

By: Smith of Tarrant

H.B. No. 3629

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Residential Construction Commission and the licensing and regulation of certain builders.

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

SECTION 1. Title 12, Insurance Code, is amended by adding Chapter 3504 and a heading to read as follows:

CHAPTER 3504. THIRD-PARTY WARRANTY COMPANIES FOR CERTAIN RESIDENTIAL CONSTRUCTION

SECTION 2. Section 430.008, Property Code, is transferred to Chapter 3504, Insurance Code, redesignated as Section 3504.001, and amended to read as follows:

Sec. 3504.001 [~~430.008~~]. REGULATION AND APPROVAL OF THIRD-PARTY WARRANTY COMPANY FOR CERTAIN RESIDENTIAL CONSTRUCTION. (a) The department [~~commission~~] may approve as a third-party warranty company for the purposes of Section 430.009, Property Code:

(1) an entity that has operated warranty programs in this state for at least five years;

(2) a company whose performance is insured by an insurance company authorized to engage in the business of insurance in this state; or

(3) an insurance company that insures the warranty obligations of a builder under the statutory warranty and building

1 and performance standards as provided by Chapter 430, Property
2 Code.

3 (b) A third-party warranty company must submit to the
4 department [~~commission~~] an annual application and fee in the form
5 and in the amount required by the commissioner [~~commission~~] by rule
6 before the company may be approved under this section.

7 SECTION 3. Section 214.906, Local Government Code, is
8 amended to read as follows:

9 Sec. 214.906. VERIFICATION OF BUILDER REGISTRATION. A
10 municipality may not issue a building permit to a builder, as
11 defined by Section 401.003, Property Code, for construction
12 described by Section 401.003(a), Property Code, unless the
13 municipality has verified that the builder is licensed by
14 [~~registered with~~] the Texas Residential Construction Commission
15 under Chapter 416, Property Code, or is exempt from holding a
16 license [~~registration~~] under Section 401.005, Property Code.

17 SECTION 4. Sections 27.001(4), (5), and (8), Property Code,
18 are amended to read as follows:

19 (4) "Construction defect" [~~has the meaning assigned by~~
20 ~~Section 401.004 for an action to which Subtitle D, Title 16, applies~~
21 ~~and for any other action~~] means a matter concerning the design,
22 construction, or repair of a new residence, of an alteration of or
23 repair or addition to an existing residence, or of an appurtenance
24 to a residence, on which a person has a complaint against a
25 contractor. The term may include any physical damage to the
26 residence, any appurtenance, or the real property on which the
27 residence and appurtenance are affixed proximately caused by a

1 construction defect.

2 (5) "Contractor":

3 (A) means:

4 (i) a person [~~builder, as defined by~~
5 ~~Section 401.003,~~] contracting with an owner for the construction or
6 repair of a new residence, for the repair or alteration of or an
7 addition to an existing residence, or for the construction, sale,
8 alteration, addition, or repair of an appurtenance to a new or
9 existing residence;

10 (ii) any person contracting with a
11 purchaser for the sale of a new residence constructed by or on
12 behalf of that person; or

13 (iii) a person contracting with an owner or
14 the developer of a condominium for the construction of a new
15 residence, for an alteration of or an addition to an existing
16 residence, for repair of a new or existing residence, or for the
17 construction, sale, alteration, addition, or repair of an
18 appurtenance to a new or existing residence; and

19 (B) includes:

20 (i) an owner, officer, director,
21 shareholder, partner, or employee of the contractor; and

22 (ii) a risk retention group registered
23 under Chapter 2201 [~~Article 21.54~~], Insurance Code, that insures
24 all or any part of a contractor's liability for the cost to repair a
25 residential construction defect.

26 (8) "Structural failure" [~~has the meaning assigned by~~
27 ~~Section 401.002 for an action to which Subtitle D, Title 16, applies~~

1 ~~and for any other action]~~ means actual physical damage to the
2 load-bearing portion of a residence caused by a failure of the
3 load-bearing portion.

4 SECTION 5. Section 27.002(b), Property Code, is amended to
5 read as follows:

6 (b) To ~~[Except as provided by this subsection, to]~~ the
7 extent of conflict between this chapter and any other law,
8 including the Deceptive Trade Practices-Consumer Protection Act
9 (Subchapter E, Chapter 17, Business & Commerce Code) or a common law
10 cause of action, this chapter prevails. ~~[To the extent of conflict~~
11 ~~between this chapter and Title 16, Title 16 prevails.]~~

12 SECTION 6. Section 27.003(a), Property Code, is amended to
13 read as follows:

14 (a) In an action to recover damages or other relief arising
15 from a construction defect:

16 (1) a contractor is not liable for any percentage of
17 damages caused by:

18 (A) negligence of a person other than the
19 contractor or an agent, employee, or subcontractor of the
20 contractor;

21 (B) failure of a person other than the contractor
22 or an agent, employee, or subcontractor of the contractor to:

23 (i) take reasonable action to mitigate the
24 damages; or

25 (ii) take reasonable action to maintain the
26 residence;

27 (C) normal wear, tear, or deterioration;

1 (D) normal shrinkage due to drying or settlement
2 of construction components within the tolerance of building
3 standards; or

4 (E) the contractor's reliance on written
5 information relating to the residence, appurtenance, or real
6 property on which the residence and appurtenance are affixed that
7 was obtained from official government records, if the written
8 information was false or inaccurate and the contractor did not know
9 and could not reasonably have known of the falsity or inaccuracy of
10 the information; and

11 (2) if an assignee of the claimant or a person
12 subrogated to the rights of a claimant fails to provide the
13 contractor with the written notice and opportunity to inspect and
14 offer to repair required by Section 27.004 [~~or fails to request~~
15 ~~state-sponsored inspection and dispute resolution under Chapter~~
16 ~~428, if applicable,~~] before performing repairs, the contractor is
17 not liable for the cost of any repairs or any percentage of damages
18 caused by repairs made to a construction defect at the request of an
19 assignee of the claimant or a person subrogated to the rights of a
20 claimant by a person other than the contractor or an agent,
21 employee, or subcontractor of the contractor.

22 SECTION 7. Sections 27.004(a), (b), (c), and (d), Property
23 Code, are amended to read as follows:

24 (a) Before [~~In a claim not subject to Subtitle D, Title 16,~~
25 ~~before~~] the 60th day preceding the date a claimant seeking from a
26 contractor damages or other relief arising from a construction
27 defect initiates an action, the claimant shall give written notice

1 by certified mail, return receipt requested, to the contractor, at
2 the contractor's last known address, specifying in reasonable
3 detail the construction defects that are the subject of the
4 complaint. On the request of the contractor, the claimant shall
5 provide to the contractor any evidence that depicts the nature and
6 cause of the defect and the nature and extent of repairs necessary
7 to remedy the defect, including expert reports, photographs, and
8 videotapes, if that evidence would be discoverable under Rule 192,
9 Texas Rules of Civil Procedure. During the 35-day period after the
10 date the contractor receives the notice, and on the contractor's
11 written request, the contractor shall be given a reasonable
12 opportunity to inspect and have inspected the property that is the
13 subject of the complaint to determine the nature and cause of the
14 defect and the nature and extent of repairs necessary to remedy the
15 defect. The contractor may take reasonable steps to document the
16 defect. [~~In a claim subject to Subtitle D, Title 16, a contractor~~
17 ~~is entitled to make an offer of repair in accordance with Subsection~~
18 ~~(b). A claimant is not required to give written notice to a~~
19 ~~contractor under this subsection in a claim subject to Subtitle D,~~
20 ~~Title 16.]~~

21 (b) Not [~~later than the 15th day after the date of a final,~~
22 ~~unappealable determination of a dispute under Subtitle D, Title 16,~~
23 ~~if applicable, or not]~~ later than the 45th day after the date the
24 contractor receives the notice [~~under this section, if Subtitle D,~~
25 ~~Title 16, does not apply]~~, the contractor may make a written offer
26 of settlement to the claimant. The offer must be sent to the
27 claimant at the claimant's last known address or to the claimant's

1 attorney by certified mail, return receipt requested. The offer
2 may include either an agreement by the contractor to repair or to
3 have repaired by an independent contractor partially or totally at
4 the contractor's expense or at a reduced rate to the claimant any
5 construction defect described in the notice and shall describe in
6 reasonable detail the kind of repairs which will be made. The
7 repairs shall be made not later than the 45th day after the date the
8 contractor receives written notice of acceptance of the settlement
9 offer, unless completion is delayed by the claimant or by other
10 events beyond the control of the contractor. If a contractor makes
11 a written offer of settlement that the claimant considers to be
12 unreasonable:

13 (1) on or before the 25th day after the date the
14 claimant receives the offer, the claimant shall advise the
15 contractor in writing and in reasonable detail of the reasons why
16 the claimant considers the offer unreasonable; and

17 (2) not later than the 10th day after the date the
18 contractor receives notice under Subdivision (1), the contractor
19 may make a supplemental written offer of settlement to the claimant
20 by sending the offer to the claimant or the claimant's attorney.

21 (c) If [~~compliance with Subtitle D, Title 16, or~~] the giving
22 of the notice under Subsections (a) and (b) within the period
23 prescribed by those subsections is impracticable because of the
24 necessity of initiating an action at an earlier date to prevent
25 expiration of the statute of limitations or if the complaint is
26 asserted as a counterclaim, [~~compliance with Subtitle D, Title 16,~~
27 ~~or~~] the notice is not required. However, the action or counterclaim

1 shall specify in reasonable detail each construction defect that is
2 the subject of the complaint. The [~~If Subtitle D, Title 16, applies~~
3 ~~to the complaint, simultaneously with the filing of an action by a~~
4 ~~claimant, the claimant must submit a request under Section 428.001.~~
5 ~~If Subtitle D, Title 16, does not apply, the~~] inspection provided
6 for by Subsection (a) may be made not later than the 75th day after
7 the date of service of the suit, request for arbitration, or
8 counterclaim on the contractor, and the offer provided for by
9 Subsection (b) may be made [~~not later than the 15th day after the~~
10 ~~date the state-sponsored inspection and dispute resolution process~~
11 ~~is completed, if Subtitle D, Title 16, applies, or~~] not later than
12 the 60th day after the date of service [~~, if Subtitle D, Title 16,~~
13 ~~does not apply~~]. If, while an action subject to this chapter is
14 pending, the statute of limitations for the cause of action would
15 have expired and it is determined that the provisions of Subsection
16 (a) were not properly followed, the action shall be abated to allow
17 compliance with Subsections (a) and (b).

18 (d) The court or arbitration tribunal shall abate an action
19 governed by this chapter if Subsection (c) does not apply and the
20 court or tribunal, after a hearing, finds that the contractor is
21 entitled to abatement because the claimant failed to [~~comply with~~
22 ~~the requirements of Subtitle D, Title 16, if applicable, failed to~~]
23 provide the notice or failed to give the contractor a reasonable
24 opportunity to inspect the property as required by Subsection (a),
25 or failed to follow the procedures specified by Subsection (b). An
26 action is automatically abated without the order of the court or
27 tribunal beginning on the 11th day after the date a motion to abate

1 is filed if the motion:

2 (1) is verified and alleges that the person against
3 whom the action is pending did not receive the written notice
4 required by Subsection (a), the person against whom the action is
5 pending was not given a reasonable opportunity to inspect the
6 property as required by Subsection (a), or the claimant failed to
7 follow the procedures specified by Subsection (b) [~~or Subtitle D,~~
8 ~~Title 16~~]; and

9 (2) is not controverted by an affidavit filed by the
10 claimant before the 11th day after the date on which the motion to
11 abate is filed.

12 SECTION 8. Section 27.0042(b), Property Code, is amended to
13 read as follows:

14 (b) A contractor may not elect to purchase the residence
15 under Subsection (a) if [~~+~~

16 [~~(1)~~] the residence is more than five years old at the
17 time an action is initiated [~~+~~ ~~or~~

18 [~~(2) the contractor makes such an election later than~~
19 ~~the 15th day after the date of a final, unappealable determination~~
20 ~~of a dispute under Subtitle D, Title 16, if applicable].~~

21 SECTION 9. Section 41.007(a), Property Code, is amended to
22 read as follows:

23 (a) A contract for improvements to an existing residence
24 described by Section 41.001(b)(3) must contain:

25 (1) the contractor's license [~~certificate of~~
26 ~~registration~~] number from the Texas Residential Construction
27 Commission if the contractor is required to be licensed [~~register~~]

1 as a builder by [~~with~~] the commission;

2 (2) the address and telephone number at which the
3 owner may file a complaint with the Texas Residential Construction
4 Commission about the conduct of the contractor if the contractor is
5 required to be licensed [~~register~~] as a builder by [~~with~~] the
6 commission; and

7 (3) the following warning conspicuously printed,
8 stamped, or typed in a size equal to at least 10-point bold type or
9 computer equivalent:

10 "IMPORTANT NOTICE: You and your contractor are responsible
11 for meeting the terms and conditions of this contract. If you sign
12 this contract and you fail to meet the terms and conditions of this
13 contract, you may lose your legal ownership rights in your
14 home. KNOW YOUR RIGHTS AND DUTIES UNDER THE LAW."

15 SECTION 10. Chapter 401, Property Code, is amended by
16 adding Section 401.0011 to read as follows:

17 Sec. 401.0011. PURPOSE; TEXAS RESIDENTIAL CONSTRUCTION
18 COMMISSION. (a) The Texas Residential Construction Commission
19 oversees builders licensed by the commission to ensure that
20 builders are responsible and accountable to the homeowners with
21 whom they contract.

22 (b) The commission's mission includes ensuring the
23 protection of the public by educating builders and homeowners about
24 all aspects of the residential construction industry affecting the
25 building or remodeling of homes.

26 SECTION 11. Section 401.002(6), Property Code, is amended
27 to read as follows:

1 (6) "Home" means the real property and improvements
2 and appurtenances for a single-family or two-family dwelling of up
3 to three stories [~~house or duplex~~].

4 SECTION 12. Sections 401.003(a), (b), and (d), Property
5 Code, are amended to read as follows:

6 (a) In this title, "builder" means any person who, for a
7 fixed price, commission, fee, wage, or other compensation, sells,
8 constructs, or supervises or manages the construction of, or
9 contracts for the construction of or the supervision or management
10 of the construction of:

11 (1) a new home;

12 (2) a material improvement to a home, including [~~other~~
13 ~~than~~] an improvement solely to replace or repair a roof of an
14 existing home, the construction of a swimming pool, or the repair of
15 the foundation of the home; or

16 (3) an improvement to the interior of an existing home
17 when the cost of the work exceeds \$10,000.

18 (b) The term includes:

19 (1) an owner, officer, director, shareholder,
20 partner, affiliate, subsidiary, or employee of the builder;

21 (2) a risk retention group governed by Chapter 2201
22 [~~Article 21.54~~], Insurance Code, that insures all or any part of a
23 builder's liability for the cost to repair a residential
24 construction defect; and

25 (3) a third-party warranty company governed by Chapter
26 3504, Insurance Code, and its administrator.

27 (d) The term does not include a nonprofit business entity

1 that is exempt from taxation under Section 501(c)(3), Internal
2 Revenue Code, if:

3 (1) the construction or supervision or management of
4 the construction of the home, material improvement, or improvement
5 sold by the nonprofit business entity is performed by a builder
6 licensed [~~registered~~] under this title;

7 (2) the builder contractually agrees to comply with
8 the provisions of this title;

9 (3) the builder is contractually liable to the
10 homeowner for the warranties and building and performance standards
11 of this title; and

12 (4) the nonprofit business entity does not participate
13 directly in the construction of the home, material improvement, or
14 improvement.

15 SECTION 13. Section 401.005(c), Property Code, is amended
16 to read as follows:

17 (c) An individual who builds a home or a material
18 improvement to a home and sells the home immediately following
19 completion of the building or remodeling and does not live in the
20 home for at least one year following completion of the building or
21 remodeling is responsible as a builder under the warranty
22 obligation created by this title for work completed by the
23 individual. Responsibility under this subsection requires [~~does~~
24 ~~not automatically require~~] an individual to obtain a license
25 [~~register~~] under Section 416.001.

26 SECTION 14. Section 401.006, Property Code, is amended to
27 read as follows:

1 Sec. 401.006. SUNSET PROVISION. The Texas Residential
2 Construction Commission is subject to Chapter 325, Government Code
3 (Texas Sunset Act). Unless continued in existence as provided by
4 that chapter, the commission is abolished and this title expires
5 September 1, 2013 [~~2009~~].

6 SECTION 15. Sections 401.007(a), (b), and (c), Property
7 Code, are amended to read as follows:

8 (a) The [~~If the~~] commission [~~has reasonable cause to believe~~
9 ~~that a person is violating a statute to which this chapter applies,~~
10 ~~the commission, in addition to any other authorized action,~~] may
11 issue an emergency order, including an emergency order to cease and
12 desist, to any person regardless of whether the person is a builder
13 licensed under this title [~~from the violation or an order to take~~
14 ~~affirmative action, or both~~], to enforce a statute to which this
15 chapter applies if the commission determines that an emergency
16 exists requiring immediate action to protect the public health and
17 safety or if the commission has reasonable cause to believe that a
18 person is violating a statute to which this chapter applies. The
19 commission may issue the emergency order without notice and hearing
20 or with any notice and hearing the commission considers practicable
21 under the circumstances [~~compliance~~]. A person may appeal the
22 order directly to district court in accordance with Chapter 2001,
23 Government Code.

24 (b) The [~~Before issuing an order under this section, the~~]
25 commission shall set the time and place and give notice for a
26 hearing to affirm, modify, or set aside an emergency order that was
27 issued without a hearing [~~of a hearing before a hearings officer~~].

1 The hearing is governed by Chapter 2001, Government Code. Based on
2 the findings of fact, conclusions of law, and recommendations of
3 the hearings officer, the commission by order may find whether a
4 violation has occurred.

5 (c) The commission, after providing notice and an
6 opportunity to appear for a hearing, may impose against a person who
7 violates an emergency [~~a cease and desist~~] order an administrative
8 penalty in an amount not to exceed \$1,000 for each day of violation.
9 In addition to any other remedy provided by law, the attorney
10 general or the commission may institute in district court a suit for
11 injunctive relief and to collect an administrative penalty. A bond
12 is not required of the commission with respect to injunctive relief
13 granted under this section. In the action, the court may enter as
14 proper an order awarding a preliminary or final injunction.

15 SECTION 16. Sections 406.001(a) and (c), Property Code, are
16 amended to read as follows:

17 (a) The Texas Residential Construction Commission consists
18 of 11 [~~nine~~] members appointed by the governor with the advice and
19 consent of the senate as follows:

20 (1) four members must be builders who each hold a
21 license [~~certificate of registration~~] under Chapter 416;

22 (2) four [~~three~~] members must be representatives of
23 the general public;

24 (3) one member must be a licensed professional
25 engineer who practices in the area of residential construction;
26 [~~and~~]

27 (4) one member must be [~~either~~] a licensed architect

1 who practices in the area of residential construction; and

2 (5) one member must be ~~[or]~~ a building inspector who
3 meets the requirements set forth in Chapter 427 and practices in the
4 area of residential construction.

5 (c) A person may not be a public member of the commission if
6 the person or the person's spouse:

7 (1) is a builder licensed ~~[registered]~~ with the
8 commission, or is otherwise registered, certified, or licensed by a
9 regulatory agency in the field of residential construction;

10 (2) is employed by or participates in the management
11 of a business entity or other organization regulated by or
12 receiving money from the commission;

13 (3) owns or controls, directly or indirectly, more
14 than a 10 percent interest in a business entity or other
15 organization regulated by or receiving money from the commission;
16 or

17 (4) uses or receives a substantial amount of tangible
18 goods, services, or money from the commission other than
19 compensation or reimbursement authorized by law for commission
20 membership, attendance, or expenses.

21 SECTION 17. Section 406.002(a), Property Code, is amended
22 to read as follows:

23 (a) Commission members serve staggered six-year terms, with
24 three or four members' terms expiring February 1 of each
25 odd-numbered year. The terms of three of the builder
26 representatives must expire in different odd-numbered years. The
27 terms ~~[term]~~ of three ~~[one]~~ of the representatives of the general

1 public must expire in different [~~each~~] odd-numbered years [~~year~~].

2 SECTION 18. Section 406.004(b), Property Code, is amended
3 to read as follows:

4 (b) A person may not be a public member of the commission and
5 may not be a commission employee employed in a "bona fide executive,
6 administrative, or professional capacity," as that phrase is used
7 for purposes of establishing an exemption to the overtime
8 provisions of the federal Fair Labor Standards Act of 1938 (29
9 U.S.C. Section 201 et seq.) and its subsequent amendments, if:

10 (1) the person is an officer, employee, manager, or
11 paid consultant of a Texas trade association [~~or consumer~~
12 ~~association~~] in the field of residential construction, including
13 the business of supplying construction materials, or the field of
14 real estate sales, including the issuance of title insurance; or

15 (2) the person's spouse is an officer, manager, or paid
16 consultant of a Texas trade association or consumer association in
17 the field of residential construction, including the business of
18 supplying construction materials, or the field of real estate
19 sales, including the issuance of title insurance.

20 SECTION 19. Section 408.001, Property Code, is amended to
21 read as follows:

22 Sec. 408.001. RULES. The commission shall adopt rules as
23 necessary for the implementation of this title, including rules[+]

24 [~~(1) governing the state-sponsored inspection and~~
25 ~~dispute resolution process, including building and performance~~
26 ~~standards, administrative regulations, and the conduct of hearings~~
27 ~~under Subtitle D,~~

1 ~~[(2)]~~ establishing limited statutory warranty and
2 building and performance standards for residential construction[+
3 ~~[(3) approving third-party warranty companies, and~~
4 ~~[(4) approving third-party inspectors]~~].

5 SECTION 20. Section 408.002(c), Property Code, is amended
6 to read as follows:

7 (c) The commission may charge a reasonable fee for:

8 (1) ~~[a homeowner to submit a request for~~
9 ~~state-sponsored inspection under Subtitle D,~~

10 ~~[(2)]~~ providing public information requested under
11 Chapter 552, Government Code, excluding information requested from
12 the commission under Section 409.001; or

13 (2) (2) ~~[(3)]~~ producing, mailing, and distributing
14 special printed materials and publications generated in bulk by the
15 commission for use and distribution by builders.

16 SECTION 21. Section 409.001, Property Code, is amended to
17 read as follows:

18 Sec. 409.001. PUBLIC INTEREST INFORMATION. (a) The
19 commission shall prepare information of public interest describing
20 the functions of the commission, the provisions of the limited
21 statutory warranty and building and performance standards, ~~[the~~
22 ~~state-sponsored inspection and dispute resolution process,~~] and
23 the procedures by which complaints ~~[or requests]~~ are filed with and
24 resolved by the commission.

25 (b) The commission shall make the information available to
26 the public and appropriate state agencies and shall post the
27 information on the commission's website. The commission shall make

1 the information available on the commission's website in a format
2 that allows builders to download the information and provide it to
3 homeowners as required by Subsection (c).

4 (c) Within 30 days of registering a home as [~~the receipt by~~
5 ~~the commission of the registration~~] required by Section 426.003, a
6 builder [~~the commission~~] shall provide [~~mail~~] a copy of the
7 information of public interest described in Subsection (a) to the
8 owner of the home as described in the registration.

9 (d) The commission shall also prepare and make available on
10 the commission's website information regarding the different
11 categories and designations of builders in this state as well as
12 different options that builders may offer homeowners related to the
13 construction or remodeling of a home.

14 SECTION 22. Section 409.0011(b), Property Code, is amended
15 to read as follows:

16 (b) The commission shall create and make accessible to the
17 public an electronic list and a hard-copy list of builders who:

18 (1) are licensed [~~registered~~] with the commission; and

19 (2) provide in this state building services, including
20 accessible floor plans, to persons with mobility-related special
21 needs.

22 SECTION 23. Section 409.004, Property Code, is amended to
23 read as follows:

24 Sec. 409.004. DIRECTORY OF BUILDERS. The commission shall
25 make available to the public a list of each builder who holds a
26 license [~~certificate of registration~~] issued under Chapter 416.

27 SECTION 24. The heading to Subtitle C, Title 16, Property

1 Code, is amended to read as follows:

2 SUBTITLE C. BUILDER LICENSING [~~REGISTRATION~~]

3 SECTION 25. The heading to Chapter 416, Property Code, is
4 amended to read as follows:

5 CHAPTER 416. LICENSE [~~CERTIFICATE OF REGISTRATION~~]

6 SECTION 26. Section 416.001, Property Code, is amended to
7 read as follows:

8 Sec. 416.001. LICENSE [~~REGISTRATION~~] REQUIRED; RULES. (a)
9 Notwithstanding any other law, a [A] person may not engage in
10 business as a builder in this state or act as a builder unless the
11 person holds a license [~~certificate of registration~~] under this
12 chapter.

13 (b) The commission shall adopt all rules necessary to
14 implement the licensing program under this chapter, including rules
15 relating to:

16 (1) license eligibility including the education and
17 experience required to obtain a license;

18 (2) renewal requirements, examination requirements,
19 and continuing education requirements for license holders;

20 (3) security and insurance requirements;

21 (4) disciplinary actions; and

22 (5) any other issues determined necessary by the
23 commission.

24 SECTION 27. The heading to Section 416.002, Property Code,
25 is amended to read as follows:

26 Sec. 416.002. LICENSE APPLICATION [~~FOR CERTIFICATE~~].

27 SECTION 28. Sections 416.002(a) and (e), Property Code, are

1 amended to read as follows:

2 (a) An applicant for an original or renewal license
3 [~~certificate of registration~~] must submit an application on a form
4 prescribed by the commission.

5 (e) Based on a commission investigation of an alleged
6 violation of Sections 418.001(a)(12)-(18) [~~418.001(a)(14)-(20)~~],
7 the commission may require an applicant for renewal of a license
8 [~~certificate of registration~~] to disclose to the commission every
9 person with an ownership interest in the applicant's business as a
10 builder. This subsection does not apply to a publicly traded
11 company.

12 SECTION 29. Section 416.004(a), Property Code, is amended
13 to read as follows:

14 (a) The commission shall charge and collect:

15 (1) a filing fee for an application for an original
16 license [~~certificate of registration~~] that does not exceed \$500;

17 (2) a fee for renewal of a license [~~certificate of~~
18 ~~registration~~] that does not exceed \$300; and

19 (3) a late fee that does not exceed the amount of the
20 fee due if payment of a license [~~registration~~] application or
21 renewal fee due under this title is late.

22 SECTION 30. Chapter 416, Property Code, is amended by
23 adding Section 416.0041 to read as follows:

24 Sec. 416.0041. SECURITY REQUIREMENTS. (a) As a guarantee
25 that a builder will meet the builder's obligations under this
26 subtitle, each licensed builder shall maintain with the commission
27 a bond or other security accepted by the commission.

1 (b) A bond posted as security must:

2 (1) be issued by an insurer authorized to engage in the
3 business of insurance in this state;

4 (2) be continuous;

5 (3) be cancelable by the surety only after at least 90
6 days' notice to the commission; and

7 (4) recognize that the obligation continues for the
8 terms of the contracts written by the builder while the bond is in
9 force.

10 (c) Any security provided under this section in a form other
11 than a bond must be convertible to cash by the commission for the
12 benefit of persons who contract with the builder in this state,
13 without resort to the courts, if the commission determines that the
14 builder is in default of the builder's financial obligations to
15 those contract holders. Any amount remaining after all contract
16 holders' claims are paid must be returned to the builder not later
17 than the 120th day after the date the last outstanding contract
18 expires.

19 SECTION 31. Section 416.005, Property Code, is amended to
20 read as follows:

21 Sec. 416.005. GENERAL ELIGIBILITY REQUIREMENTS. A person
22 may not receive a license [~~certificate of registration~~] under this
23 chapter unless:

24 (1) the person, at the time of the application:

25 (A) is at least 18 years of age; and

26 (B) is a citizen of the United States or a
27 lawfully admitted alien; and

1 (2) the commission is satisfied with the person's
2 honesty, trustworthiness, and integrity based on information
3 supplied or discovered in connection with the person's application.

4 SECTION 32. Section 416.006, Property Code, is amended to
5 read as follows:

6 Sec. 416.006. ADDITIONAL ELIGIBILITY REQUIREMENTS FOR
7 BUSINESS ENTITIES. (a) To be eligible for an original or renewal
8 license [~~certificate of registration~~] under this chapter:

9 (1) a corporation must designate one of its officers
10 as its agent for the purposes of this chapter;

11 (2) a limited liability company must designate one of
12 its managers as its agent for the purposes of this chapter; and

13 (3) a partnership, limited partnership, or limited
14 liability partnership must designate one of its managing partners
15 as its agent for the purposes of this chapter.

16 (b) A corporation, limited liability company, partnership,
17 limited partnership, or limited liability partnership is not
18 eligible to hold a license [~~be registered~~] under this chapter and
19 may not act as a builder unless the entity's designated agent is
20 individually licensed [~~registered~~] as a builder.

21 SECTION 33. Section 416.007, Property Code, is amended to
22 read as follows:

23 Sec. 416.007. LICENSE ISSUANCE [~~OF CERTIFICATE~~]. (a) Not
24 later than the 15th day after the date the commission receives an
25 application from an applicant who meets the requirements of this
26 chapter, the commission shall issue a license [~~certificate of~~
27 ~~registration~~] to the applicant.

1 (b) The license [~~certificate of registration~~] remains in
2 effect for the period prescribed by the commission if the license
3 [~~certificate~~] holder complies with this chapter and pays the
4 appropriate renewal fees.

5 (c) The commission shall issue one license [~~certificate of~~
6 ~~registration~~] for each business entity licensed [~~registered~~] under
7 this chapter.

8 SECTION 34. The heading to Section 416.008, Property Code,
9 is amended to read as follows:

10 Sec. 416.008. DENIAL OF LICENSE [~~REGISTRATION~~].

11 SECTION 35. Section 416.008(a), Property Code, is amended
12 to read as follows:

13 (a) If the commission denies an application for an original
14 license [~~certificate of registration~~] or a renewal application, the
15 commission shall give written notice to the applicant not later
16 than the 15th day after the date the commission receives the
17 application.

18 SECTION 36. Section 416.009, Property Code, is amended to
19 read as follows:

20 Sec. 416.009. LICENSE EXPIRATION [~~OF CERTIFICATE~~]. (a)
21 The commission may issue or renew a license [~~certificate of~~
22 ~~registration~~] for a period that does not exceed 24 months.

23 (b) The commission by rule may adopt a system under which
24 licenses [~~certificates of registration~~] expire on several dates
25 during the year. The commission shall adjust the date for payment
26 of renewal fees accordingly.

27 (c) In a year in which the expiration date for a license

1 ~~[certificate of registration]~~ is changed, the renewal fee payable
2 shall be prorated on a monthly basis so that the license
3 ~~[certificate]~~ holder pays only that portion of the fee that is
4 allocable to the number of months during which the license
5 ~~[certificate of registration]~~ is valid. On renewal of the license
6 ~~[certificate of registration]~~ on the new expiration date, the total
7 renewal fee is payable.

8 SECTION 37. Sections 416.010(a), (b), (c), and (d),
9 Property Code, are amended to read as follows:

10 (a) A builder shall maintain a fixed office location in this
11 state. The address of the builder's principal place of business
12 must be designated on the license ~~[certificate of registration]~~.

13 (b) Not later than the 30th day after the date a builder
14 moves from the address designated on the license ~~[certificate of~~
15 ~~registration]~~, the builder shall submit an application,
16 accompanied by the appropriate fee, for a license ~~[certificate of~~
17 ~~registration]~~ that designates the new location of the builder's
18 principal place of business. The commission shall issue a license
19 ~~[certificate of registration]~~ that designates the new location if
20 the new location complies with the requirements of this section.

21 (c) If a builder operates under any name other than the name
22 that is set forth on the builder's license ~~[certificate of~~
23 ~~registration]~~, the builder shall, within 45 days of operating under
24 this other name, disclose this other name to the commission.

25 (d) This section does not require a builder to obtain a
26 license ~~[certificate of registration]~~ for each sales office.

27 SECTION 38. Sections 416.012(a), (b), (c), (d), and (e),

1 Property Code, are amended to read as follows:

2 (a) The commission shall recognize or administer continuing
3 education programs for builders licensed [~~registered~~] by the
4 commission. A licensed [~~registered~~] builder must participate in
5 the programs to the extent required by this section to maintain the
6 builder's license [~~registration~~].

7 (b) A licensed builder [~~who registers for the first time on~~
8 ~~or after September 1, 2007,~~] must complete, during the first year
9 the builder is licensed [~~registered~~] with the commission, five
10 hours of continuing education, one hour of which must address
11 ethics.

12 (c) A licensed builder who has satisfied [~~is registered~~
13 ~~before September 1, 2007, and all other builders who register for~~
14 ~~the first time on or after September 1, 2007, and satisfy~~] the
15 requirements of Subsection (b) [~~7~~] must thereafter complete three
16 [~~five~~] hours of continuing education every two [~~five~~] years, one
17 hour of which must address ethics.

18 (d) The commission shall permit a licensed [~~registered~~]
19 builder to receive continuing education credit for educational,
20 technical, ethical, or professional management activities related
21 to the practice of residential construction, including:

22 (1) successfully completing or auditing a course
23 sponsored by an institution of higher education;

24 (2) successfully completing a course certified by a
25 professional or trade organization;

26 (3) attending a seminar, tutorial, short course,
27 correspondence course, videotaped course, or televised course on

1 the practice of residential construction;

2 (4) participating in an in-house course sponsored by a
3 corporation or other business entity;

4 (5) teaching a course described by Subdivisions
5 (1)-(4);

6 (6) publishing an article, paper, or book on the
7 practice of residential construction;

8 (7) making or attending a presentation at a meeting of
9 a residential or builder association or organization or writing a
10 paper presented at the meeting;

11 (8) participating in the activities of a residential
12 or builder association, including serving on a committee of the
13 organization; and

14 (9) engaging in self-directed study on the practice of
15 residential construction.

16 (e) A licensed [~~registered~~] builder may not receive more
17 than one [~~two~~] continuing education credit hour [~~hours~~] during each
18 two-year [~~five-year~~] period for engaging in self-directed study.

19 SECTION 39. Section 418.001, Property Code, is amended to
20 read as follows:

21 Sec. 418.001. GROUNDS FOR DISCIPLINARY ACTION. A person,
22 including a builder or a person who is designated as a builder's
23 agent under Section 416.006, or a person who owns or controls a
24 majority ownership interest in the builder is subject to
25 disciplinary action under this chapter for:

26 (1) fraud or deceit in obtaining a license
27 [~~registration or certification~~] under this subtitle;

1 (2) misappropriation or misapplication of trust funds
2 in the practice of residential construction, including a violation
3 of Chapter 32, Penal Code, or Chapter 162[~~, if found by a final~~
4 ~~nonappealable court judgment~~];

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

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

9 (5) publishing a false or misleading advertisement;

10 (6) failure to honor, within a reasonable time, a
11 check issued to the commission, or any other instrument of payment,
12 including a credit or debit card or electronic funds transfer,
13 after the commission has sent by certified mail a request for
14 payment to the person's last known business address, according to
15 commission records;

16 (7) failure to pay an administrative penalty assessed
17 by the commission under Chapter 419 [~~or a fee due under Chapter~~
18 ~~426~~];

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

22 (9) failure to register a home as required by Section
23 426.003;

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

26 (11) [~~failure to reimburse a homeowner the amount~~
27 ~~ordered by the commission as provided by Section 428.004(d)~~];

1 ~~[(12)]~~ engaging in statutory or common-law fraud or
2 misappropriation of funds, as determined by the commission after a
3 hearing under Section 418.003;

4 ~~[(13) a repeated failure to participate in the~~
5 ~~state-sponsored inspection and dispute resolution process if~~
6 ~~required by this title,]~~

7 (12) ~~[(14)]~~ failure to obtain a license ~~[register as a~~
8 ~~builder]~~ as required under Chapter 416;

9 (13) ~~[(15)]~~ using or attempting to use a license
10 ~~[certificate of registration]~~ that has expired or that has been
11 revoked;

12 (14) ~~[(16)]~~ falsely representing that the person
13 holds a license ~~[certificate of registration]~~ issued under Chapter
14 416;

15 (15) ~~[(17)]~~ acting as a builder using a name other
16 than the name or names disclosed to the commission;

17 (16) ~~[(18)]~~ aiding, abetting, or conspiring with a
18 person who does not hold a license ~~[certificate of registration]~~ to
19 evade the provisions of this title or rules adopted under this
20 title, if found by a final nonappealable court judgment;

21 (17) ~~[(19)]~~ allowing the person's license
22 ~~[certificate of registration]~~ to be used by another person;

23 (18) ~~[(20)]~~ acting as an agent, partner, or associate
24 of a person who does not hold a license ~~[certificate of~~
25 ~~registration]~~ with the intent to evade the provisions of this title
26 or rules adopted under this title;

27 ~~[(21) a failure to reasonably perform on an accepted~~

1 ~~offer to repair or a repeated failure to make an offer to repair~~
2 ~~based on:~~

3 ~~[(A) the recommendation of a third-party~~
4 ~~inspector under Section 428.004; or~~

5 ~~[(B) the final holding of an appeal under Chapter~~
6 ~~429;]~~

7 (19) ~~[(22)]~~ a repeated failure to respond to a
8 commission request for information;

9 (20) ~~[(23)]~~ a failure to obtain a building permit
10 required by a political subdivision before constructing a new home
11 or an improvement to an existing home;

12 (21) ~~[(24)]~~ abandoning, without justification, any
13 home improvement contract or new home construction project engaged
14 in or undertaken by the person, if found to have done so by a final,
15 nonappealable court judgment;

16 (22) making threats, without justification, to a
17 homeowner ~~[(25) a repeated failure to comply with the requirements~~
18 ~~of Subtitle F]; or~~

19 (23) ~~[(26)]~~ otherwise violating this title or a
20 commission rule adopted under this title.

21 SECTION 40. Section 418.002(a), Property Code, is amended
22 to read as follows:

23 (a) On a determination that a ground for disciplinary action
24 under Section 418.001 exists, the commission may:

25 (1) revoke or suspend a license ~~[registration or~~
26 ~~certification]~~ in the event of repeated prior violations that have
27 resulted in disciplinary action;

1 (2) probate the suspension of a license [~~registration~~
2 ~~or certification~~];

3 (3) formally or informally reprimand a licensed
4 [~~registered or certified~~] person; or

5 (4) impose an administrative penalty under Chapter
6 419.

7 SECTION 41. Section 418.004(c), Property Code, is amended
8 to read as follows:

9 (c) An appeal to a district court of a final decision of the
10 commission under this section regarding a revocation or suspension
11 of a license [~~registration or certification~~] is determined by
12 substantial evidence.

13 SECTION 42. Section 419.002(c), Property Code, is amended
14 to read as follows:

15 (c) A violation of Section 418.001(2) or (11) [~~(12)~~] is
16 punishable by a penalty not to exceed \$100,000.

17 SECTION 43. Section 419.004, Property Code, is amended to
18 read as follows:

19 Sec. 419.004. ENFORCEMENT OF PENALTY. If a person does not
20 pay an administrative penalty imposed under this chapter and
21 enforcement of the penalty is not stayed, the commission may:

22 (1) refer the matter to the attorney general for
23 collection of the penalty; or

24 (2) enforce any part of the order that specifies
25 disciplinary action to be taken against the licensed [~~registered or~~
26 ~~certified~~] person if the licensed [~~registered or certified~~] person
27 fails to pay the administrative penalty within the time prescribed.

1 SECTION 44. Sections 420.001 and 420.002, Property Code,
2 are amended to read as follows:

3 Sec. 420.001. REQUIRED WRITTEN DISCLOSURE. In a contract
4 for the construction of a new home or an improvement to an existing
5 home required to be registered under Section 426.003, the contract
6 must contain a notice to the consumer in at least 10-point bold type
7 or the computer equivalent that gives the telephone number of the
8 commission and states:

9 STATE LAW REQUIRES THAT A PERSON HOLD A LICENSE ISSUED BY
10 [~~CERTIFICATE OF REGISTRATION FROM~~] THE TEXAS RESIDENTIAL
11 CONSTRUCTION COMMISSION IF THE PERSON CONTRACTS TO CONSTRUCT A NEW
12 HOME OR IF THE PERSON CONTRACTS TO CONSTRUCT A MATERIAL IMPROVEMENT
13 TO AN EXISTING HOME OR CERTAIN IMPROVEMENTS TO THE INTERIOR OF AN
14 EXISTING HOME AND THE TOTAL COST OF THE IMPROVEMENT IS \$10,000 OR
15 MORE (INCLUDING LABOR AND MATERIALS).

16 YOU MAY CONTACT THE COMMISSION AT [insert commission's
17 telephone number] TO FIND OUT WHETHER THE BUILDER HAS A VALID
18 LICENSE [~~CERTIFICATE OF REGISTRATION~~]. THE COMMISSION HAS
19 INFORMATION AVAILABLE ON THE HISTORY OF BUILDERS, INCLUDING
20 SUSPENSIONS, REVOCATIONS, COMPLAINTS, AND RESOLUTION OF
21 COMPLAINTS.

22 [~~THIS CONTRACT IS SUBJECT TO CHAPTER 426, PROPERTY CODE. THE~~
23 ~~PROVISIONS OF THAT CHAPTER GOVERN THE PROCESS THAT MUST BE FOLLOWED~~
24 ~~IN THE EVENT A DISPUTE ARISES OUT OF AN ALLEGED CONSTRUCTION~~
25 ~~DEFECT.~~] IF YOU HAVE A COMPLAINT CONCERNING A CONSTRUCTION DEFECT
26 YOU MAY CONTACT THE COMMISSION AT THE TOLL-FREE TELEPHONE NUMBER
27 [~~TO LEARN HOW TO PROCEED UNDER THE STATE-SPONSORED INSPECTION AND~~

1 ~~DISPUTE RESOLUTION PROCESS].~~

2 Sec. 420.002. REQUIRED CONTRACT PROVISIONS. In a contract
3 for the construction of a new home or an improvement to an existing
4 home required to be registered under Section 426.003, the contract
5 is not enforceable against a homeowner unless the contract:

6 (1) contains the builder's name and license
7 ~~[certificate of registration]~~ number; and

8 (2) contains the notice required by Section 420.001.

9 SECTION 45. The heading to Subtitle D, Title 16, Property
10 Code, is amended to read as follows:

11 SUBTITLE D. [~~STATE-SPONSORED INSPECTION AND DISPUTE RESOLUTION~~
12 ~~PROCESS,~~] STATUTORY WARRANTY AND BUILDING AND PERFORMANCE

13 STANDARDS

14 SECTION 46. Sections 430.001(d) and (e), Property Code, are
15 amended to read as follows:

16 (d) The International Residential Code for One- and
17 Two-Family Dwellings that applies to nonelectrical aspects of
18 residential construction for the purposes of the limited statutory
19 warranties and building and performance standards adopted under
20 this section is:

21 (1) for residential construction located in a
22 municipality or the extraterritorial jurisdiction of a
23 municipality, the version of the International Residential Code
24 applicable to nonelectrical aspects of residential construction in
25 the municipality under Section 214.212, Local Government Code;

26 (2) for residential construction located in an
27 unincorporated area not in the extraterritorial jurisdiction of a

1 municipality, the version of the International Residential Code
2 applicable to nonelectrical aspects of residential construction in
3 the municipality that is the county seat of the county in which the
4 construction is located; and

5 (3) for residential construction located in an
6 unincorporated area in a county that does not contain an
7 incorporated area, the version of the International Residential
8 Code that existed on May 1, 2009 [~~2001~~].

9 (e) The National Electrical Code for One- and Two-Family
10 Dwellings that applies to electrical aspects of residential
11 construction for the purposes of this section is:

12 (1) for residential construction located in a
13 municipality or the extraterritorial jurisdiction of a
14 municipality, the version of the National Electrical Code
15 applicable to electrical aspects of residential construction in the
16 municipality under Section 214.214, Local Government Code;

17 (2) for residential construction located in an
18 unincorporated area not in the extraterritorial jurisdiction of a
19 municipality, the version of the National Electrical Code
20 applicable to electrical aspects of residential construction in the
21 municipality that is the county seat of the county in which the
22 construction is located; and

23 (3) for residential construction located in an
24 unincorporated area in a county that does not contain an
25 incorporated area, the version of the National Electrical Code that
26 existed on May 1, 2009 [~~2001~~].

27 SECTION 47. Section 430.005(b), Property Code, is amended

1 to read as follows:

2 (b) This section does not exempt a builder in an area
3 described by Subsection (a) from the builder licensing and home
4 registration requirements imposed by this title, including the
5 requirements of Sections 416.001 and 426.003.

6 SECTION 48. Sections 430.009(a) and (c), Property Code, are
7 amended to read as follows:

8 (a) A builder may elect to provide a warranty through a
9 third-party warranty company approved under Chapter 3504,
10 Insurance Code [~~by the commission~~].

11 (c) A third-party warranty company approved under Chapter
12 3504, Insurance Code, [~~by the commission~~] has all of the
13 obligations and rights of a builder under this subtitle [~~regarding~~
14 ~~performance of repairs to remedy construction defects or payment of~~
15 ~~money instead of repair~~].

16 SECTION 49. Section 430.010, Property Code, is amended to
17 read as follows:

18 Sec. 430.010. MINIMUM STANDARDS FOR DETERMINATION OF
19 DEFECT. The commission by rule shall adopt defect inspection
20 procedures to be used by a [A] third-party warranty company for the
21 purposes of [~~shall use defect inspection procedures substantially~~
22 ~~similar to the procedures adopted by the commission under~~] this
23 subtitle. A warranty company may adopt warranty standards in
24 addition to the standards adopted by the commission. A third-party
25 warranty company may not reduce the limited statutory warranty and
26 building and performance standards, except that a third-party
27 warranty company shall not be required to provide a warranty of

1 habitability.

2 SECTION 50. The following provisions of the Property Code
3 are repealed:

4 (1) Sections 27.001(3) and (9);

5 (2) Section 27.004(1);

6 (3) Sections 401.002(3), (4), (10), (11), (12), and
7 (15);

8 (4) Section 408.002(d);

9 (5) Section 416.011;

10 (6) Chapter 417;

11 (7) Section 418.002(c);

12 (8) Sections 426.001, 426.002, 426.004, 426.005,
13 426.006, 426.007, and 426.008;

14 (9) Chapters 427, 428, and 429;

15 (10) Sections 430.005(c) and 430.011(b);

16 (11) Chapter 431; and

17 (12) Subtitles E and F, Title 16.

18 SECTION 51. (a) Except as provided by this section, the
19 changes in law made by this Act to Chapter 27, Property Code, and
20 the repeal by this Act of Sections 426.005, 426.007, and 426.008,
21 Property Code, apply only to an action commenced on or after the
22 effective date of this Act. An action commenced before the
23 effective date of this Act or with respect to which a request was
24 filed under Section 428.001, Property Code, before the repeal of
25 that section by this Act, is governed by the law in effect
26 immediately before the effective date of this Act, and that law is
27 continued in effect for that purpose.

1 (b) The change in law made by this Act to Section
2 27.003(a)(2), Property Code, applies only to a repair made on or
3 after the effective date of this Act. A repair made before the
4 effective date of this Act is subject to the law as it existed
5 immediately before the effective date of this Act, and that law is
6 continued in effect for that purpose.

7 (c) Section 401.003, Property Code, as amended by this Act,
8 applies only to activity described by that section, as amended by
9 this Act, commenced on or after the effective date of this Act.
10 Activity commenced before the effective date of this Act is
11 governed by the law in effect immediately before the effective date
12 of this Act, and that law is continued in effect for that purpose.

13 (d) Section 401.005(c), Property Code, as amended by this
14 Act, applies only to a home or material improvement to a home, the
15 building or remodeling of which commences on or after the effective
16 date of this Act. A home or material improvement to a home
17 described by Section 401.005(c), Property Code, as amended by this
18 Act, the building or remodeling of which is commenced before the
19 effective date of this Act is subject to the warranty obligation
20 applicable to the home or material improvement to the home
21 immediately before the effective date of this Act.

22 (e) Section 401.007, Property Code, as amended by this Act,
23 applies only to an order regarding an emergency or a violation of a
24 statute to which Chapter 401, Property Code, applies that occurs on
25 or after the effective date of this Act. An order regarding an
26 emergency or a violation of a statute that occurred before the
27 effective date of this Act is governed by the law in effect at the

1 time the emergency or violation occurred, and that law is continued
2 in effect for that purpose.

3 (f) Promptly after this Act takes effect, the governor shall
4 appoint the two additional members to the Texas Residential
5 Construction Commission as required by Section 406.001, Property
6 Code, as amended by this Act. In appointing those members, the
7 governor shall appoint one person to a term expiring February 1,
8 2011, and one to a term expiring February 1, 2013.

9 (g) Section 406.004(b), Property Code, as amended by this
10 Act, applies only to a member of the Texas Residential Construction
11 Commission appointed or reappointed on or after the effective date
12 of this Act. A commission member appointed or reappointed before
13 the effective date of this Act is subject to the law as it existed
14 immediately before the effective date of this Act, and that law is
15 continued in effect for that purpose.

16 (h) The Texas Residential Construction Commission shall
17 adopt rules as required by Chapter 416, Property Code, as amended by
18 this Act, not later than December 1, 2009. A person is not required
19 to hold a license under Chapter 416, Property Code, as amended by
20 this Act, until January 1, 2010. A person registered as a builder
21 under Chapter 416, Property Code, as it existed immediately before
22 the effective date of this Act, is not required to comply with an
23 examination requirement to obtain a license under Chapter 416, as
24 amended by this Act, until September 1, 2014.

25 (i) Section 418.001, Property Code, as amended by this Act,
26 applies only to a ground for disciplinary action that occurs on or
27 after the effective date of this Act. A ground for disciplinary

1 action that occurs before the effective date of this Act is governed
2 by the law in effect at the time the ground for disciplinary action
3 occurred, and that law is continued in effect for that purpose.

4 (j) The change in law made by this Act to Section 420.001,
5 Property Code, applies only to a contract entered into on or after
6 January 1, 2010. A contract entered into before that date is
7 governed by the law in effect on the date the contract was entered
8 into, and the former law is continued in effect for that purpose.

9 (k) The repeal by this Act of Section 428.005, Property
10 Code, does not apply to the receipt by a builder of a notice
11 described by that section before the effective date of this Act.
12 The receipt by a builder of a notice described by that section
13 before the effective date of this Act is governed by the law in
14 effect immediately before that date, and that law is continued in
15 effect for that purpose.

16 (l) The repeal by this Act of Section 436.003, Property
17 Code, applies only to an arbitration initiated on or after the
18 effective date of this Act. An arbitration initiated before the
19 effective date of this Act is governed by the law applicable to the
20 arbitration immediately before the effective date of this Act, and
21 that law is continued in effect for that purpose.

22 (m) The repeal by this Act of Chapter 437, Property Code,
23 applies only to an arbitration award filed on or after the effective
24 date of this Act. An award filed before the effective date of this
25 Act is governed by the law in effect immediately before that date,
26 and that law is continued in effect for that purpose.

27 (n) The repeal by this Act of Chapter 438, Property Code,

1 applies only to an arbitration award issued on or after the
2 effective date of this Act. An award issued before the effective
3 date of this Act is governed by the law in effect immediately before
4 that date, and that law is continued in effect for that purpose.

5 SECTION 52. Except as otherwise provided by this Act, this
6 Act takes effect September 1, 2009.