

By: Gattis

H.B. No. 3349

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the operation of the Texas Residential Construction
3 Commission.

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

5 SECTION 1. Section 418.001, Property Code, is amended to
6 read as follows:

7 Sec. 418.001. GROUNDS FOR DISCIPLINARY ACTION. A person,
8 including a builder or a person who is designated as a builder's
9 agent under Section 416.006, or a person who owns or controls a
10 majority ownership interest in the builder is subject to
11 disciplinary action under this chapter for:

12 (1) fraud or deceit in obtaining a registration or
13 certification under this subtitle;

14 (2) misappropriation or misapplication of trust funds
15 in the practice of residential construction, including a violation
16 of Chapter 32, Penal Code, or Chapter 162, if found by a final
17 nonappealable court judgment;

18 (3) naming false consideration in a contract to sell a
19 new home or in a construction contract;

20 (4) discriminating on the basis of race, color,
21 religion, sex, national origin, or ancestry;

22 (5) publishing a false or misleading advertisement;

23 (6) failure to honor, within a reasonable time, a
24 check issued to the commission, or any other instrument of payment,

1 including a credit or debit card or electronic funds transfer,
2 after the commission has sent by certified mail a request for
3 payment to the person's last known business address, according to
4 commission records;

5 (7) failure to pay an administrative penalty assessed
6 by the commission under Chapter 419 or a fee due under Chapter 426;

7 (8) failure to pay a final nonappealable court
8 judgment arising from a construction defect or other transaction
9 between the person and a homeowner;

10 (9) failure to register a home as required by Section
11 426.003;

12 (10) failure to remit the fee for registration of a
13 home under Section 426.003;

14 (11) failure to reimburse a homeowner the amount
15 ordered by the commission as provided by Section 428.004(d);

16 (12) engaging in statutory or common-law fraud or
17 misappropriation of funds, as determined by the commission after a
18 hearing under Section 418.003;

19 (13) a repeated failure to participate in the
20 state-sponsored inspection and dispute resolution process if
21 required by this title;

22 (14) failure to register as a builder as required
23 under Chapter 416;

24 (15) using or attempting to use a certificate of
25 registration that has expired or that has been revoked;

26 (16) falsely representing that the person holds a
27 certificate of registration issued under Chapter 416;

1 (17) acting as a builder using a name other than the
2 name or names disclosed to the commission;

3 (18) aiding, abetting, or conspiring with a person who
4 does not hold a certificate of registration to evade the provisions
5 of this title or rules adopted under this title, if found by a final
6 nonappealable court judgment;

7 (19) allowing the person's certificate of registration
8 to be used by another person;

9 (20) acting as an agent, partner, or associate of a
10 person who does not hold a certificate of registration with the
11 intent to evade the provisions of this title or rules adopted under
12 this title;

13 (21) a failure to reasonably perform on an accepted
14 offer to repair or a repeated failure to make an offer to repair
15 based on:

16 (A) the recommendation of a third-party
17 inspector under Section 428.004; or

18 (B) the final holding of an appeal under Chapter
19 429;

20 (22) a repeated failure to respond to a commission
21 request for information;

22 (23) a failure to obtain a building permit required by
23 a political subdivision before constructing a new home or an
24 improvement to an existing home;

25 (24) abandoning, without justification, any home
26 improvement contract or new home construction project engaged in or
27 undertaken by the person, if found to have done so by a final,

1 nonappealable court judgment;

2 (25) a repeated failure to comply with the
3 requirements of Subtitle F; ~~or~~

4 (26) failure to substantially complete all the
5 obligations under an express contract for construction without
6 reasonable grounds for the failure, if found to have done so by a
7 final, nonappealable court judgment; or

8 (27) otherwise violating this title or a commission
9 rule adopted under this title.

10 SECTION 2. Section 418.001, Property Code, as amended by
11 this Act, applies only to conduct that occurs on or after the
12 effective date of this Act. Conduct that occurs before the
13 effective date of this Act is governed by the law in effect
14 immediately before that date, and that law is continued in effect
15 for that purpose.

16 SECTION 3. This Act takes effect September 1, 2009.