 on the manufactured home as a result of the unfiled tax lien.

7 (b-1) A taxpayer is entitled to designate in writing which
8 tax year will be credited with a particular payment. If a taxpayer
9 pays all the amounts owing for a given year, the taxing unit shall
10 issue a receipt for the payment of the taxes for the designated
11 year.

12 (b-2) Notwithstanding any other provision of law, if a
13 manufactured home was omitted from the tax roll at any time before
14 the second anniversary of the date on which taxes are due, the
15 taxing unit may file a tax lien not later than the 150th day after
16 the date on which the tax becomes delinquent.

17 (b-3) If personal property taxes on a manufactured home have
18 not been levied by the taxing unit, the taxing unit shall provide
19 the prospective buyer of the manufactured home with an estimated
20 amount of taxes computed by multiplying the taxable value of the
21 manufactured home, according to the most recent certified appraisal
22 roll for the taxing unit, by the taxing unit's adopted tax rate for
23 the preceding tax year. To enable the transfer of the manufactured
24 home, the tax collector shall accept the payment of the estimated
25 personal property taxes and issue a certification to the Texas
26 Department of Housing and Community Affairs that the estimated
27 taxes are being held in escrow until the taxes are levied. Once the

1 taxes are levied, the tax collector shall apply the escrowed
2 amounts to the levied taxes. At the time that the tax collector
3 accepts the payment of the taxes, the tax collector shall notify the
4 taxpayer that the payment of the estimated taxes is an estimate that
5 may increase once the appraisal rolls for the year are certified.
6 The tax collector shall notify the new owner that the new owner of
7 the manufactured home may be liable for the payment of any
8 difference between the tax established by the certified appraisal
9 roll and the estimate actually paid.

10 SECTION 87. The following provisions are repealed:

- 11 (1) Section 1201.054(c), Occupations Code;
- 12 (2) Section 1201.059, Occupations Code;
- 13 (3) Section 1201.112, Occupations Code;
- 14 (4) Section 1201.163, Occupations Code;
- 15 (5) Sections 1201.214(c) and (d), Occupations Code;
- 16 (6) Section 1201.408, Occupations Code; and
- 17 (7) Section 2306.6023, Government Code.

18 SECTION 88. The changes in law made by this Act to
19 provisions of the Tax Code apply only to an ad valorem tax year that
20 begins on or after January 1, 2008. The changes in law made to those
21 provisions do not affect a tax lien that attached to property for a
22 tax year that began before January 1, 2008, and the law in effect
23 immediately before January 1, 2008, is continued in effect for
24 purposes of the tax lien.

25 SECTION 89. This Act takes effect September 1, 2007.

ADOPTED

MAY 22 2007

By: Haggerty / Harris

Atay Shaw
Secretary of the Senate

H.B. No. 1460

Substitute the following for H.B. No. 1460:

By: Chris Harris

C.S. H.B. No. 1460

A BILL TO BE ENTITLED

1

AN ACT

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

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

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

8 Sec. 1201.003. DEFINITIONS. In this chapter:

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

17 (2) "Affiliate" means a person who is under common
18 control.

19 (3) "Alteration" means the replacement, addition,
20 modification, or removal of equipment in a new manufactured home
21 after sale by a manufacturer to a retailer but before sale and
22 installation by a retailer to a purchaser in a manner that may
23 affect the home's construction, fire safety, occupancy, or
24 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

1 homes.

2 (7) [~~5~~] "Business use" means the use of a
3 manufactured home for a purpose other than as a permanent or
4 temporary dwelling.

5 (8) [~~6~~] "Consumer" means a person, other than a
6 person licensed under this chapter, who seeks to acquire or
7 acquires by purchase, exchange, or lease-purchase a manufactured
8 home.

9 (9) "Control" means, with respect to another person,
10 the possession of the power, directly or indirectly, to vote an
11 interest of 25 percent or more.

12 (10) [~~7~~] "Department" means the Texas Department of
13 Housing and Community Affairs operating through its manufactured
14 housing division.

15 (11) [~~8~~] "Director" means the executive director of
16 the manufactured housing division of the Texas Department of
17 Housing and Community Affairs.

18 (12) [~~9~~] "HUD-code manufactured home":

19 (A) means a structure:

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

23 (ii) built on a permanent chassis;

24 (iii) designed for use as a dwelling with or
25 without a permanent foundation when the structure is connected to
26 the required utilities;

27 (iv) transportable in one or more sections;

1 and

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

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

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

9 (13) [~~(10)~~] "Installation" means the temporary or
10 permanent construction of the foundation system and the placement
11 of a manufactured home or manufactured home component on the
12 foundation. The term includes supporting, blocking, leveling,
13 securing, anchoring, and properly connecting multiple or
14 expandable sections or components and making minor adjustments.

15 (14) [~~(11)~~] "Installer" means a person, including a
16 retailer or manufacturer, who contracts to perform or performs an
17 installation function on manufactured housing.

18 (15) [~~(12)~~] "Label" means a device or insignia that
19 is:

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

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

26 (16) [~~(13)~~] "Lease-purchase" means entering into a
27 lease contract for a manufactured home, in which the lessor retains

1 title, containing a provision or, in another agreement, conferring
2 on the lessee an option to purchase a manufactured home.

3 (17) [~~(14)~~] "License holder" or "licensee" means a
4 person who holds a department-issued license as a manufacturer,
5 retailer, broker, rebuilder, salesperson, or installer.

6 (18) [~~(15)~~] "Manufactured home" or "manufactured
7 housing" means a HUD-code manufactured home or a mobile home.

8 (19) [~~(16)~~] "Manufacturer" means a person who
9 constructs or assembles manufactured housing for sale, exchange, or
10 lease-purchase in this state.

11 (20) [~~(17)~~] "Mobile home":

12 (A) means a structure:

13 (i) constructed before June 15, 1976;

14 (ii) built on a permanent chassis;

15 (iii) designed for use as a dwelling with or
16 without a permanent foundation when the structure is connected to
17 the required utilities;

18 (iv) transportable in one or more sections;

19 and

20 (v) in the traveling mode, at least eight
21 body feet in width or at least 40 body feet in length or, when
22 erected on site, at least 320 square feet; and

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

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

27 (22) [~~(18)~~] "Person" means an individual or a

1 partnership, company, corporation, association, or other group,
2 however organized.

3 (23) "Related person" means a person who directly or
4 indirectly participates in management or policy decisions.

5 (24) [~~(19)~~] "Retailer" means a person who:

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

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

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

14 (26) [~~(20)~~] "Salesperson" means a person who, as an
15 employee or agent of a retailer or broker, sells or lease-purchases
16 or offers to sell or lease-purchase manufactured housing to a
17 consumer [~~for any form of compensation~~].

18 (27) [~~(21)~~] "Salvaged manufactured home" means a
19 manufactured home determined to be salvaged under Section 1201.461.

20 (28) [~~(22)~~] "Seal" means a device or insignia issued
21 by the director that, for title purposes, is to be attached to a
22 used manufactured home as required by the director.

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

25 (30) [~~(23-a)~~] "Statement of ownership and location"
26 means a statement issued by the department and setting forth:

27 (A) the ownership and location of a manufactured

1 home [~~that has been sold at a retail sale or installed~~] in this
2 state as provided by Section 1201.205; and

3 (B) other information required by this chapter.

4 (31) [~~(24)~~] "Trust fund" means the manufactured
5 homeowners' recovery trust fund.

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

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

11 (B) a manufactured home that:

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

14 (ii) had a statement of ownership and
15 location; and

16 (iii) was taken back from the consumer or
17 transferee because of a first payment default or agreement to
18 rescind or unwind the transaction.

19 SECTION 2. Section 1201.008, Occupations Code, is amended
20 by adding Subsections (e) and (f) to read as follows:

21 (e) Notwithstanding any zoning or other law, in the event
22 that a manufactured home occupies a lot in a municipality, the owner
23 of the manufactured home may remove the manufactured home from its
24 location and place another manufactured home on the same property,
25 provided that the replacement is a newer manufactured home and is at
26 least as large in living space as the prior manufactured home.

27 (f) An owner's ability to replace the home as a result of a

1 fire or natural disaster cannot be restricted. Other than in the
2 case of a fire or natural disaster, a general-rule or home-rule
3 municipality by an ordinance or charter may limit the ability of the
4 owner to replace his home to a single replacement.

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

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

9 (1) comply with the National Manufactured Housing
10 Construction and Safety Standards Act of 1974 (42 U.S.C. Section
11 5401 et seq.), including adopting and enforcing rules reasonably
12 required to implement the notification and correction procedures
13 provided by 42 U.S.C. Section 5414; and

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

20 SECTION 4. Section 1201.054, Occupations Code, is amended
21 to read as follows:

22 Sec. 1201.054. PROCEDURE FOR ADOPTING RULES. (a) Rules
23 must be adopted in accordance with Chapter 2001, Government Code,
24 and with this section.

25 (b) If requested, the board shall, after at least 10 days'
26 notice, hold a hearing on any rule that it proposes to adopt, other
27 than a rule that is to be adopted under emergency rulemaking, in

1 which case only the requirements of Chapter 2001, Government Code,
2 shall apply [~~A proposed rule must be published in the Texas Register~~
3 ~~before the 30th day preceding the date of a public hearing set to~~
4 ~~consider the testimony of interested persons. Notice of the time~~
5 ~~and place of the public hearing must be published in the Texas~~
6 ~~Register before the 30th day preceding the date of the hearing].~~

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

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

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

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

23 SECTION 6. Section 1201.058, Occupations Code, is amended
24 to read as follows:

25 Sec. 1201.058. AMOUNT OF FEES. (a) The board shall
26 establish reasonable fees for all matters under this chapter
27 providing for fees. If the department's rules provide an option to

1 file a document electronically, the department may charge a
2 discounted fee for the electronic filing.

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

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

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

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

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

21 (f) A person may not act as a salesperson of manufactured
22 housing unless the person holds a salesperson's license. A
23 retailer or broker may not employ or otherwise use the services of a
24 salesperson who is not licensed. A licensed salesperson may not
25 participate in a sale of a manufactured home unless the sale is
26 through the retailer or broker who sponsored the salesperson's
27 application as required by Section 1201.103(d).

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

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

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

15 (2) an advertisement concerning real property on [~~to~~]
16 which there is a manufactured home that has been converted to real
17 property in accordance with Section 1201.2055 [~~permanently~~
18 ~~attached~~].

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

21 (a) A licensed installer may employ unlicensed persons to
22 assist in performing installation functions provided that the
23 licensed installer maintains a list of the persons so employed. The
24 director may issue an order to prohibit a person who is not licensed
25 as an installer from performing installation functions under the
26 oversight of a licensed installer [~~An employee who acts as an agent~~
27 ~~of a license holder is covered by the holder's license and is not~~

1 ~~required to hold an individual license].~~

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

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

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

22 (a) An applicant for a license as a manufacturer, retailer,
23 broker, rebuilder, or installer must file with the director a
24 license application containing:

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

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

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

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

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

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

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

17 (2) pay the required fee.

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

20 Sec. 1201.104. QUALIFICATIONS FOR LICENSE. (a) Except as
21 provided by Subsection (e), as a requirement [~~prerequisite~~] for a
22 manufacturer's, retailer's, broker's, installer's, salvage
23 rebuilder's, or salesperson's license, a person who was not
24 licensed or registered with the department or a predecessor agency
25 on September 1, 1987, must, not more than 12 months before applying
26 for the person's first license under this chapter, attend and
27 successfully complete 20 hours of instruction in the law, including

1 instruction in consumer protection regulations. If the applicant
2 is not an individual, the applicant must have at least one related
3 person who meets this requirement [~~The director may not issue a~~
4 ~~license to that person until the course of instruction is~~
5 ~~completed~~].

6 (b) Except in the case of an applicant for a salesperson's
7 license, successful completion of the course of instruction is a
8 prerequisite to obtaining the license.

9 (c) An applicant for a salesperson's license may apply for a
10 license without having completed the course of instruction provided
11 that the person successfully completes the next scheduled course
12 offered after the date of the person's licensure. If the person
13 fails to complete such course successfully and in a timely manner,
14 the person's license is automatically suspended until the person
15 successfully completes the course.

16 (d) The course of instruction must be offered at least
17 quarterly.

18 (e) The board shall adopt rules relating to course content
19 and approval. Classes must be live. Online or other electronic
20 classes are not permitted.

21 (f) An applicant for an initial installer's license shall
22 receive a license on a probationary basis. The person's
23 probationary status shall remain in effect until such time as a
24 sufficient number of installations completed by the person have
25 been inspected by the department and found not to have any
26 identified material violations of the department's rules. The
27 board, with the advice of the advisory committee to be established

1 under Section 1201.251, shall adopt rules to establish what
2 constitutes a sufficient number of installations under this
3 subsection.

4 (g) [~~(c)~~ ~~Instead of the course of instruction,~~

5 [~~(1)~~ ~~a manufacturer may request that an authorized~~
6 ~~representative of the department present a one-day, in-plant~~
7 ~~training program, or~~

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

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

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

15 (1) for a license for an additional business location;

16 or

17 (2) to renew or reinstate a license [~~, or~~

18 [~~(3)~~ ~~for a salesperson's license~~].

19 (h) [~~(f)~~] An examination must [~~may not~~] be a requirement of
20 successful completion of any initial required course of instruction
21 under this section [~~made a prerequisite of licensing~~].

22 Sec. 1201.105. SECURITY REQUIRED. (a) The department may
23 not issue or renew a license unless a bond or other security in a
24 form prescribed by the director is filed with the department as
25 provided by this subchapter. The bond or other security is payable
26 to the trust fund.

27 (b) If a bond is filed, the bond must be issued by a company

1 authorized to do business in this state and must conform to
2 applicable provisions of the Insurance Code. If other security is
3 filed, that security must be maintained in or by a federally insured
4 depository [~~banking~~] institution located in this state.

5 (c) If the department experiences significant problems in
6 obtaining timely reimbursements from a surety or the surety has
7 experienced a deterioration in its financial condition, the board
8 may direct the director to stop accepting bonds issued by the
9 surety.

10 SECTION 11. Section 1201.106, Occupations Code, is amended
11 by amending Subsection (a) and adding Subsection (a-1) to read as
12 follows:

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

16 (1) \$100,000 for a manufacturer;

17 (2) \$50,000 for a retailer's principal location
18 [~~retailer~~];

19 (3) \$50,000 for each retailer's branch location;

20 (4) \$50,000 [~~\$30,000~~] for a rebuilder;

21 (5) [~~4~~] \$50,000 for a broker; or

22 (6) \$25,000 [~~5~~ ~~\$10,000~~] for an installer.

23 (a-1) Notwithstanding the provisions of Subsection (a), the
24 director may require additional security for the licensing,
25 renewal, or relicensing of a person who, either directly, as a
26 related person, or through a related person, has been the subject of
27 a license revocation, has caused the trust fund to incur

1 unreimbursed costs or liabilities in excess of available surety
2 bond coverage, or has failed to pay an administrative penalty that
3 has been assessed by final order.

4 SECTION 12. Section 1201.108, Occupations Code, is amended
5 to read as follows:

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

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

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

10 (2) location.

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

14 (c) After a change described by Subsection (a), the licensee
15 shall provide to the department a proper endorsement to the
16 original bond showing that the bond continues to apply to the
17 license without interruption [~~The director may require a proper~~
18 ~~endorsement of the original bond~~].

19 SECTION 13. Subsections (a), (b), and (c), Section
20 1201.113, Occupations Code, are amended to read as follows:

21 (a) The board shall approve [~~recognize, prepare,~~] or
22 administer [~~certification and~~] continuing education programs for
23 licensees [~~salespersons regulated~~] under this chapter. A
24 continuing education program must be at least eight hours long and
25 must include the current rules of the department and such other
26 matters as the board may deem relevant.

27 (b) Attendance at an approved or administered continuing

1 education course described by Subsection (a) is a prerequisite to
2 renewal of a license [~~A person who holds a salesperson's license~~
3 ~~must participate in certification and continuing education~~
4 ~~programs as provided by Subsection (e)] .~~

5 (c) No test shall be given in relation to any continuing
6 education program [~~To prepare or administer a certification or~~
7 ~~continuing education program under this section, the board may~~
8 ~~contract with:~~

9 [~~(1) a private, nonprofit organization that qualifies~~
10 ~~for an exemption from federal income taxation under Section 501(a),~~
11 ~~Internal Revenue Code of 1986, by being listed as an exempt~~
12 ~~organization under Section 501(c)(3) of that code, or~~

13 [~~(2) an educational institution]~~ .

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

16 Sec. 1201.114. LICENSE EXPIRATION; PROBATIONARY LICENSE.

17 (a) Any license under this chapter other than a probationary [~~A~~
18 ~~manufacturer's, retailer's, broker's, or installer's]~~ license is
19 valid for [~~one year. A salesperson's license is valid for]~~ two
20 years. A license may be renewed as provided by the director. A
21 person whose license has been suspended or revoked or whose license
22 has expired may not engage in activities that require a license
23 until the license has been reinstated or renewed.

24 (b) If the director determines that a licensed salesperson
25 or installer should receive a probationary license, the director
26 may issue a probationary license on such terms and for such period
27 as are deemed reasonable. The issuance of a license on a

1 probationary basis, any one or more of the specific terms of the
2 probation, or the period of probation may be appealed before the
3 31st day after issuance of the probationary license by written
4 notice to the director. If appeal is made, the director shall set
5 the matter for a hearing before the State Office of Administrative
6 Hearings, and all administrative proceedings relating to the
7 issuance of the probationary license shall be deemed to be a
8 contested case under Chapter 2001, Government Code. If no appeal is
9 made, the probationary license shall be issued and shall remain in
10 effect in accordance with the terms specified [~~The board by rule may~~
11 ~~adopt a system under which licenses expire on various dates during~~
12 ~~the year. For the year in which the license expiration date is~~
13 ~~changed, the department shall prorate license fees on a monthly~~
14 ~~basis so that each license holder pays only that portion of the~~
15 ~~license fee that is allocable to the number of months during which~~
16 ~~the license is valid. On renewal of the license on the new~~
17 ~~expiration date, the total license renewal fee is payable].~~

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

20 Sec. 1201.118. RULES RELATING TO CERTAIN PERSONS. The
21 board shall adopt rules providing for additional review and
22 scrutiny of any application for an initial or renewal license that
23 involves a person who has previously:

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

27 (2) been found to have engaged in activity subject to

1 this chapter without possessing the required license;

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

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

6 SECTION 16. Section 1201.1505, Occupations Code, is amended
7 to read as follows:

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

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

13 ~~[(2) if applicable, the original binding loan~~
14 ~~commitment letter issued by the lender is delivered to the~~
15 ~~consumer; and~~

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

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

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

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

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

1 (e) A deposit becomes a down payment upon execution of a
2 binding written agreement. Thereafter, if the consumer exercises a
3 right of rescission, the retailer shall, not later than the 15th day
4 after the date of the rescission, refund to the consumer all money
5 and other consideration received from the consumer, without offset
6 or deduction.

7 SECTION 19. Section 1201.1521, Occupations Code, is amended
8 to read as follows:

9 Sec. 1201.1521. RESCISSION OF CONTRACT FOR SALE, EXCHANGE,
10 OR LEASE-PURCHASE OF HOME. (a) A person who acquires a
11 manufactured home from or through a licensee by purchase, exchange,
12 or lease-purchase may, not later than the third day after the date
13 the applicable contract is signed, rescind the contract without
14 penalty or charge.

15 (b) Subject to rules adopted by the board, a consumer may
16 waive a right of rescission in the event of a bona fide emergency.
17 Such rules shall, to the extent practical, be modeled on the federal
18 rules for the waiver of a right of rescission under 12 C.F.R. Part
19 226.

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

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

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

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

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

9 (d) If the seller is required to possess a license by this
10 chapter, a broker may assist in the sale of a manufactured home only
11 if that seller has a current license.

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

15 (a) Notwithstanding any other statute or rule or ordinance,
16 a licensed retailer or licensed installer is not required to obtain
17 a permit, certificate, or license or pay a fee to transport
18 manufactured housing to the place of installation except as
19 required by[+]

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

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

23 (d) Unless the information provided for in Subsection (c) is
24 provided electronically, the [The] department shall pay the
25 reasonable cost of providing the copies or the list and information
26 under Subsection (c).

27 (e) The copies and lists to be provided under this section

1 may be provided electronically.

2 SECTION 23. Section 1201.162, Occupations Code, is amended
3 to read as follows:

4 Sec. 1201.162. DISCLOSURE BY RETAILER AND LENDER.

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

19 (b) [~~the following statement that is printed in at least~~
20 ~~12-point type and not attached to or combined with any other written~~
21 ~~material:~~

22 [~~When buying a manufactured home, there are a number of~~
23 ~~important considerations, including price, quality of~~
24 ~~construction, features, floor plan, and financing alternatives.~~

25 [~~The United States Department of Housing and Urban~~
26 ~~Development (HUD) helps protect consumers through regulation and~~
27 ~~enforcement of HUD design and construction standards for~~

1 ~~manufactured homes. Manufactured homes that meet HUD standards are~~
2 ~~known as 'HUD-code manufactured homes.'~~ The Texas Department of
3 ~~Housing and Community Affairs regulates Texas manufacturers,~~
4 ~~retailers, brokers, salespersons, installers, and rebuilders of~~
5 ~~manufactured homes.~~

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

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

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

22 ~~["SEWER. If your lot is not serviced by a municipal sewer~~
23 ~~system or utility district, you will have to install an on-site~~
24 ~~sewer facility (commonly known as a septic system). There are a~~
25 ~~number of concerns or restrictions that will determine if your lot~~
26 ~~is adequate to support an on-site sewer facility. Check with the~~
27 ~~local county or a licensed private installer to determine the~~

1 ~~requirements that apply to your lot and the cost to install such a~~
2 ~~system.~~

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

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

17 ~~["INSURANCE. Your lender may require you to obtain insurance~~
18 ~~that meets lender requirements and protects your investment. You~~
19 ~~should request quotes from the agent of your choice to obtain the~~
20 ~~insurance.~~

21 ~~["TYPES OF MORTGAGES AVAILABLE. The acquisition of a~~
22 ~~manufactured home may be financed by a real estate mortgage or a~~
23 ~~chattel mortgage. A real estate mortgage may have a lower interest~~
24 ~~rate than a chattel mortgage.~~

25 ~~["RIGHT OF RESCISSION. If you acquire a manufactured home,~~
26 ~~by purchase, exchange, or lease-purchase, you may, not later than~~
27 ~~the third day after the date the applicable contract is signed,~~

1 ~~rescind the contract without penalty or charge."~~

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

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

12 ~~(e)~~ Failure by the retailer to comply with the disclosure
13 provisions of this section does not affect the validity of a
14 subsequent conveyance or transfer of title of a manufactured home
15 or otherwise impair a title or lien position of a person other than
16 the retailer. The consumer shall continue to have the right of
17 rescission with regard to the retailer until the end of the third
18 day after the retailer delivers a copy of the disclosure required by
19 Subsection (a). The consumer's execution of a signed receipt of a
20 copy of the disclosure required by Subsection (a) shall constitute
21 conclusive proof of the delivery of the disclosure. If the consumer
22 grants a person other than the retailer a lien on the manufactured
23 home, the right of rescission shall immediately cease on the filing
24 of the lien with the department.

25 SECTION 24. Section 1201.164, Occupations Code, is amended
26 to read as follows:

27 Sec. 1201.164. ADVANCE COPY OF [~~INSTALLMENT~~] CONTRACT AND

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

15 (b) The consumer may modify or waive the right to rescind
16 and the deadlines for disclosures before the execution of the
17 contract that are provided by Subsection (a) if the consumer
18 determines that the purchase of the manufactured home is needed to
19 meet a bona fide personal emergency. If the consumer has a bona
20 fide personal emergency that necessitates the immediate purchase of
21 the manufactured home, the consumer shall give the retailer a dated
22 written statement that describes the emergency, specifically
23 modifies or waives the notice periods and any right of rescission,
24 and bears the signature of all of the consumers entitled to the
25 disclosures and right of rescission. In such event the retailer
26 shall immediately give the consumer all of the disclosures required
27 by this code and sell the manufactured home without the required

1 waiting periods or the right of rescission. Printed forms for this
2 purpose are prohibited except in a county that has been declared
3 by the governor to be a major disaster area. If the governor
4 declares a county to be a major disaster area, the retailer may use
5 printed forms promulgated by the department. This exception shall
6 expire one year after the county has been declared a major disaster
7 area.

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

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

- 12 (1) the manufacturer's certificate;
13 (2) the statement of ownership and location;
14 (3) the application for a statement of ownership and
15 location; and
16 (4) the issuance of an initial or revised [a]
17 statement of ownership [~~and location at the first retail sale and~~
18 ~~for a subsequent sale or transfer of a manufactured home~~].

19 (b) The board [~~director~~] shall adopt rules for the
20 documenting of the ownership and location of a manufactured home
21 that has been previously owned in this state or another state. The
22 rules must protect a lienholder recorded with the department [~~on a~~
23 ~~statement of ownership and location, a certificate, or other~~
24 ~~document of title~~].

25 Sec. 1201.204. MANUFACTURER'S CERTIFICATE. (a) A
26 manufacturer's certificate must show:

- 27 (1) on a form prescribed by the director [~~or on another~~

1 ~~document~~], the original transfer of a manufactured home from the
2 manufacturer to the retailer; and

3 (2) on a form prescribed by the director, each
4 subsequent transfer of a manufactured home between retailers and
5 from retailer to owner, if the transfer from retailer to owner
6 involves a completed application for the issuance of a statement of
7 ownership and location.

8 (b) At the first retail sale of a manufactured home, a
9 manufacturer's certificate automatically converts to a document
10 that does not evidence any ownership interest in the manufactured
11 home described in the document. A security interest in inventory
12 evidenced by a properly recorded inventory finance lien [~~the~~
13 ~~manufacturer's certificate~~] automatically converts to a security
14 interest in proceeds and cash proceeds.

15 (c) After the first retail sale of a manufactured home, the
16 retailer must [~~may~~] submit the original manufacturer's certificate
17 for that home to the department. If an application for an initial
18 statement of ownership is made without the required manufacturer's
19 certificate and the retailer does not provide it as required, the
20 department shall, on or before the issuance of the requested
21 statement of ownership and location, send written notice to each
22 party currently reflected on the department's records as having a
23 recorded lien on the inventory of that retailer. Failure to include
24 the original manufacturer's certificate with such an application
25 does not impair a consumer's ability to obtain, on submittal of an
26 otherwise complete application, a statement of ownership and
27 location free and clear of any liens other than liens created by or

1 consented to by the consumer.

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

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

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

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

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

16 (B) the approximate square footage of the home
17 when installed for occupancy;

18 (4) the identification number for each section or
19 module of the home;

20 (5) the physical address where [~~county of this state~~
21 ~~in which~~] the home is installed for occupancy, including the name of
22 the county, and, if it is different from the physical address, the
23 mailing address of the owner of the home;

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

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

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

16 (8) a statement that if two or more eligible persons,
17 as determined by Section 1201.213, file with the application for
18 the issuance of a statement of ownership and location an agreement
19 signed by all the persons providing that the home is to be held
20 jointly with a right of survivorship, the director shall issue the
21 statement of ownership and location in all the names;

22 (9) the location of the home;

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

25 (11) statements of whether the home is a salvaged
26 manufactured home and whether the home is reserved for business use
27 only; and

1 (12) any other information the board [~~director~~]
2 requires.

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

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

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

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

25 (A) the location of the home and, if it is
26 different, the mailing address of the owner as specified in the
27 department records; and

1 (B) any other location the holder or servicer
2 knows or believes, after a reasonable inquiry, to be an address
3 where the owner may have been or is receiving mail or is an address
4 of record;

5 (2) such notification shall be given by certified
6 mail; and

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

11 SECTION 27. Sections 1201.206, 1201.207, 1201.2075,
12 1201.2076, and 1201.208, Occupations Code, are amended to read as
13 follows:

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

24 (b) [~~(c)~~] Not later than the 60th [~~30th~~] day after the date
25 of the retail sale, the retailer shall provide to the department the
26 completed application for the issuance of a statement of ownership
27 and location. If for any reason the retailer does not timely comply

1 with the requirements of this subsection, the consumer may apply
2 for the issuance of the statement.

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

11 (d) If the seller accepts a trade-in manufactured home as
12 part of the consideration for the sale of another manufactured
13 home, the seller shall file a completed application for the
14 issuance of a new statement of ownership and location reflecting
15 the change of ownership of the trade-in manufactured home from the
16 prospective buyer to the seller. The seller shall file the
17 application for the issuance of a new statement of ownership and
18 location for the traded in manufactured home at the same time that
19 the seller files the application for the issuance of a new statement
20 of ownership and location for the manufactured home that was sold by
21 the seller. If the seller is a retailer, the seller shall indicate
22 on the application for the issuance of the new statement of
23 ownership and location whether the trade-in manufactured home has
24 been added to the inventory of the retailer.

25 (e) Ownership of a manufactured home does not pass or vest
26 at a sale or transfer of the home until a completed application for
27 the issuance of a statement of ownership and location is filed with

1 the department.

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

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

15 (h) If a person selling a manufactured home to a consumer
16 for residential use fails to file with the department the
17 application for the issuance of a statement of ownership and
18 location and the appropriate filing fee before the 61st day after
19 the date of the sale, the department may assess a fee of at least
20 \$100 against the seller. The department shall have the authority to
21 enforce the collection of any fee from the seller through judicial
22 means. The department shall place on the application for the
23 issuance of a statement of ownership and location the following
24 legend in a clear and conspicuous manner:

25 "THE FILING OF AN APPLICATION FOR THE ISSUANCE OF A STATEMENT
26 OF OWNERSHIP AND LOCATION LATER THAN SIXTY (60) DAYS AFTER THE DATE
27 OF A SALE TO A CONSUMER FOR RESIDENTIAL USE MAY RESULT IN A FEE OF UP

1 TO ONE HUNDRED DOLLARS (\$100.00). ANY SUCH APPLICATION THAT IS
2 SUBMITTED LATE MAY BE DELAYED UNTIL THE FEE IS PAID IN FULL."

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

6 (1) one true and correct copy of the original notice of
7 installation; or

8 (2) a certification that a true and correct copy of the
9 notice of installation has been provided to the chief appraiser for
10 the county in which the home was installed; the delivery of the copy
11 of the notice to the chief appraiser may be accomplished by either
12 certified mail or by electronic mailing of the electronically
13 reproduced document in a commonly readable format.

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

17 (j) In addition to providing each chief appraiser the
18 monthly report required by Section 1201.220, the department shall,
19 on request, provide tax collector one copy of any requested
20 reported notice of installation.

21 (k) Notwithstanding any provision in this chapter to the
22 contrary, if a person has acquired a manufactured home and the owner
23 of record or any intervening owners of liens or equitable interests
24 cannot be located to assist in documenting the chain of title, the
25 department may issue a statement of ownership and location to the
26 person claiming ownership if the person can provide a supporting
27 affidavit describing the chain of title and such reasonable

1 supporting proof as the director may require.

2 Sec. 1201.207. ISSUANCE OF STATEMENT OF OWNERSHIP AND
3 LOCATION. (a) Except as provided for in Subsection (a-1), the
4 ~~[The]~~ department shall process any completed application for the
5 issuance of a statement of ownership and location not later than the
6 15th working day after the date the application is received by the
7 department. If the department rejects an application, the
8 department shall provide a clear and complete explanation of the
9 reason for the rejection and instructions on how to cure any
10 defects, if possible.

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

21 (b) If the department issues a statement of ownership and
22 location for a manufactured home, the department shall maintain a
23 record of the issuance in its electronic records ~~[place in its files~~
24 ~~the original statement of ownership and location]~~ and shall mail a
25 ~~[certified]~~ copy to the owner and each ~~[of the home and to any]~~
26 lienholder.

27 (c) Except with respect to any change in use, but subject to

1 Section 1201.2075, if the department has issued a statement of
2 ownership and location for a manufactured home, the department may
3 issue a subsequent statement of ownership and location for the home
4 only if all parties reflected in the department's records as having
5 an interest in the manufactured home give their written consent or
6 release their interest, either in writing or by operation of law, or
7 the department has followed the procedures provided by Section
8 1201.206(k) to document ownership and lien status. Once the
9 department issues a statement of ownership and location, the
10 department shall not alter the record of the ownership or lien
11 status of a manufactured home for any activity occurring before the
12 issuance of the statement of ownership and location without either
13 the written permission of the owner of record for the manufactured
14 home, their legal representative or a court order.

15 (d) Notwithstanding any other provision of this chapter, if
16 the consumer purchases a new manufactured home from a licensed
17 retailer in the ordinary course of business, whether or not a
18 statement of ownership and location has been issued for the
19 manufactured home, the consumer is a bona fide purchaser for value
20 without notice and is entitled to ownership of the manufactured
21 home free and clear of all liens and to a statement of ownership and
22 location reflecting the same on payment by the consumer of the
23 purchase price to the retailer. If there is an existing lien on the
24 new manufactured home perfected with the department, the owner of
25 the lien is entitled to recover the value of the lien from the
26 retailer.

27 (e) Notwithstanding any other provision of this chapter, if

1 the consumer purchases a used manufactured home from a retailer in
2 the ordinary course of business, the consumer takes the
3 manufactured home free and clear of any liens created by the selling
4 retailer even if they are recorded.

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

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

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

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

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

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

26 Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL
27 PROPERTY. (a) The department may not issue a statement of

1 ownership and location for a manufactured home that is being
2 converted from real property to personal property until the
3 department has inspected the home and determined that it is
4 habitable and has notified the appropriate tax assessor-collector
5 of the conversion and:

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

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

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

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

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

1 amount deducted from the security for the license [~~Proof of payment~~
2 ~~may be shown in any manner prescribed by the department~~].

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

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

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

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

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

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

26 (a) If the owner of a manufactured home notifies the
27 department that the owner intends to treat the home as real property

1 or to reserve its use for a business purpose or salvage, the
2 department shall indicate on the statement of ownership and
3 location for the home that:

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

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

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

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

1 to be notified by this subsection constitutes conclusive proof of
2 compliance with this subsection.

3 (c) On receipt of a notice of intent to declare a
4 manufactured home abandoned, the record owner of the home, ~~[or]~~ a
5 lienholder, or a tax assessor-collector for a taxing unit that
6 imposes ad valorem taxes on the real property on which the home is
7 located may enter the real property on which the home is located to
8 remove the home. The real property owner must disclose to the
9 record owner, lienholder, or tax assessor-collector seeking to
10 remove the home the location of the home and grant the person
11 reasonable access to the home. A person removing a home is
12 responsible to the real property owner for any damage to the real
13 property resulting from the removal of the home.

14 (f) This section does not apply if the person who owns the
15 real property on which the manufactured home is located and who is
16 declaring that the home is abandoned, or any person who is related
17 to or affiliated with that person, has now, or has ever owned, an
18 interest in the manufactured home.

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

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

1 retailer who fails to satisfy a perfected inventory lien [~~under the~~
2 ~~terms of the security agreement~~].

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

23 (c) Notwithstanding any other provision of this or any other
24 law [~~subchapter~~], the filing of a lien security agreement [~~by a~~
25 ~~secured party perfecting a lien~~] on the inventory of a retailer does
26 not prevent a buyer in the ordinary course of business, as defined
27 by Section 1.201, Business & Commerce Code, from acquiring good and

1 marketable title free of that lien [~~interest~~], and the department
2 may not consider that [~~security interest as a~~] lien for the purpose
3 of title issuance.

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

5 (a) The department shall provide to each county tax
6 assessor-collector in this state a monthly report that, for each
7 manufactured home reported as having been installed in the county
8 during the preceding month and for each manufactured home
9 previously installed in the county for which a transfer of
10 ownership was recorded by the issuance of a statement of ownership
11 and location during the preceding month, lists:

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

13 (2) the name of the manufacturer of the home, if
14 available;

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

16 (4) the identification number of each section or
17 module of the home;

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

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

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

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

26 Sec. 1201.251. STANDARDS AND REQUIREMENTS ADOPTED BY BOARD
27 [~~DIRECTOR~~].

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

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

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

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

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

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

18 (2) any generic installation standards promulgated by
19 rule shall first be reviewed by an advisory committee established
20 by the board comprised of representatives of manufacturers,
21 installers, and manufacturers of stabilization systems or devices,
22 including one or more licensed engineers.

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

27 SECTION 35. Subsection (a), Section 1201.252, Occupations

1 Code, is amended to read as follows:

2 (a) A local governmental unit of this state may not adopt a
3 standard for the construction or installation of manufactured
4 housing in the local governmental unit that is different from a
5 standard adopted by the board [~~director~~] unless, after a hearing,
6 the board expressly approves the proposed standard.

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

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

12 (1) adopting a standard or requirement authorized by
13 this subchapter;

14 (2) amending a standard authorized by this subchapter;

15 or

16 (3) approving a standard proposed by a local
17 governmental unit under Section 1201.252.

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

22 Sec. 1201.255. INSTALLATION OF MANUFACTURED HOUSING.

23 (a) Except as authorized under Section 1201.252, manufactured
24 housing that is installed must be installed in compliance with the
25 standards and rules adopted and orders issued by the department. An
26 uninstalled manufactured home may not be occupied for any purpose.

27 (b) An installer may not install a manufactured home at a

1 location on a site that has evidence of ponding, runoff under heavy
2 rains, or bare uncompacted soil unless the installer first obtains
3 the owner's signature on a form promulgated by the board disclosing
4 that such conditions may contribute to problems with the
5 stabilization system for that manufactured home, including
6 possible damage to that home, and the owner accepts that risk
7 ~~[director]~~.

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

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

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

15 Sec. 1201.302. INSPECTION BY LOCAL GOVERNMENTAL UNITS
16 ~~[ENTITIES OTHER THAN DEPARTMENT]~~.

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

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

25 (b) On request, the department shall authorize a local
26 governmental unit in this state to perform an inspection or
27 enforcement activity related to the construction of a foundation

1 system or the erection or installation of manufactured housing at a
2 homesite under a contract or other official designation and rules
3 adopted by the board [~~director~~]. The department may withdraw the
4 authorization if the local governmental unit fails to follow the
5 rules, interpretations, and written instructions of the
6 department.

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

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

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

17 (2) the home and all appliances and equipment included
18 in the home are free from defects in materials or workmanship except
19 for cosmetic defects.

20 (b) The manufacturer's warranty is in effect until at least
21 the first anniversary of the date of initial installation of the
22 home at the consumer's homesite or the closing of the consumer's
23 purchase or acquisition of an already installed new home, whichever
24 is later.

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

27 Sec. 1201.352. RETAILER'S WARRANTY ON A NEW HUD-CODE

1 MANUFACTURED HOME. (a) The retailer of a new HUD-code
2 manufactured home shall warrant to the consumer in writing that:

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

6 (2) appliances and equipment included with the sale of
7 the home and installed by the retailer are or will be:

8 (A) installed in accordance with the
9 instructions or specifications of the manufacturers of the
10 appliances or equipment; and

11 (B) free from defects in materials or
12 workmanship.

13 The warranty may expressly disclaim or limit any warranty
14 regarding cosmetic defects.

15 (b) The retailer's warranty on a new HUD-code manufactured
16 home is in effect until the first anniversary of the later of the
17 date of initial installation of the home at the consumer's homesite
18 or the closing of the consumer's purchase or acquisition of the
19 home.

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

23 (1) the manufacturer's warranty;

24 (2) the retailer's warranty;

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

27 (4) the name and address of the manufacturer or

1 retailer to whom the consumer is to give notice of a warranty
2 service request.

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

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

7 (a) The consumer shall give written notice to the manufacturer,
8 ~~[or]~~ retailer, or installer, as applicable, of a need for warranty
9 service or repairs.

10 (b) Written notice to the department is deemed to be notice
11 to the manufacturer, ~~[or]~~ retailer, or installer commencing three
12 business days after receipt and forwarding of the notice by the
13 department to the licensee by regular mail or electronic mail of a
14 scanned copy of the notice.

15 Sec. 1201.354. CORRECTIVE ACTION REQUIRED. The
16 manufacturer, ~~[or]~~ retailer, or installer, as applicable, shall
17 take appropriate corrective action within a reasonable period as
18 required by department rules to fulfill the written warranty
19 obligation.

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

25 (b) On payment of the required inspection fee, the
26 manufacturer, ~~[or]~~ retailer, or installer may request the
27 department to perform a consumer complaint home inspection if the

1 manufacturer, ~~or~~ retailer, or installer:

2 (1) believes the consumer's complaints are not covered
3 by the warranty of the manufacturer, ~~or~~ retailer, or installer,
4 as applicable;

5 (2) believes that the warranty service was properly
6 provided; or

7 (3) disputes responsibility concerning the warranty
8 obligation.

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

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

16 SECTION 42. Subsections (a), (b), and (c), Section
17 1201.356, Occupations Code, are amended to read as follows:

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

22 (b) The report shall specify:

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

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

27 (c) The director shall issue to the manufacturer, ~~or~~

1 retailer, or installer an appropriate order for corrective action
2 by the manufacturer, ~~[or]~~ retailer, or installer specifying a
3 reasonable period for completion of the corrective action. With
4 regard to new manufactured homes, both the installer and the
5 retailer are responsible for the warranty of installation. If the
6 department determines that a complaint is covered by the
7 installation warranty, the director shall issue the order to the
8 installer for the corrective action. If the installer fails to
9 perform the corrective action, the installer shall be subject to
10 the provisions of Section 1201.357. In that instance, the director
11 shall issue the same order for corrective action to the retailer
12 with a new time frame not to exceed 10 days unless additional time
13 is needed for compliance upon a showing of good cause. If the
14 retailer is compelled to perform corrective action because of the
15 failure of the installer to comply with the director's order, the
16 retailer may seek reimbursement from the installer. The period for
17 the performance of any required warranty work may be shortened by
18 the director as much as is feasible if the warranty work is believed
19 necessary to address a possible imminent threat to health or
20 safety.

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

23 Sec. 1201.357. FAILURE TO PROVIDE WARRANTY SERVICE.

24 (a) If the manufacturer, ~~[or]~~ retailer, or installer, as
25 applicable, fails to provide warranty service within a ~~[the]~~ period
26 specified by the director ~~[under Section 1201.356]~~, the
27 manufacturer, ~~[or]~~ retailer, or installer must show good cause in

1 writing as to why the manufacturer, ~~[or]~~ retailer, or installer
2 failed to provide the service.

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

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

1 new order, the manufacturer, ~~[or]~~ retailer, or installer, as
2 applicable:

3 (1) is discharged from the obligations imposed by the
4 relevant department orders;

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

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

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

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

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

1 (c) The director may issue an order:

2 (1) directing a manufacturer, ~~[or]~~ retailer, or
3 installer whose license is not revoked and who is not out of
4 business to perform the warranty obligation of a manufacturer, ~~[or]~~
5 retailer, or installer whose license is revoked or who is out of
6 business; and

7 (2) giving the manufacturer, ~~[or]~~ retailer, or
8 installer performing the obligation the right of indemnification
9 against another party ~~[the other]~~.

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

14 SECTION 44. Section 1201.361, Occupations Code, is amended
15 to read as follows:

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

27 (b) The warranty must conspicuously disclose the

1 requirement that the consumer notify the installer of any claim in
2 writing in accordance with the terms of the warranty. Unless the
3 warranty provides for a longer period, the installer or retailer
4 has no obligation or liability under the person's warranty for any
5 defect described in a written notice received from the consumer
6 more than two years after the later of the date of purchase or the
7 date of [the] installation.

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

10 Sec. 1201.362. INSPECTIONS NOT LIMITED; CORRECTIONS.

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

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

20 SECTION 46. Subsection (a), Section 1201.402, Occupations
21 Code, is amended to read as follows:

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

24 SECTION 47. Subsection (b), Section 1201.404, Occupations
25 Code, is amended to read as follows:

26 (b) The trust fund and the director are not liable to the
27 consumer if the trust fund does not have the money necessary to pay

1 the actual damages [~~and attorney's fees~~] determined to be payable.
2 The director shall record the date and time of receipt of each
3 verified complaint and, as money becomes available, pay the
4 consumer whose claim is the earliest by date and time to have been
5 found to be verified and properly payable.

6 SECTION 48. Section 1201.405, Occupations Code, is amended
7 by adding Subsections (f) and (g) to read as follows:

8 (f) The trust fund is not liable for and the director may not
9 pay:

10 (1) actual damages to reimburse an affiliate or
11 related person of a licensee, except when the director issues an
12 order under Sections 1201.358(b) and (c);

13 (2) actual damages to correct matters that are solely
14 cosmetic in nature;

15 (3) for attorney's fees; or

16 (4) actual damages to address other matters, unless
17 the matters involve:

18 (A) a breach of warranty;

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

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

26 (g) The board by rule may place reasonable limits on the
27 costs that may be approved for payment from the trust fund,

1 including the costs of reassigned warranty work, and require
2 consumers making claims that may be subject to reimbursement from
3 the trust fund to provide estimates establishing that the cost will
4 be reasonable. Such rules may also specify such procedures and
5 requirements as the board may deem necessary and advisable for the
6 administration of the trust fund.

7 SECTION 49. Sections 1201.406 and 1201.407, Occupations
8 Code, are amended to read as follows:

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

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

13 (1) the date of the alleged act or omission causing the
14 actual damages; or

15 (2) the date the act or omission is discovered or
16 should reasonably have been discovered.

17 (b) On receipt of a verified complaint, the department
18 shall:

19 (1) notify each appropriate license holder and the
20 issuer of any surety bond issued in connection with their licenses;
21 and

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

26 (c) If the matter being investigated is not resolved by
27 agreement or is disputed by written notice to the director before

1 the 31st day after the date of the preliminary determination, the
2 preliminary determination shall automatically become final and the
3 director shall make demand on the surety or deduct any payable
4 amount of the claim from the licensee's security ~~[to determine:~~

5 ~~[(A) the validity of the claim, and~~

6 ~~[(B) whether the complaint can be resolved by~~
7 ~~remedial action of the license holder].~~

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

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

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

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

25 (e) The final determination may be appealed to the board on
26 or before the 10th day after the date of its issuance by giving
27 written notice to the director, who shall place the matter before

1 the board at the next meeting held on a date for which the matter
2 could be publicly posted as required by Chapter 551, Government
3 Code.

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

7 ~~[(1) is out of business,~~

8 ~~[(2) is no longer licensed, or~~

9 ~~[(3) has filed for liquidation or reorganization in~~
10 ~~bankruptcy.~~

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

16 SECTION 50. Subsections (a) and (b), Section 1201.409,
17 Occupations Code, are amended to read as follows:

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

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

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

25 (b) Payment by the surety or from the other security must be
26 made not later than the 30th day after the date of [~~receipt of]~~
27 notice from the director that a consumer claim has been paid.

1 SECTION 51. Section 1201.410, Occupations Code, is amended
2 to read as follows:

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

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

11 SECTION 52. Subsection (b), Section 1201.451, Occupations
12 Code, is amended to read as follows:

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

23 SECTION 53. Section 1201.453, Occupations Code, is amended
24 to read as follows:

25 Sec. 1201.453. HABITABILITY. Manufactured housing is
26 habitable only if:

27 (1) there is no defect or deterioration in or damage to

1 the home that creates a dangerous situation;

2 (2) the plumbing, heating, and electrical systems are
3 in safe working order;

4 (3) the walls, floor, and roof are:

5 (A) free from a substantial opening that was not
6 designed; and

7 (B) structurally sound; and

8 (4) all exterior doors and windows are in place and
9 operate properly.

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

12 (b) If a used manufactured home is reserved for business use
13 or salvaged, a person may not [~~The purchaser of a used manufactured~~
14 ~~home for business use or the purchaser of a salvaged manufactured~~
15 ~~home may not sell, exchange, or lease-purchase the home for use as a~~
16 ~~dwelling or~~] knowingly allow any person to occupy or use the home as
17 a dwelling unless the director issues a new statement of ownership
18 and location indicating that the home is no longer reserved for
19 business use or salvage. On the purchaser's application to the
20 department for issuance of a new statement of ownership and
21 location, the department shall inspect the home and, if the
22 department determines that the home is habitable, issue a new [~~the~~]
23 statement of ownership and location.

24 SECTION 55. Section 1201.459, Occupations Code, is amended
25 to read as follows:

26 Sec. 1201.459. COMPLIANCE NOT REQUIRED FOR SALE FOR
27 COLLECTION OF DELINQUENT TAXES. (a) In selling a manufactured

1 home to collect delinquent taxes, a tax assessor-collector
2 [~~collector~~] is not required to comply with this subchapter or
3 another provision of this chapter relating to the sale of a used
4 manufactured home.

5 (b) If a [~~the~~] home does not have a serial number, seal, or
6 label, the tax appraiser or tax assessor-collector [~~collector~~]
7 may[+]

8 [~~(1)~~] apply to the department for a seal if the tax
9 appraiser or assessor-collector assumes full responsibility for
10 the affixation of a seal to the home and the seal is actually
11 affixed on the home[+]

12 [~~(2)~~] pay the applicable fee, and

13 [~~(3)~~] recover that fee as part of the cost of the sale
14 of the home].

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

18 (1) the home is habitable; or

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

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

24 Sec. 1201.461. SALVAGED MANUFACTURED HOME; CRIMINAL
25 PENALTY.

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

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

6 (h) A licensee may not participate in the sale, exchange,
7 lease-purchase, or installation for use as a dwelling of a
8 manufactured home that is salvage and that has not been repaired in
9 accordance with this chapter and the department's rules. An act
10 that is prohibited by this subsection is deemed to be a practice
11 that constitutes an imminent threat to health or safety and is
12 subject to the imposition of penalties and other sanctions provided
13 for by this chapter. A violation of this subsection is a Class B
14 misdemeanor.

15 SECTION 58. Section 1201.503, Occupations Code, is amended
16 to read as follows:

17 Sec. 1201.503. PROHIBITED ALTERATION. Before the sale to a
18 consumer of a new manufactured home to which a label has been
19 attached and before installation of the home, a manufacturer,
20 retailer, broker, or installer may not alter the home or cause the
21 home to be altered without obtaining prior written approval from a
22 licensed engineer and providing evidence of such approval to the
23 department.

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

26 (a) A retailer or broker:

27 (1) shall comply with Subtitles A and B, Title 4,

1 Finance Code, and the Truth in Lending Act (15 U.S.C. Section 1601
2 et seq.); ~~and~~

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

5 (3) shall comply with all applicable provisions of the
6 Finance Code.

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

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

13 (b) A retailer may not knowingly permit a consumer to occupy
14 a manufactured home that is the subject of a sale, exchange, or
15 lease-purchase to that consumer before the closing of any required
16 financing unless the consumer is first given a form adopted by the
17 board disclosing that if for any reason the financing does not
18 close, the consumer may be required to vacate the home.

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

21 Sec. 1201.551. DENIAL OF LICENSE; DISCIPLINARY ACTION.
22 (a) The director [~~, after notice as provided for under Section~~
23 ~~1201.054 and a hearing as provided by Sections 1201.054 and~~
24 ~~1201.060,~~] may deny, permanently revoke, or suspend for a definite
25 period and specified sales location or geographic area a license if
26 the director determines that the applicant or license holder:

27 (1) knowingly and wilfully violated this chapter or a

1 rule adopted or order issued under this chapter;

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

5 (3) failed repeatedly to file with the department a
6 completed [~~timely provide to a consumer an~~] application for a
7 statement of ownership and location before the 61st day after the
8 date of the sale of a manufactured home as required by Section
9 1201.206 or the date of the installation, whichever occurred later
10 [~~and any information necessary to complete the application~~];

11 (4) failed to give or breached a manufactured home
12 warranty required by this chapter or by the Federal Trade
13 Commission;

14 (5) engaged in a false, misleading, or deceptive act
15 or practice as described by Subchapter E, Chapter 17, Business &
16 Commerce Code;

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

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

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

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

26 (10) has had another license issued by this state
27 revoked or suspended.

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

7 Sec. 1201.552. [~~HEARING CONCERNING~~] LICENSE REVOCATION,
8 SUSPENSION, OR DENIAL; HEARING. The director may issue an order to
9 revoke, suspend, or deny a new or renewal license. If, before the
10 31st day after an order revoking, suspending, or denying a license
11 is issued, the person against whom the order is issued requests a
12 hearing by giving written notice to the director, the director
13 shall set a hearing before the State Office of Administrative
14 Hearings. If the person does not request a hearing before the 31st
15 day after the date the order is issued, the order becomes final.
16 Any administrative proceedings relating to the revocation,
17 suspension, or denial of a license under this subsection shall be a
18 contested case under Chapter 2001, Government Code. The board
19 shall issue an order after receiving a proposal for decision [~~shall~~
20 ~~conduct a hearing involving the denial, renewal, revocation, or~~
21 ~~suspension of a license in accordance with Chapter 2001, Government~~
22 ~~Code]~~.

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

27 SECTION 62. Section 1201.605, Occupations Code, is amended

1 to read as follows:

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

- 8 (1) reasonable attorney's fees;
- 9 (2) administrative costs;
- 10 (3) witness fees;
- 11 (4) investigative costs; and
- 12 (5) deposition expenses.

13 (b) The director may assess against a licensee [~~retailer~~]
14 who fails to provide information to a consumer as required by this
15 chapter an administrative penalty in an amount not to exceed:

- 16 (1) \$1,000 for the first violation;
- 17 (2) \$2,000 for the second violation; and
- 18 (3) \$4,000 for each subsequent violation.

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

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

26 (d) The director may impose an administrative penalty in
27 accordance with this section. If, before the 31st day after the

1 date a person receives notice of the imposition of an
2 administrative penalty, the person requests a hearing by giving
3 written notice to the director, the director shall set a hearing
4 before the State Office of Administrative Hearings. If the person
5 does not request a hearing before the 31st day after the date the
6 person receives notice of the imposition of the administrative
7 penalty, the penalty becomes final. Any administrative proceedings
8 relating to the imposition of an administrative penalty under this
9 subsection shall be a contested case under Chapter 2001, Government
10 Code. The board shall issue an order after receiving a proposal for
11 decision.

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

15 Sec. 1201.607. ISSUANCE OF ORDERS AND REQUESTS FOR
16 HEARINGS. Any order issued by the director under this chapter, if
17 not appealed before the 31st day after the date the order was
18 issued, shall automatically become a final order. If the person
19 made the subject of the order files a written request for a hearing
20 with the director, the order shall be deemed to have been appealed
21 and shall be a contested case under Chapter 2001, Government Code.
22 The director shall set any appealed order for a hearing before the
23 State Office of Administrative Hearings, and the board shall issue
24 a final order after receiving and reviewing the proposal for
25 decision issued pursuant to such hearing.

26 Sec. 1201.608. INSPECTION OF LICENSEE RECORDS. (a) The
27 department may inspect a licensee's records during normal business

1 hours without advance notice if the director believes that such
2 inspection is necessary to prevent a violation of this chapter, to
3 protect a consumer or another licensee, or to assist another state
4 or federal agency in an investigation.

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

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

11 (d) While an investigation is pending, information obtained
12 by the department in connection with that investigation is
13 confidential unless disclosure of the information is specifically
14 permitted or required by other law.

15 Sec. 1201.609. ACTING WITHOUT LICENSE; CRIMINAL PENALTY. A
16 person who is not exempt under this chapter and who, without first
17 obtaining a license required under this chapter, performs an act
18 that requires a license under this chapter commits an offense. An
19 offense under this section is a Class B misdemeanor. A second or
20 subsequent conviction for an offense under this section is a Class A
21 misdemeanor.

22 Sec. 1201.610. CEASE AND DESIST. (a) If the director has
23 reasonable cause to believe that a person licensed under this
24 chapter has violated or is about to violate any provision of this
25 chapter or rules adopted by the department under this chapter, the
26 director may issue without notice and hearing an order to cease and
27 desist from continuing a particular action or an order to take

1 affirmative action, or both, to enforce compliance with this
2 chapter.

3 (b) The director may issue an order to any licensee to cease
4 and desist from violating any law, rule, or written agreement or to
5 take corrective action with respect to any such violations if the
6 violations in any way are related to the sale, financing, or
7 installation of a manufactured home or the providing of goods or
8 services in connection with the sale, financing, or installation of
9 a manufactured home unless the matter that is the basis of such
10 violation is expressly subject to inspection and regulation by
11 another state agency; provided, however, that if any matter
12 involves a law that is subject to any other administration or
13 interpretation by another agency, the director shall consult with
14 the person in charge of the day-to-day administration of that
15 agency before issuing an order.

16 (c) An order issued under Subsection (a) or (b) must contain
17 a reasonably detailed statement of the facts on which the order is
18 based. If a person against whom the order is issued requests a
19 hearing before the 31st day after the date the order is issued, the
20 director shall set and give notice of a hearing. The hearing shall
21 be governed by Chapter 2001, Government Code. Based on the findings
22 of fact, conclusions of law, and recommendations of the hearings
23 officer, the board by order may find that a violation has occurred
24 or has not occurred.

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

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

9 (f) If a person fails to pay an administrative penalty that
10 has become final or fails to comply with an order of the director
11 that has become final, in addition to any other remedy provided by
12 law, the director, after not less than 10 days' notice to the
13 person, may without a prior hearing suspend the person's license.
14 The suspension shall continue until the person has complied with
15 the cease and desist order or paid the administrative penalty.
16 During the period of suspension, the person may not perform any act
17 requiring a license under this chapter, and all compensation
18 received by the person during the period of suspension is subject to
19 forfeiture to the person from whom it was received.

20 (g) An order of suspension under Subsection (f) may be
21 appealed. An appeal is a contested case governed by Chapter 2001,
22 Government Code. A hearing of an appeal of an order of suspension
23 issued under Subsection (f) shall be held not later than the 15th
24 day after the date of receipt of the notice of appeal. The
25 appellant shall be provided at least three days' notice of the time
26 and place of the hearing.

27 (h) An order revoking the license of a retailer, broker,

1 installer, or salesperson may provide that the person is
2 prohibited, without obtaining prior written consent of the
3 director, from being a related person of a licensee.

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

7 (b) If a person charged with the violation accepts the
8 determination of the director, the director shall issue an order
9 approving the determination and ordering that the person pay the
10 recommended penalty.

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

13 (1) pay the penalty in full; or

14 (2) if the person files a petition for judicial review
15 contesting the fact of the violation, the amount of the penalty, or
16 both the fact of the violation and the amount of the penalty:

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

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

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

25 (d) A person charged with a penalty who is financially
26 unable to comply with Subsection (c)(2) is entitled to judicial
27 review if the person files with the court, as part of the person's

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1 petition for judicial review, a sworn statement that the person is
2 unable to meet the requirements of that subsection.

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

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

10 (g) If, after judicial review, the penalty is reduced or not
11 assessed, the director shall remit to the person charged the
12 appropriate amount, plus accrued interest if the penalty has been
13 paid, or shall execute a release of the bond if a supersedeas bond
14 has been posted. The accrued interest on amounts remitted by the
15 director under this subsection shall be paid at a rate equal to the
16 rate charged on loans to depository institutions by the New York
17 Federal Reserve Bank and shall be paid for the period beginning on
18 the date the assessed penalty is paid to the director and ending on
19 the date the penalty is remitted.

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

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

25 (j) If it appears that a person is in violation of, or is
26 threatening to violate, any provision of this chapter or a rule or
27 order related to the administration and enforcement of the

1 manufactured housing program, the attorney general, on behalf of
2 the director, may institute an action for injunctive relief to
3 restrain the person from continuing the violation and for civil
4 penalties not to exceed \$1,000 for each violation and not exceeding
5 \$250,000 in the aggregate. A civil action filed under this
6 subsection shall be filed in district court in Travis County. The
7 attorney general and the director may recover reasonable expenses
8 incurred in obtaining injunctive relief under this subsection,
9 including court costs, reasonable attorney's fees, investigative
10 costs, witness fees, and deposition expenses.

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

13 (b) The division shall make available on its website
14 ~~[provide to the person filing the complaint and to each person who~~
15 ~~is a subject of the complaint a copy of]~~ the division's policies and
16 procedures relating to complaint investigation and resolution and
17 shall provide copies of such information on request.

18 SECTION 65. Section 94.051, Property Code, is amended to
19 read as follows:

20 Sec. 94.051. INFORMATION TO BE PROVIDED TO PROSPECTIVE
21 TENANT. At the time the landlord receives an application from a
22 prospective tenant, the landlord shall give the tenant a copy of:

23 (1) the proposed lease agreement for the manufactured
24 home community;

25 (2) any manufactured home community rules; and

26 (3) a separate disclosure statement with the following
27 prominently printed in at least 10-point type:

1 "You have the legal right to an initial lease term of six
2 months. If you prefer a different lease period, you and your
3 landlord may negotiate a shorter or longer lease period. After the
4 initial lease period expires, you and your landlord may negotiate a
5 new lease term by mutual agreement. Regardless of the term of the
6 lease, [~~if the recreational vehicle is tied to, affixed, or~~
7 ~~otherwise a permanent part of the premises,~~] the landlord must give
8 you at least 60 days' notice of a nonrenewal of the lease, except
9 that if the manufactured home community's land use will change, the
10 landlord must give you at least 180 days' notice [~~if the landlord~~
11 ~~will not renew your lease and will require that you relocate your~~
12 ~~manufactured home or recreational vehicle~~]. During the applicable
13 [~~60-day~~] period, you must continue to pay all rent and other amounts
14 due under the lease agreement, including late charges, if any,
15 after receiving notice of the nonrenewal."

16 SECTION 66. Section 94.052(b), Property Code, is amended to
17 read as follows:

18 (b) Except as provided by Section 94.204, regardless
19 [~~Regardless~~] of the term of the lease, the landlord must provide
20 notice to the tenant not later than the 60th day before the date of
21 the expiration of the lease if the landlord chooses [~~does~~] not to
22 renew the lease. During the applicable [~~60-day~~] period, the tenant
23 must pay all rent and other amounts due under the lease agreement,
24 including late charges, if any, after receiving notice of the
25 nonrenewal.

26 SECTION 67. Section 94.053(c), Property Code, is amended to
27 read as follows:

1 (c) A lease agreement must contain the following
2 information:

3 (1) the address or number of the manufactured home lot
4 and the number and location of any accompanying parking spaces;

5 (2) the lease term;

6 (3) the rental amount;

7 (4) the interval at which rent must be paid and the
8 date on which periodic rental payments are due;

9 (5) any late charge or fee or charge for any service or
10 facility;

11 (6) the amount of any security deposit;

12 (7) a description of the landlord's maintenance
13 responsibilities;

14 (8) the telephone number of the person who may be
15 contacted for emergency maintenance;

16 (9) the name and address of the person designated to
17 accept official notices for the landlord;

18 (10) the penalty the landlord may impose for the
19 tenant's early termination as provided by Section 94.201;

20 (11) the grounds for eviction as provided by
21 Subchapter E;

22 (12) a disclosure of the landlord's right to choose not
23 to renew [~~terminate~~] the lease agreement if there is a change in the
24 land use of the manufactured home community during the lease term as
25 provided by Section 94.204;

26 (13) a disclosure of any incorporation by reference of
27 an addendum relating to submetering of utility services;

1 (14) a prominent disclosure informing the tenant that
2 Chapter 94, Property Code, governs certain rights granted to the
3 tenant and obligations imposed on the landlord by law;

4 (15) if there is a temporary zoning permit for the land
5 use of the manufactured home community, the date the zoning permit
6 expires; and

7 (16) any other terms or conditions of occupancy not
8 expressly included in the manufactured home community rules.

9 SECTION 68. The heading to Section 94.204, Property Code,
10 is amended to read as follows:

11 Sec. 94.204. NONRENEWAL OF LEASE [~~TERMINATION~~] FOR CHANGE
12 IN LAND USE.

13 SECTION 69. Section 94.204(a), Property Code, is amended to
14 read as follows:

15 (a) A landlord may choose not to renew [~~terminate~~] a lease
16 agreement to change the manufactured home community's land use only
17 if not later than the 180th day before the date the land use will
18 change:

19 (1) [~~not later than the 120th day before the date the~~
20 ~~land use changes,~~] the landlord sends notice to the tenant, to the
21 owner of the manufactured home if the owner is not the tenant, and
22 to the holder of any lien on the manufactured home:

23 (A) specifying the date that the land use will
24 change; and

25 (B) informing the tenant, owner, and lienholder,
26 if any, that the owner must relocate the manufactured home; and

27 (2) [~~not later than the 120th day before the date the~~

1 ~~land use changes,~~] the landlord posts in a conspicuous place in the
2 manufactured home community a notice stating that the land use will
3 change and specifying the date that the land use will change.

4 SECTION 70. Subsections (a) and (b), Section 11.432, Tax
5 Code, are amended to read as follows:

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

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

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

25 (2) the manufactured home is listed together with the
26 land on which it is located under Section 25.08. The consumer is
27 entitled to obtain the homestead exemptions provided by Section

1 11.13 regardless of whether the owner has elected to treat the home
2 as real property or personal property and regardless of whether the
3 home is listed on the tax rolls with the real property to which it is
4 attached or separately.

5 SECTION 71. Section 31.072, Tax Code, is amended by adding
6 Subsection (i) to read as follows:

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

14 SECTION 72. Section 32.03, Tax Code, is amended to read as
15 follows:

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

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

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

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

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

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

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

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

27 (c) A taxpayer may designate in writing which tax year will

1 be credited with a particular payment. If a taxpayer pays all the
2 amounts owing for a given year, the taxing unit shall issue a
3 receipt for the payment of the taxes for the designated year.

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

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

27 SECTION 73. (a) The following provisions of the

1 Occupations Code are repealed:

2 (1) Section 1201.059;

3 (2) Section 1201.112;

4 (3) Subsections (c), (d), (e), (f), and (g), Section
5 1201.113;

6 (4) Section 1201.163;

7 (5) Subsections (c) and (d), Section 1201.214; and

8 (6) Section 1201.408.

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

10 SECTION 74. The changes in law made by this Act to Sections
11 94.051, 94.052, 94.053, and 94.204, Property Code, apply only to a
12 lease agreement or a renewal to a lease agreement entered into after
13 the effective date of this Act. A lease agreement or a renewal to a
14 lease agreement entered into on or before the effective date of this
15 Act is covered by the law in effect at the time the lease agreement
16 or the renewal to the lease agreement was entered into, and the
17 former law is continued in effect for that purpose.

18 SECTION 75. The change in law made by this Act applies only
19 to the sale, exchange, or lease-purchase of a new or used
20 manufactured home on or after the effective date of this Act. A
21 sale, exchange, or lease-purchase of a new or used manufactured
22 home before the effective date of this Act is governed by the law in
23 effect on the date of the sale, exchange, or lease-purchase, and the
24 former law is continued in effect for that purpose.

25 SECTION 76. Except as otherwise provided by this Act, the
26 changes in law made by this Act apply only to a license issued or
27 renewed by the Texas Department of Housing and Community Affairs on

1 or after January 1, 2008. An issuance or renewal that occurs before
2 January 1, 2008, is governed by the law in effect immediately before
3 that date, and the former law is continued in effect for that
4 purpose.

5 SECTION 77. The change in law made by this Act applies only
6 to an offense committed on or after the effective date of this Act.
7 An offense committed before the effective date of this Act is
8 governed by the law in effect when the offense was committed, and
9 the former law is continued in effect for that purpose. For
10 purposes of this section, an offense was committed before the
11 effective date of this Act if any element of the offense was
12 committed before that date.

13 SECTION 78. The changes in law made by this Act to
14 provisions of the Tax Code apply only to an ad valorem tax year that
15 begins on or after January 1, 2008. The changes in law made to those
16 provisions do not affect a tax lien that attached to property for a
17 tax year that began before January 1, 2008, and the law in effect
18 immediately before January 1, 2008, is continued in effect for
19 purposes of the tax lien.

20 SECTION 79. This Act takes effect January 1, 2008.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 15, 2007

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB1460** by Haggerty (Relating to the licensing, acquisition, regulation, and taxation of manufactured housing; providing administrative and criminal penalties.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1460, Committee Report 2nd House, Substituted: a negative impact of (\$215,363) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$138,388)
2009	(\$76,975)
2010	(\$76,975)
2011	(\$76,975)
2012	(\$76,975)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from GENERAL REVENUE FUND 1	Change in Number of State Employees from FY 2007
2008	(\$138,388)	1.5
2009	(\$76,975)	1.0
2010	(\$76,975)	1.0
2011	(\$76,975)	1.0
2012	(\$76,975)	1.0

Fiscal Analysis

The bill would amend the Occupations Code, the Government Code, and the Tax Code, relating to the taxation, licensing, acquisition, and regulation of manufactured housing.

The bill would amend Chapter 1201 of the Occupations Code to expand the definition of a manufactured home or manufactured housing, including new or used homes. The bill would raise the amount of bond required for a rebuilder license to \$50,000 (from \$30,000) and for an installer's license to \$25,000 (from \$10,000) and add a new \$50,000 bond for each additional branch location of a retailer.

The bill would require a retailer to surrender the original manufacturer's statement of origin at the first

retail sale and apply for a statement of ownership and location within 60 days. Failing to meet the deadline could lead to an administrative penalty of not less than \$100 against the seller.

Persons whose license was revoked, suspended, or denied could request a hearing conducted by the State Office of Administrative Hearings. Penalties would be forwarded to TDHCA for deposit to an escrow account.

The bill would amend Chapter 11 of the Tax Code to allow a person seeking a homestead exemption to provide a copy of the current title page for a manufactured home from the TDHCA website or other computer records of TDHCA.

The bill would limit the time a tax lien could be recorded on a home to no later than six months, following the end of a calendar year for which a tax was owed. A properly recorded tax lien could be enforced, but not against the owner of a new home when acquired from a retailer in the ordinary course of business. Title could not be transferred on a home until all tax liens perfected on a home were filed in a timely manner with TDHCA and all personal property taxes accruing on each January 1 within 18 months of the date of the sale were extinguished or satisfied and released.

The bill would place limits on the use of tax warrants in foreclosure, and it would give taxpayers the right to designate payments to a tax year. If a home had been omitted from a tax roll at any time before the second anniversary of the date taxes were due, a taxing unit could file a tax lien no later than the 150th day after the date the tax became delinquent.

The bill would require a taxing unit to provide a prospective buyer of a home with an estimate of personal property taxes due, accept payment in escrow and certify that information to TDHCA, apply payments when due, and notify a new owner of any liability that might be due.

The bill would take effect September 1, 2007. The changes relating to ad valorem taxes would apply beginning January 1, 2008.

Methodology

The bill would raise the amount of bond required from an applicant for a rebuilder license to \$50,000 (from the current \$30,000) for an installer's license to \$25,000 (from the current \$10,000) and add a new \$50,000 bond for each additional branch location of a retailer. There would be no fiscal impact to the state for this change.

The changes relating to qualification for the homestead exemption and the informational and other requirements imposed on taxing units cannot be estimated.

Currently, the Manufactured Housing Division of the Texas Department of Housing and Community Affairs has no staff attorneys and the Office of the Attorney General's (OAG) Administrative Law Division provides all legal services for general counsel, enforcement, and administrative law litigation. The bill creates numerous new rights to contested case hearings. The new provisions in the bill requiring a licensee against whom administrative action is taken to request a contested case hearing (rather than the agency being required to provide one whether requested or not) is anticipated to somewhat offset the total increase in contested case hearings.

The new rule making requirements are anticipated to require additional provision of general counsel services. Additionally, implementation of the bill is anticipated to require additional provision of general counsel services based on historical use of these services.

With the passage of this bill, the OAG would require an appropriation and additional FTEs beyond the FTE cap for the FY 2008-2009 biennium. The OAG's Administrative Law Division would require 0.5 FTE assistant attorney general (AAG) IV in FY 2008 only for general counsel work related to adoption of the new rules and implementation of the bill. In fiscal years 2008-2012, 1.0 FTE (AAG II) would be needed for enforcement. The OAG would require an appropriation and additional FTEs beyond the FTE cap for the FY 2008-2009 biennium.

The fiscal impact to the OAG in fiscal year 2008 is \$138,388 and \$76,975 in each fiscal year 2009-2012 thereafter. The total cost over the five-year period is \$446,288. The method of finance is General Revenue Fund (Fund 0001).

Technology

The one-time technology impact to the Office of the Attorney General is \$2,787 in FY 2008 for network stations and software.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 332 Department of Housing and Community Affairs

LBB Staff: JOB, JRO, SD, SJS

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 4, 2007

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1460 by Haggerty (Relating to licensing, acquisition, and regulation of manufactured housing; providing penalties.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1460, As Engrossed: a negative impact of (\$215,363) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$138,388)
2009	(\$76,975)
2010	(\$76,975)
2011	(\$76,975)
2012	(\$76,975)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from GENERAL REVENUE FUND 1	Change in Number of State Employees from FY 2007
2008	(\$138,388)	1.5
2009	(\$76,975)	1.0
2010	(\$76,975)	1.0
2011	(\$76,975)	1.0
2012	(\$76,975)	1.0

Fiscal Analysis

The bill would amend the Occupations Code, the Government Code, and the Tax Code, relating to the taxation, licensing, acquisition, and regulation of manufactured housing.

The bill would amend Chapter 1201 of the Occupations Code to expand the definition of a manufactured home or manufactured housing, including new or used homes. The bill would raise the amount of bond required for a rebuilder license to \$50,000 (from \$30,000) and for an installer's license to \$25,000 (from \$10,000) and add a new \$50,000 bond for each additional branch location of a retailer.

The bill would require a retailer to surrender the original manufacturer's statement of origin at the first retail sale and apply for a statement of ownership and location within 60 days. Failing to meet the

deadline could lead to an administrative penalty of not less than \$100 against the seller.

Persons whose license was revoked, suspended, or denied could request a hearing conducted by the State Office of Administrative Hearings. Penalties would be forwarded to TDHCA for deposit to an escrow account.

The bill would amend Chapter 2306 of the Government Code relating to the criteria TDHCA would consider in determining the amount of an administrative penalty assessed against a housing sponsor or development owner.

The bill would amend Chapter 11 of the Tax Code to allow a person seeking a homestead exemption to provide a copy of the current title page for a manufactured home from the TDHCA website or other computer records of TDHCA. An exemption could be obtained regardless of the owner's election to treat the home as real property or personal property or if the home was listed with or separately from the real property.

The bill would limit the time a tax lien could be recorded on a home to no later than six months, following the end of a calendar year for which a tax was owed. A properly recorded tax lien could be enforced, but not against the owner of a new home when acquired from a retailer in the ordinary course of business. Title could not be transferred on a home until all tax liens perfected on a home were filed in a timely manner with TDHCA and all personal property taxes accruing on each January 1 within 18 months of the date of the sale were extinguished or satisfied and released.

The bill would place limits on the use of tax warrants in foreclosure, and it would give taxpayers the right to designate payments to a tax year. If a home had been omitted from a tax roll at any time before the second anniversary of the date taxes were due, a taxing unit could file a tax lien no later than the 150th day after the date the tax became delinquent.

The bill would require a taxing unit to provide a prospective buyer of a home with an estimate of personal property taxes due, accept payment in escrow and certify that information to TDHCA, apply payments when due, and notify a new owner of any liability that might be due.

The bill would take effect September 1, 2007. The changes relating to ad valorem taxes would apply beginning January 1, 2008.

Methodology

The bill would raise the amount of bond required from an applicant for a rebuilder license to \$50,000 (from the current \$30,000) for an installer's license to \$25,000 (from the current \$10,000) and add a new \$50,000 bond for each additional branch location of a retailer. There would be no fiscal impact to the state for this change.

The changes relating to qualification for the homestead exemption and the informational and other requirements imposed on taxing units cannot be estimated.

Currently, the Manufactured Housing Division of the Texas Department of Housing and Community Affairs has no staff attorneys and the Office of the Attorney General's (OAG) Administrative Law Division provides all legal services for general counsel, enforcement, and administrative law litigation. The bill creates numerous new rights to contested case hearings. The new provisions in the bill requiring a licensee against whom administrative action is taken to request a contested case hearing (rather than the Department being required to provide one whether requested or not) is anticipated to somewhat offset the total increase in contested case hearings. However, the need for an additional attorney to handle enforcement would still be required (as reflected in the filed version of HB 1460) due to the added provisions in the bill.

The new rule making requirements are anticipated to require additional provision of general counsel services. Additionally, implementation of the bill is anticipated to require additional provision of general counsel services based on historical use of these services. General counsel services are reduced from the filed version of HB 1460 since the committee substitute is less complicated. The

Department will require less counsel because the provisions relating to tax lien recordation and enforcement have been removed. Those provisions were anticipated to be difficult to interpret and advise the Department. Nonetheless, this bill still requires new agency rule making and will require additional counsel to implement in the first year.

With the passage of this bill, the OAG would require an appropriation and additional FTEs beyond the FTE cap for the FY 2008-2009 biennium. The OAG's Administrative Law Division would require ½ FTE assistant attorney general (AAG) IV in FY 2008 only for general counsel work related to adoption of the new rules and implementation of the bill. In fiscal years 2008-2012, 1.0 FTE (AAG II) would be needed for enforcement. The OAG would require an appropriation and additional FTEs beyond the FTE cap for the FY 2008-2009 biennium.

The fiscal impact to the OAG in fiscal year 2008 is \$138,388 and \$76,975 in each fiscal year 2009-2012 thereafter. The total cost over the five-year period is \$446,288. The method of finance is General Revenue Fund (Fund 0001).

Technology

The one-time technology impact to the Office of the Attorney General is \$2,787 in FY 2008 for network stations and software.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 332 Department of Housing and Community Affairs

LBB Staff: JOB, JRO, SD, SJS

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 27, 2007

TO: Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1460 by Haggerty (relating to licensing, acquisition, and regulation of manufactured housing; providing penalties.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1460, Committee Report 1st House, Substituted: a negative impact of (\$2,051,363) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$1,056,388)
2009	(\$994,975)
2010	(\$994,975)
2011	(\$994,975)
2012	(\$994,975)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE FUND</i> 1	Probable Savings/ (Cost) from <i>GENERAL REVENUE FUND</i> 1	Probable Revenue Gain/(Loss) from <i>MFG HOMEOWNER RECOVERY FD</i> 926	Change in Number of State Employees from FY 2007
2008	(\$918,000)	(\$138,388)	\$918,000	1.5
2009	(\$918,000)	(\$76,975)	\$918,000	1.0
2010	(\$918,000)	(\$76,975)	\$918,000	1.0
2011	(\$918,000)	(\$76,975)	\$918,000	1.0
2012	(\$918,000)	(\$76,975)	\$918,000	1.0

Fiscal Analysis

The bill would amend the Occupations Code, the Government Code, and the Tax Code, relating to the taxation, licensing, acquisition, and regulation of manufactured housing.

The bill would amend Chapter 1201 of the Occupations Code to expand the definition of a manufactured home or manufactured housing, including new or used homes. The bill would raise the amount of bond required for a rebuilder license to \$50,000 (from \$30,000) and for an installer's license to \$25,000 (from \$10,000) and add a new \$50,000 bond for each additional branch location of a retailer.

The bill would reactivate the currently inactive Manufactured Homeowner's Recovery Trust Fund 0926 as a dedicated fund held in trust for carrying out the purposes of the fund. Administrative penalties and \$10 of each statement of ownership and location fee would be deposited to the credit of the fund. The executive director of the Texas Department of Housing and Community Affairs (TDHCA) would administer the fund.

The bill would require a retailer to surrender the original manufacturer's statement of origin at the first retail sale and apply for a statement of ownership and location within 60 days. Failing to meet the deadline could lead to an administrative penalty of not less than \$100 against the seller.

Persons whose license was revoked, suspended, or denied could request a hearing conducted by the State Office of Administrative Hearings. Penalties would be forwarded to TDHCA for deposit to an escrow account.

The bill would amend Chapter 2306 of the Government Code relating to the criteria TDHCA would consider in determining the amount of an administrative penalty assessed against a housing sponsor or development owner.

The bill would amend Chapter 11 of the Tax Code to allow a person seeking a homestead exemption to provide a copy of the current title page for a manufactured home from the TDHCA website or other computer records of TDHCA. An exemption could be obtained regardless of the owner's election to treat the home as real property or personal property or if the home was listed with or separately from the real property.

The bill would limit the time a tax lien could be recorded on a home to no later than six months, following the end of a calendar year for which a tax was owed. A properly recorded tax lien could be enforced, but not against the owner of a new home when acquired from a retailer in the ordinary course of business. Title could not be transferred on a home until all tax liens perfected on a home were filed in a timely manner with TDHCA and all personal property taxes accruing on each January 1 within 18 months of the date of the sale were extinguished or satisfied and released.

The bill would place limits on the use of tax warrants in foreclosure, and it would give taxpayers the right to designate payments to a tax year. If a home had been omitted from a tax roll at any time before the second anniversary of the date taxes were due, a taxing unit could file a tax lien no later than the 150th day after the date the tax became delinquent.

The bill would require a taxing unit to provide a prospective buyer of a home with an estimate of personal property taxes due, accept payment in escrow and certify that information to TDHCA, apply payments when due, and notify a new owner of any liability that might be due.

The bill would take effect September 1, 2007. The changes relating to ad valorem taxes would apply beginning January 1, 2008.

Methodology

The bill would raise the amount of bond required from an applicant for a rebuilder license to \$50,000 (from the current \$30,000) for an installer's license to \$25,000 (from the current \$10,000) and add a new \$50,000 bond for each additional branch location of a retailer. There would be no fiscal impact to the state for this change.

The changes relating to qualification for the homestead exemption and the informational and other requirements imposed on taxing units cannot be estimated.

The bill would reactivate the currently inactive Manufactured Homeowner's Recovery Trust Fund 0926 as a dedicated fund held in trust for carrying out the specific purposes of the fund. Administrative penalties—estimated to be \$18,000 annually—now dedicated to the General Revenue Fund 0001 would be dedicated to the trust fund. In addition, \$10 of each \$55 fee collected for a statement of ownership and location and currently deposited to Fund 0001 would be deposited to the trust fund. TDHCA estimates that 90,000 statements are sold each fiscal year. The table above reflects

the Comptroller's estimate of revenue loss to General Revenue and subsequent gain to the Trust Fund.

Currently, the Manufactured Housing Division of the Texas Department of Housing and Community Affairs has no staff attorneys and the Office of the Attorney General's (OAG) Administrative Law Division provides all legal services for general counsel, enforcement, and administrative law litigation. The bill creates numerous new rights to contested case hearings. The new provisions in the bill requiring a licensee against whom administrative action is taken to request a contested case hearing (rather than the Department being required to provide one whether requested or not) is anticipated to somewhat offset the total increase in contested case hearings. However, the need for an additional attorney to handle enforcement would still be required (as reflected in the filed version of HB 1460) due to the added provisions in the bill.

The new rule making requirements are anticipated to require additional provision of general counsel services. Additionally, implementation of the bill is anticipated to require additional provision of general counsel services based on historical use of these services. General counsel services are reduced from the filed version of HB 1460 since the committee substitute is less complicated. The Department will require less counsel because the provisions relating to tax lien recordation and enforcement have been removed. Those provisions were anticipated to be difficult to interpret and advise the Department. Nonetheless, this bill still requires new agency rule making and will require additional counsel to implement in the first year.

With the passage of this bill, the OAG would require an appropriation and additional FTEs beyond the FTE cap for the FY 2008-2009 biennium. The OAG's Administrative Law Division would require ½ FTE assistant attorney general (AAG) IV in FY 2008 only for general counsel work related to adoption of the new rules and implementation of the bill. In fiscal years 2008-2012, 1.0 FTE (AAG II) would be needed for enforcement. The OAG would require an appropriation and additional FTEs beyond the FTE cap for the FY 2008-2009 biennium.

The fiscal impact to the OAG in fiscal year 2008 is \$138,388 and \$76,975 in each fiscal year 2009-2012 thereafter. The total cost over the five-year period is \$446,288. The method of finance is General Revenue Fund (Fund 0001).

The bill would create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Therefore, the fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Technology

The one-time technology impact to the Office of the Attorney General is \$2,787 in FY 2008 for network stations and software.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 332 Department of Housing and Community Affairs

LBB Staff: JOB, JRO, SD, SJS

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 20, 2007

TO: Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1460 by Haggerty (Relating to the licensing, acquisition, and regulation of manufactured housing.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1460, As Introduced: a negative impact of (\$1,568,720) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$792,080)
2009	(\$776,640)
2010	(\$776,640)
2011	(\$776,640)
2012	(\$776,640)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE FUND</i> 1	Probable Savings/ (Cost) from <i>GENERAL REVENUE FUND</i> 1	Probable Revenue Gain/(Loss) from <i>APPROPRIATED RECEIPTS</i> 666	Probable Revenue Gain/(Loss) from <i>MFG HOMEOWNER RECOVERY FD</i> 926
2008	(\$600,000)	(\$192,080)	(\$905,000)	\$600,000
2009	(\$600,000)	(\$176,640)	(\$897,200)	\$600,000
2010	(\$600,000)	(\$176,640)	(\$897,200)	\$600,000
2011	(\$600,000)	(\$176,640)	(\$897,200)	\$600,000
2012	(\$600,000)	(\$176,640)	(\$897,200)	\$600,000

Fiscal Year	Change in Number of State Employees from FY 2007
2008	5.0
2009	5.0
2010	5.0
2011	5.0
2012	5.0

Fiscal Analysis

The bill would amend the Tax Code, the Occupations Code, and the Finance Code, relating to the

taxation, licensing, acquisition, and regulation of manufactured housing.

The bill would amend Chapter 11 of the Tax Code to clarify that a homestead exemption would be claimed on a personal property manufactured home and that a taxing authority would rely on the computer records on the Texas Department of Housing and Community Affairs (TDHCA) website to verify the status of a homestead exemption as an alternative to a copy of a statement of ownership and location. The bill would note the requirements necessary for a tax assessor-collector to enter into a contract to establish an escrow account with a property owner for the payment of property taxes.

The bill would establish that a valid tax lien filed timely with TDHCA would be deemed notice of a lien, require the payment of personal property taxes accrued on each January 1 within 18 months of the date of sale in order to transfer title, place limits on the use of tax warrants in foreclosure, and give taxpayers the right to designate payments to a tax year.

Under the bill, a person with ownership interest in a home who believed that a collector or appraiser was acting in disregard of the law could file a complaint with the Comptroller. The bill would require the Comptroller to receive complaints, conduct administrative hearings, issue mandates, and forward unresolved complaints to the Attorney General's Office. District courts would impose fines and penalties for failure to comply with the Comptroller's mandates.

The bill would require a taxing unit to provide a prospective buyer of a home with an estimate of personal property taxes due, accept payment in escrow, apply payments when due, and notify a new owner of any liability that might be due. The bill would allow a prospective buyer (when seeking certification from a tax assessor-collector that taxes have been paid) to pay two years back taxes if a home had been omitted from the tax rolls by mistake.

The bill would amend Chapter 1201 of the Occupations Code to expand the definition of a manufactured home or manufactured housing, including new or used homes. In addition, the bill would raise the amount of bond required from an applicant for a rebuilder license to \$50,000 (from the current \$30,000) and for an installer's license to \$50,000 (from the current \$10,000).

The bill would reactivate the currently inactive Manufactured Homeowner's Recovery Trust Fund 0926 as the Manufactured Homeowner's Recovery Fund.

The bill would require a retailer to surrender the original manufacturer's statement of origin at the first retail sale and apply for a statement of ownership and location within 45 days. Failing to meet the deadline, if repeatedly violated, would lead to the revocation or suspension of a license and allow the board to assess administrative penalties ranging from \$1,000 for a first violation to \$4,000 for each subsequent violation. Persons not licensed or failing to take required actions would face an administrative penalty not to exceed \$10,000, plus other reasonable fees and expenses. Persons operating without a license would commit an offense punishable as a class A or B misdemeanor and would be liable for damages. Violations would be subject to an administrative penalty not to exceed \$1,000 per day for each violation. Penalties would be deposited to the credit of the fund.

The bill would amend Chapter 347 of the Finance Code, relating to the rights and responsibilities of an owner of a security interest in a home and the precedence of liens on a home.

The bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2007.

Methodology

The bill would broaden the definition of a manufactured home to include homes smaller in size than "HUD-code" manufactured homes, sometimes referred to as "park models." Because there are no data on the number of these homes in existence, the fiscal impact of this provision cannot be estimated.

The bill would amend Chapter 11 of the Tax Code to clarify that a homestead exemption may be claimed on a personal property manufactured home and that a taxing authority would rely on the

computer records on the Texas Department of Housing and Community Affairs (TDHCA) website to verify the status of a homestead exemption as an alternative to a copy of a statement of ownership and location. This language would not change current law regarding the eligibility of mobile homes for homestead exemptions, and it would not create a significant cost to local governments or to the state.

Under the bill, a person with ownership interest in a home who believed that a collector or appraiser was acting in disregard of the law could file a complaint with the Comptroller. The bill would require the Comptroller to receive complaints, conduct administrative hearings, issue mandates, and forward unresolved complaints to the Attorney General's Office. District courts would impose fines and penalties for failure to comply with the Comptroller's mandates.

The bill would raise the amount of bond required from an applicant for a rebuilder license to \$50,000 (from the current \$30,000) and for an installer's license to \$50,000 (from the current \$10,000). There would be no fiscal impact to the state for this change.

The bill would authorize administrative penalties ranging from \$1,000 to \$10,000, plus other reasonable fees and expenses for violations.

The administrative cost estimate to the Comptroller's Office reflects the costs associated with the handling of complaints, administrative hearings, and mandates, which would require two hearings examiners with associated administrative costs. This cost is expected to be \$240,840 per year and require 2 full time employees for each year. This cost is not reflected in the above table.

The administrative cost estimate to TDHCA reflects costs related to disclosing the name and address of the person obligated on the taxes and amount of each lien on a tax lien recording. The bill would also require TDHCA to provisionally record a lien on a record that reflects a taxpayer name that is different from the name of the owner and requires TDHCA to notify the appraisal district of the disparity and allow the taxing authority to resubmit an amended tax lien reflecting the name of the owner of the home within 60 days of notification. The cost is expected to be \$905,000 in fiscal year 2008 and \$897,200 per year beginning in fiscal year 2009 and require 3 full time employees for each year.

The bill would create the General Revenue-Dedicated - Homeowners' Recovery Fund and terminate the Manufactured Homeowners' Recovery Trust Fund in the General Revenue Fund. This fund would generate approximately \$900,000 each year in fees and TDHCA anticipates that approximately \$300,000 each year will be expended for carrying out the specific purposes of the fund.

The Office of the Attorney General (OAG) reports that the Manufactured Housing Division of the Texas Department of Housing and Community Affairs currently has no staff attorneys. The Department relies on the OAG's Administrative Law Division (ALD) for all general counsel work, enforcement work, and administrative law litigation.

Greater need for enforcement in this industry has been identified as a problem affecting the rights of consumers. Sec. 18, subsection (g) creates new enforcement authority for the Department that will require action by ALD. Sec. 32 creates additional new due process hearings and suits for injunctive relief and civil penalties--the ALD estimates that this will have significant impact in order to accomplish the goal of greater enforcement. As a result, the OAG would require 1 attorney in each fiscal year 2008-2012.

It is estimated that one FTE attorney will also be required to assist the Department in analyzing and implementing this bill, based on the complexity of the issues--taxing, lien recordation, and enforcement, and based on historic use of general counsel services for this purpose by the Department.

The OAG's Administrative Law Division would require, in each fiscal year 2008 -2012, one Assistant Attorney General II (AAG) to handle enforcement work and one AAG IV to handle general counsel work associated with passage of the bill. The cost in fiscal year 2008 is \$192,080 and \$176,640 in each fiscal year thereafter. The OAG will require an appropriation and additional FTEs beyond the FTE cap for the FY 2008-2009 biennium.

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Therefore, the fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Technology

There would be a technology cost to the Department of Housing and Community Affairs of \$7,800 in fiscal year 2008 and \$4,800 in fiscal year 2013. There would also be a one-time technology impact to the Office of the Attorney General of \$2,787 in fiscal year 2008 for network stations and software.

Local Government Impact

Costs to local tax collectors would depend on the number of instances in which personal property taxes have not been levied by the taxing unit and there is a prospective buyer of the manufactured home. Most of these costs would be for letterhead, postage, and personnel time to collaborate with TDHCA and new owners to clear up any outstanding tax or escrow issues.

In addition, the bill could have a negative fiscal effect on local taxing authorities by deleting liens not matching TDHCA records. Without a lien on file, a taxing authority would see a loss of tax collection revenue.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 332 Department of Housing and Community Affairs

LBB Staff: JOB, JRO, SD, JM, AH, SJS, KJG

