

By: Hamilton

H.B. No. 2238

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of manufactured housing.

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

SECTION 1. Subchapter A, Chapter 1201, Occupations Code, is amended by adding Section 1201.009 to read as follows:

Sec. 1201.009. ELECTRONIC MEANS AUTHORIZED. The board shall adopt rules to facilitate the use of electronic means for any department action under this chapter, as appropriate.

SECTION 2. Sections 1201.104(c), (e), and (f), Occupations Code, are amended to read as follows:

(c) An applicant for a salesperson's license may apply for a license without having completed the course of instruction provided that the person successfully completes the ~~[next scheduled]~~ course not later than the 90th day [offered] after the date of the person's licensure. If the person fails to complete such course successfully and in a timely manner, the person's license is automatically suspended until the person successfully completes the course.

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

(f) An applicant for an initial installer's license shall receive a license on a provisional ~~[probationary]~~ basis. The person's provisional ~~[probationary]~~ status remains ~~[shall remain]~~

1 in effect until [~~such time as~~] a sufficient number of installations  
2 completed by the person have been inspected by the department and  
3 found not to have any identified material violations of the  
4 department's rules. The board, with the advice of the advisory  
5 committee to be established under Section 1201.251, shall adopt  
6 rules to establish what constitutes a sufficient number of  
7 installations under this subsection.

8 SECTION 3. Section 1201.113(b), Occupations Code, is  
9 amended to read as follows:

10 (b) Completion of [~~Attendance at~~] an approved or  
11 administered continuing education course described by Subsection  
12 (a) is a prerequisite to renewal of a license.

13 SECTION 4. Section 1201.116(c), Occupations Code, is  
14 amended to read as follows:

15 (c) The renewal license expires on the second [~~first~~]  
16 anniversary of the date the license was renewed.

17 SECTION 5. Section 1201.204(c), Occupations Code, is  
18 amended to read as follows:

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

1 respect to that home. Failure to include the original  
2 manufacturer's certificate with such an application does not impair  
3 a consumer's ability to obtain, on submittal of an otherwise  
4 complete application, a statement of ownership and location free  
5 and clear of any liens other than liens created by or consented to  
6 by the consumer.

7 SECTION 6. Sections 1201.206(g) and (k), Occupations Code,  
8 are amended to read as follows:

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

17 (k) Notwithstanding any provision in this chapter to the  
18 contrary, the department may issue a statement of ownership and  
19 location to any [~~if a~~] person who has acquired a manufactured home  
20 and who claims ownership of that home if:

21 (1) there is not an existing owner of record for the  
22 home or the existing owner of record for the home or an [~~any~~]  
23 intervening holder [~~owners~~] of a lien [~~liens~~] or equitable interest  
24 on the home [~~interests~~] cannot be located to assist in documenting  
25 the chain of title; and

26 (2) [~~, the department may issue a statement of~~  
27 ~~ownership and location to the person claiming ownership if]~~ the

1 person can provide a supporting affidavit describing the chain of  
2 title and any [~~such~~] reasonable supporting proof as the director  
3 may require.

4 SECTION 7. Section 1201.207(c), Occupations Code, is  
5 amended to read as follows:

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

25 SECTION 8. Section 1201.219, Occupations Code, is amended  
26 by amending Subsection (b) and adding Subsection (d) to read as  
27 follows:

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

20           (d) Except as provided by Subsection (a), a tax lien on a  
21 manufactured home is perfected only by filing with the department  
22 the notice of the tax lien on a form provided by the department in  
23 accordance with the requirements of Chapter 32, Tax Code. The form  
24 must require the disclosure of the original dollar amount of the tax  
25 lien and the name and address of the person in whose name the  
26 manufactured home is listed on the tax roll. The department shall  
27 disclose on its Internet website the date of each tax lien filing,

1 the original amount of the tax lien claimed by each filing, and the  
2 fact that the amount shown does not include additional sums,  
3 including interest, penalties, and attorney's fees. The statement  
4 required by Section 1201.205(7) is notice to all persons that the  
5 tax lien exists. A tax lien recorded with the department has  
6 priority, according to the chronological order of recordation, over  
7 another lien or claim against the manufactured home. Tax liens  
8 shall be filed by the tax collector for any taxing unit having the  
9 power to tax the manufactured home. A single filing by a tax  
10 collector is a filing for all the taxing units for which the tax  
11 collector is empowered to collect.

12 SECTION 9. Section 1201.361(a), Occupations Code, is  
13 amended to read as follows:

14 (a) For all installations, the installer shall give the  
15 manufactured home owner a written warranty that the installation of  
16 the home was performed in accordance with all department standards,  
17 rules, orders, and requirements. The warranty for the installation  
18 of a new HUD-code manufactured home is to be given by the retailer,  
19 who is responsible for installation. If the retailer subcontracts  
20 this function to a licensed installer, the retailer is not required  
21 to hold an installer's license, but the retailer and installer are  
22 jointly and severally responsible for performance of the warranty.

23 SECTION 10. Section 1201.2055(b), Occupations Code, is  
24 repealed.

25 SECTION 11. (a) Sections 1201.104(c) and (f), Occupations  
26 Code, as amended by this Act, apply only to a license application  
27 filed with the executive director of the manufactured housing

1 division of the Texas Department of Housing and Community Affairs  
2 on or after the effective date of this Act. An application filed  
3 with the executive director of the manufactured housing division of  
4 the Texas Department of Housing and Community Affairs before the  
5 effective date of this Act is governed by the law in effect  
6 immediately before that date, and the former law is continued in  
7 effect for that purpose.

8 (b) Sections 1201.113(b) and 1201.116(c), Occupations Code,  
9 as amended by this Act, apply only to a license that expires on or  
10 after the effective date of this Act. A license that expires before  
11 the effective date of this Act is governed by the law in effect  
12 immediately before that date, and the former law is continued in  
13 effect for that purpose.

14 (c) Sections 1201.206(g) and (k), Occupations Code, as  
15 amended by this Act, apply only to an application for a statement of  
16 ownership and location filed on or after the effective date of this  
17 Act. An application for a statement of ownership and location filed  
18 before the effective date of this Act is governed by the law in  
19 effect immediately before that date, and the former law is  
20 continued in effect for that purpose.

21 SECTION 12. This Act takes effect September 1, 2009.