

By: Harper-Brown

H.B. No. 2608

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Department of Housing and Community Affairs.

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

ARTICLE 1. GENERAL OPERATIONS AND ADMINISTRATION OF THE TEXAS

DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

SECTION 1.01. Section 2306.022, Government Code, is amended to read as follows:

Sec. 2306.022. APPLICATION OF SUNSET ACT. The Texas Department of Housing and Community Affairs is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2023 [~~2011~~].

SECTION 1.02. Section 2306.043(c), Government Code, is amended to read as follows:

(c) The notice must:

- (1) include a brief summary of the alleged violation;
- (2) state the amount of the recommended penalty; and
- (3) inform the person of the person's right to a hearing before the State Office of Administrative Hearings [~~board~~] on the occurrence of the violation, the amount of the penalty, or both.

SECTION 1.03. Section 2306.044(a), Government Code, is amended to read as follows:

1 (a) Not later than the 20th day after the date the person
2 receives the notice, the person in writing may:

3 (1) accept the determination and recommended penalty
4 of the director; or

5 (2) make a request for a hearing before the State
6 Office of Administrative Hearings [~~board~~] on the occurrence of the
7 violation, the amount of the penalty, or both.

8 SECTION 1.04. Section 2306.045, Government Code, is amended
9 to read as follows:

10 Sec. 2306.045. HEARING. (a) If the person requests a
11 hearing before the State Office of Administrative Hearings [~~board~~]
12 or fails to respond in a timely manner to the notice, the director
13 shall set a hearing and give written notice of the hearing to the
14 person.

15 (b) The State Office of Administrative Hearings [~~board~~]
16 shall:

17 (1) hold the hearing;

18 (2) [~~and~~] make findings of fact and conclusions of law
19 about the occurrence of the violation and the amount of a proposed
20 penalty; and

21 (3) issue a proposal for decision regarding the
22 penalty and provide notice of the proposal to the board.

23 (c) Any administrative proceedings relating to the
24 imposition of a penalty under Section 2306.041 is a contested case
25 under Chapter 2001.

26 SECTION 1.05. Section 2306.046(a), Government Code, is
27 amended to read as follows:

1 (a) The board shall issue an order after receiving a
2 proposal for decision from the State Office of Administrative
3 Hearings under Section 2306.045. [~~Based on the findings of fact and~~
4 ~~conclusions of law, the board by order may:~~

5 [~~(1) find that a violation occurred and impose a~~
6 ~~penalty, or~~

7 [~~(2) find that a violation did not occur.~~]

8 SECTION 1.06. Section 2306.049(a), Government Code, is
9 amended to read as follows:

10 (a) Judicial review of a board order imposing an
11 administrative penalty is under the substantial evidence rule [~~by~~
12 ~~trial de novo~~].

13 SECTION 1.07. Section 2306.6721, Government Code, is
14 transferred to Subchapter B, Chapter 2306, Government Code,
15 redesignated as Section 2306.0504, Government Code, and amended to
16 read as follows:

17 Sec. 2306.0504 [~~2306.6721~~]. DEBARMENT FROM PROGRAM
18 PARTICIPATION. (a) The board by rule shall adopt a policy
19 providing for the debarment of a person from participation in
20 programs administered by the department [~~the low income housing tax~~
21 ~~credit program as described by this section~~].

22 (b) The department may debar a person from participation in
23 a department [~~the~~] program on the basis of the person's past failure
24 to comply with any condition imposed by the department in the
25 administration of its programs [~~connection with the allocation of~~
26 ~~housing tax credits~~].

27 (c) The department shall debar a person from participation

1 in a department ~~[the]~~ program if the person:

2 (1) materially or repeatedly violates any condition
3 imposed by the department in connection with the administration of
4 a department program, including a material or repeated violation of
5 a land use restriction agreement regarding a development supported
6 with a ~~[allocation of]~~ housing tax credit allocation ~~[credits]~~; or

7 (2) is debarred from participation in federal housing
8 programs by the United States Department of Housing and Urban
9 Development ~~[, or~~

10 ~~[(3) is in material noncompliance with or has~~
11 ~~repeatedly violated a land use restriction agreement regarding a~~
12 ~~development supported with a housing tax credit allocation].~~

13 (d) A person debarred by the department from participation
14 in a department ~~[the]~~ program may appeal the person's debarment to
15 the board.

16 SECTION 1.08. Subchapter H, Chapter 2306, Government Code,
17 is amended by adding Section 2306.1875 to read as follows:

18 Sec. 2306.1875. ENERGY EFFICIENCY MEASURES: MANDATORY
19 DISCLOSURE AND TRAINING. (a) An energy service provider that, in
20 connection with the provision of any energy conservation and
21 efficiency measures required under Section 2306.187 or in
22 connection with the provision of weatherization measures under a
23 program described by Section 2306.097 or another program
24 administered by the department, recommends any energy efficiency
25 measure, including a weatherization measure, to a consumer must
26 provide to the consumer a written disclosure regarding whether the
27 provider receives or has received any financial or other benefit

1 from recommending energy efficiency measures to consumers. The
2 disclosure must specify any particular energy efficiency measure
3 with respect to which the provider receives or has received a
4 financial or other benefit, regardless of whether the provider
5 makes a specific recommendation regarding that measure to the
6 consumer.

7 (b) Each person who performs state-funded or federally
8 funded energy or green facility audits, energy code inspections,
9 energy performance testing, or other energy efficiency or green
10 analyses or evaluations of single-family or multifamily dwellings
11 in connection with the provision of any energy conservation and
12 efficiency measures or weatherization measures described by
13 Subsection (a) or who awards energy ratings with respect to the
14 provision of those measures must be an independent third party
15 without any direct or indirect financial or other interest in the
16 services performed, other than direct compensation for those
17 services.

18 (c) Each person providing services described by Subsection
19 (b) is entitled to independently inspect, test, and analyze
20 building systems and equipment to evaluate factors relating to
21 energy efficiency, energy usage, or carbon emissions or other
22 factors in order to determine the appropriate energy or green
23 conservation measures or improvements or to make other related
24 recommendations or perform other related actions.

25 (d) Each person providing services described by Subsection
26 (b) must complete appropriate training from a training organization
27 that is approved by the department and that is accredited by an

1 industry organization or a state or federal governmental entity
2 that has written standards, an ethics policy, and an
3 industry-acceptable quality control policy and process.

4 ARTICLE 2. DISASTER MANAGEMENT PLANNING

5 SECTION 2.01. Section 418.106, Government Code, is amended
6 by adding Subsection (b-1) to read as follows:

7 (b-1) The plan must identify:

8 (1) any requirements or procedures that local agencies
9 and officials must satisfy or implement to:

10 (A) qualify for long-term federal disaster
11 recovery funding; and

12 (B) prepare for long-term disaster recovery; and

13 (2) any appropriate state or local resources available
14 to assist the local agencies and officials in satisfying or
15 implementing those requirements or procedures.

16 SECTION 2.02. Chapter 2306, Government Code, is amended by
17 adding Subchapter X-1 to read as follows:

18 SUBCHAPTER X-1. LONG-TERM DISASTER RECOVERY PLAN

19 Sec. 2306.531. LONG-TERM DISASTER RECOVERY PLAN. (a) The
20 department, in consultation with the Texas Department of Rural
21 Affairs and the office of the governor, shall develop a long-term
22 disaster recovery plan to administer money received for disaster
23 recovery from the federal government or any other source.

24 (b) In developing and administering the plan:

25 (1) the department:

26 (A) has primary responsibility over matters
27 related to housing; and

1 (B) shall consult with:

2 (i) existing disaster recovery entities
3 established by law or local, state, or federal agreements;

4 (ii) local government officials,
5 contractors, community advocates, businesses, nonprofit
6 organizations, and other stakeholders; and

7 (iii) the United States Department of
8 Housing and Urban Development to ensure that the plan complies with
9 federal law; and

10 (2) the Texas Department of Rural Affairs:

11 (A) has primary responsibility over matters
12 related to infrastructure; and

13 (B) shall consult with:

14 (i) existing disaster recovery entities
15 established by law or local, state, or federal agreements; and

16 (ii) local government officials,
17 contractors, community advocates, businesses, nonprofit
18 organizations, and other stakeholders.

19 (c) The plan developed under this section must establish or
20 identify:

21 (1) a method of distribution of disaster relief
22 funding to local areas, subject to modification by the governor
23 based on the nature of the disaster;

24 (2) guidelines for outreach to program applicants and
25 for eligible housing and infrastructure activities;

26 (3) eligibility criteria for program applicants;

27 (4) housing quality standards;

- 1 (5) priorities for serving local populations;
2 (6) procedures for establishing compliance with
3 federal requirements;
4 (7) procedures for coordination and communication
5 among federal, state, and local entities;
6 (8) pre-disaster and post-disaster training programs;
7 (9) a procedure for each department to compile,
8 update, and post on that department's Internet website in advance
9 of hurricane season all relevant forms and information for program
10 applicants;
11 (10) federal and state monitoring and reporting
12 requirements, including a list of the types of data that local
13 government officials may be required to collect, analyze, and
14 report;
15 (11) the state information technology systems and
16 processes that will be used to administer funds from the federal
17 government or any other source;
18 (12) a process for identifying elements of disaster
19 recovery where coordination between or among state agencies will be
20 required; and
21 (13) a process for implementing memoranda of
22 understanding in areas of disaster recovery where interagency
23 coordination will be required.
24 (d) In developing the plan under this section, the
25 department and the Texas Department of Rural Affairs shall seek
26 from county judges and mayors in areas impacted by large-scale
27 natural disasters input regarding the development of future methods

1 of distributing federal funding for long-term disaster recovery.

2 (e) The plan established under this section must be updated
3 biennially and approved by the governor.

4 (f) Biennially, the governor shall designate a state agency
5 to be the primary agency in charge of coordinating the distribution
6 of long-term disaster recovery funding.

7 ARTICLE 3. HOUSING TRUST FUND PROGRAM; LOW INCOME HOUSING TAX
8 CREDIT PROGRAM

9 SECTION 3.01. Sections 2306.111(d-1) and (d-2), Government
10 Code, are amended to read as follows:

11 (d-1) In allocating low income housing tax credit
12 commitments under Subchapter DD, the department shall, before
13 applying the regional allocation formula prescribed by Section
14 2306.1115, set aside for at-risk developments, as defined by
15 Section 2306.6702, not less than the minimum amount of housing tax
16 credits required under Section 2306.6714. Funds or credits are not
17 required to be allocated according to the regional allocation
18 formula under Subsection (d) if:

19 (1) the funds or credits are reserved for
20 contract-for-deed conversions or for set-asides mandated by state
21 or federal law and each contract-for-deed allocation or set-aside
22 allocation equals not more than 10 percent of the total allocation
23 of funds or credits for the applicable program;

24 (2) the funds or credits are allocated by the
25 department primarily to serve persons with disabilities; or

26 (3) the funds are housing trust funds administered by
27 the department under Sections 2306.201-2306.206 that are not

1 otherwise required to be set aside under state or federal law and do
2 not exceed \$3 million for each programmed activity during each
3 application cycle.

4 (d-2) In allocating low income housing tax credit
5 commitments under Subchapter DD, the department shall allocate five
6 percent of the housing tax credits in each application cycle to
7 developments that receive federal financial assistance through the
8 Texas Rural Development Office of the United States Department of
9 Agriculture. Any funds allocated to developments under this
10 subsection that involve rehabilitation must come from the funds set
11 aside for at-risk developments under Section 2306.6714 and any
12 additional funds set aside for those developments under Subsection
13 (d-1). This subsection does not apply to a development financed
14 wholly or partly under Section 538 of the Housing Act of 1949 (42
15 U.S.C. Section 1490p-2) unless the development involves the
16 rehabilitation of an existing property that has received and will
17 continue to receive as part of the financing of the development
18 federal financial assistance provided under Section 515 of the
19 Housing Act of 1949 (42 U.S.C. Section 1485).

20 SECTION 3.02. Section 2306.67022, Government Code, is
21 amended to read as follows:

22 Sec. 2306.67022. QUALIFIED ALLOCATION PLAN; MANUAL. At
23 least biennially, the [The] board [~~annually~~] shall adopt a
24 qualified allocation plan and a corresponding manual to provide
25 information regarding the administration of and eligibility for the
26 low income housing tax credit program. The board may adopt the plan
27 and manual annually, as considered appropriate by the board.

1 SECTION 3.03. Sections 2306.6711(b) and (f), Government
2 Code, are amended to read as follows:

3 (b) Not later than the deadline specified in the qualified
4 allocation plan, the board shall issue commitments for available
5 housing tax credits based on the application evaluation process
6 provided by Section 2306.6710. The board may not allocate to an
7 applicant housing tax credits in any unnecessary amount, as
8 determined by the department's underwriting policy and by federal
9 law, and in any event may not allocate to the applicant housing tax
10 credits in an amount greater than \$3 [~~\$2~~] million in a single
11 application round.

12 (f) The board may allocate housing tax credits to more than
13 one development in a single community, as defined by department
14 rule, in the same calendar year only if the developments are or will
15 be located more than two [~~one~~] linear miles [~~mile~~] apart. This
16 subsection applies only to communities contained within counties
17 with populations exceeding one million.

18 SECTION 3.04. Sections 2306.6724(a), (b), and (c),
19 Government Code, are amended to read as follows:

20 (a) Regardless of whether the board will adopt the plan
21 annually or biennially [~~Not later than September 30 of each year~~],
22 the department, not later than September 30 of the year preceding
23 the year in which the new plan is proposed for use, shall prepare
24 and submit to the board for adoption any proposed [~~the~~] qualified
25 allocation plan required by federal law for use by the department in
26 setting criteria and priorities for the allocation of tax credits
27 under the low income housing tax credit program.

1 (b) Regardless of whether the board has adopted the plan
2 annually or biennially, the [~~The~~] board shall [~~adopt and~~] submit to
3 the governor any proposed [~~the~~] qualified allocation plan not later
4 than November 15 of the year preceding the year in which the new
5 plan is proposed for use.

6 [~~(c)~~] The governor shall approve, reject, or modify and
7 approve the proposed qualified allocation plan not later than
8 December 1.

9 SECTION 3.05. Section 2306.6725, Government Code, is
10 amended by adding Subsections (b-1) and (b-2) to read as follows:

11 (b-1) The department shall provide appropriate incentives
12 as determined through the qualified allocation plan to reward
13 applicants who:

14 (1) on the date an application round begins, are doing
15 business in this state for purposes of Chapter 171, Tax Code;

16 (2) using financing or other assistance from the
17 department, have developed and completed:

18 (A) at least 150 units of comparable housing if
19 the proposed project is located in a rural area; or

20 (B) at least 350 units of comparable housing if
21 the proposed project is located in an area other than a rural area;

22 and

23 (3) in the five-year period preceding the date the
24 application round begins, have not had any instances of material
25 noncompliance with respect to a project for which the department
26 provided financing or other assistance.

27 (b-2) If points are awarded to an application under

1 Subsection (b-1), the department shall increase the points awarded
2 under Section 2306.6710(b)(1)(F) by the amount of points awarded
3 under Subsection (b-1).

4 SECTION 3.06. Subchapter DD, Chapter 2306, Government Code,
5 is amended by adding Section 2306.6739 to read as follows:

6 Sec. 2306.6739. HOUSING TAX CREDITS FINANCED USING FEDERAL
7 EMERGENCY FUNDS. (a) To the extent the department receives federal
8 emergency funds that must be awarded by the department in the same
9 manner as and that are subject to the same limitations as awards of
10 housing tax credits, any reference in this chapter to the
11 administration of the housing tax credit program applies equally to
12 the administration of the federal funds, subject to Subsection (b).

13 (b) Notwithstanding any other law, the department may
14 establish a separate application procedure for the federal
15 emergency funds that does not follow the uniform application cycle
16 required by Section 2306.1111 or the deadlines established by
17 Section 2306.6724, and any reference in this chapter to an
18 application period occurring in relation to those federal emergency
19 funds refers to the period beginning on the date the department
20 begins accepting applications for the federal funds and continuing
21 until all of the available federal funds are awarded.

22 ARTICLE 4. MANUFACTURED HOUSING

23 SECTION 4.01. Section 2306.6022, Government Code, is
24 amended by adding Subsections (e) and (f) to read as follows:

25 (e) The division director may allow an authorized employee
26 of the division to dismiss a complaint if an investigation
27 demonstrates that:

1 (1) a violation did not occur; or

2 (2) the subject of the complaint is outside the
3 division's jurisdiction under this subchapter.

4 (f) An employee who dismisses a complaint under Subsection
5 (e) shall report the dismissal to the division director and the
6 board. The report must include a sufficient explanation of the
7 reason the complaint was dismissed.

8 SECTION 4.02. Subchapter AA, Chapter 2306, Government Code,
9 is amended by adding Section 2306.6023 to read as follows:

10 Sec. 2306.6023. NEGOTIATED RULEMAKING AND ALTERNATIVE
11 DISPUTE RESOLUTION. (a) The division shall develop and implement a
12 policy to encourage the use of:

13 (1) negotiated rulemaking procedures under Chapter
14 2008 for the adoption of division rules; and

15 (2) appropriate alternative dispute resolution
16 procedures under Chapter 2009 to assist in the resolution of
17 internal and external disputes under the division's jurisdiction.

18 (b) The division's procedures relating to alternative
19 dispute resolution must conform, to the extent possible, to any
20 model guidelines issued by the State Office of Administrative
21 Hearings for the use of alternative dispute resolution by state
22 agencies.

23 (c) The division shall:

24 (1) coordinate the implementation of the policy
25 adopted under Subsection (a);

26 (2) provide training as needed to implement the
27 procedures for negotiated rulemaking or alternative dispute

1 resolution; and

2 (3) collect data concerning the effectiveness of those
3 procedures.

4 SECTION 4.03. Section 1201.003, Occupations Code, is
5 amended by amending Subdivision (17) and adding Subdivision (17-a)
6 to read as follows:

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

10 (17-a) "Management official" means an individual with
11 authority over employees involved in the sale of manufactured homes
12 at a retail location.

13 SECTION 4.04. Sections 1201.055(a) and (b), Occupations
14 Code, are amended to read as follows:

15 (a) With guidance from the federal Housing and Community
16 Development Act of 1974 (42 U.S.C. Section 5301 et seq.) and from
17 the rules and regulations adopted under the National Manufactured
18 Housing Construction and Safety Standards Act of 1974 (42 U.S.C.
19 Section 5401 et seq.), the board shall establish fees as follows:

20 (1) if the department acts as a design approval
21 primary inspection agency, a schedule of fees for the review of
22 HUD-code manufactured home blueprints and supporting information,
23 to be paid by the manufacturer seeking approval of the blueprints
24 and supporting information;

25 (2) except as provided by Subsection (e), a fee for the
26 inspection of each HUD-code manufactured home manufactured or
27 assembled in this state, to be paid by the manufacturer of the home;

1 (3) a fee for the inspection of an alteration made to
2 the structure or plumbing, heating, or electrical system of a
3 HUD-code manufactured home, to be charged on an hourly basis and to
4 be paid by the person making the alteration;

5 (4) a fee for the inspection of the rebuilding of a
6 salvaged manufactured home, to be paid by the retailer [~~rebuilder~~];

7 (5) a fee for the inspection of a used manufactured
8 home to determine whether the home is habitable for the issuance of
9 a new statement of ownership and location; and

10 (6) a fee for the issuance of a seal for a used mobile
11 or HUD-code manufactured home.

12 (b) In addition to the fees imposed under Subsections
13 (a)(2), (3), and (4), a manufacturer or [~~or a rebuilder,~~] a person making an
14 alteration, [~~or a rebuilder,~~] as appropriate, shall be charged for
15 the actual cost of travel of a department representative to and
16 from:

17 (1) the manufacturing facility, for an inspection
18 described by Subsection (a)(2); or

19 (2) the place of inspection, for an inspection
20 described by Subsection (a)(3) or (4).

21 SECTION 4.05. Section 1201.056, Occupations Code, is
22 amended to read as follows:

23 Sec. 1201.056. LICENSE FEES. (a) The board shall establish
24 fees for the issuance and renewal of licenses for:

25 (1) manufacturers;

26 (2) retailers;

27 (3) brokers;

1 (4) salespersons; and

2 (5) [~~rebuilders; and~~

3 [~~6~~] installers.

4 (b) The board by rule may establish a fee for reprinting a
5 license issued under this chapter.

6 SECTION 4.06. Sections 1201.101(e) and (f-1), Occupations
7 Code, are amended to read as follows:

8 (e) A person may not repair, rebuild, or otherwise alter a
9 salvaged manufactured home unless the person holds a [~~rebuilder's~~
10 ~~or~~] retailer's license.

11 (f-1) A retailer may not be licensed to operate more than
12 [~~at a principal location and~~] one location [~~or more branch~~
13 ~~locations~~] under a single license[~~; provided, however, that a~~
14 ~~separate application must be made for each branch, and each branch~~
15 ~~must be separately bonded~~].

16 SECTION 4.07. Sections 1201.103(a) and (b), Occupations
17 Code, are amended to read as follows:

18 (a) An applicant for a license as a manufacturer, retailer,
19 broker, [~~rebuilder,~~] or installer must file with the director a
20 license application containing:

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

24 (2) all trade names, and the names of all other
25 business organizations, under which the applicant does business
26 subject to this chapter, the name of each such business
27 organization registered with the secretary of state, and the

1 address of such business organization;

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

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

5 (b) A license application must be accompanied by:

6 (1) proof of the security required by this subchapter;

7 [~~and~~]

8 (2) payment of the fee required for issuance of the
9 license; and

10 (3) the information and the cost required under
11 Section 1201.1031.

12 SECTION 4.08. Subchapter C, Chapter 1201, Occupations Code,
13 is amended by adding Section 1201.1031 to read as follows:

14 Sec. 1201.1031. CRIMINAL HISTORY RECORD INFORMATION
15 REQUIREMENT FOR LICENSE. (a) The department shall require that an
16 applicant for a license or renewal of an unexpired license submit a
17 complete and legible set of fingerprints, on a form prescribed by
18 the board, to the department or to the Department of Public Safety
19 for the purpose of obtaining criminal history record information
20 from the Department of Public Safety and the Federal Bureau of
21 Investigation. The applicant is required to submit a set of
22 fingerprints only once under this section unless a replacement set
23 is otherwise needed to complete the criminal history check required
24 by this section.

25 (b) The department shall refuse to issue a license to or
26 renew the license of a person who does not comply with the
27 requirement of Subsection (a).

1 (c) The department shall conduct a criminal history check of
2 each applicant for a license or renewal of a license using
3 information:

4 (1) provided by the individual under this section; and

5 (2) made available to the department by the Department
6 of Public Safety, the Federal Bureau of Investigation, and any
7 other criminal justice agency under Chapter 411, Government Code.

8 (d) The department may enter into an agreement with the
9 Department of Public Safety to administer a criminal history check
10 required under this section.

11 (e) The applicant shall pay the cost of a criminal history
12 check under this section.

13 SECTION 4.09. Section 1201.104, Occupations Code, is
14 amended by amending Subsections (a), (g), and (h) and adding
15 Subsections (a-1), (a-2), (a-3), and (a-4) to read as follows:

16 (a) Except as provided by Subsection (g) [~~(e)~~], as a
17 requirement for a manufacturer's, retailer's, broker's,
18 installer's, [~~salvage-rebuilder's,~~] or salesperson's license, a
19 person who was not licensed or registered with the department or a
20 predecessor agency on September 1, 1987, must, not more than 12
21 months before applying for the person's first license under this
22 chapter, attend and successfully complete eight [~~20~~] hours of
23 instruction in the law, including instruction in consumer
24 protection regulations.

25 (a-1) If the applicant is not an individual, the applicant
26 must have at least one related person who satisfies the
27 requirements of Subsection (a) [~~meets this requirement~~]. If that

1 applicant is applying for a retailer's license, the related person
2 must be a management official who satisfies the requirements of
3 Subsections (a) and (a-2) at each retail location operated by the
4 applicant.

5 (a-2) An applicant for a retailer's license must complete
6 four hours of specialized instruction relevant to the sale,
7 exchange, and lease-purchase of manufactured homes. The
8 instruction under this subsection is in addition to the instruction
9 required under Subsection (a).

10 (a-3) An applicant for an installer's license must complete
11 four hours of specialized instruction relevant to the installation
12 of manufactured homes. The instruction under this subsection is in
13 addition to the instruction required under Subsection (a).

14 (a-4) An applicant for a joint installer-retailer license
15 must comply with Subsections (a-2) and (a-3), for a total of eight
16 hours of specialized instruction. The instruction under this
17 subsection is in addition to the instruction required under
18 Subsection (a).

19 (g) Subsections [Subsection] (a), (a-2), (a-3), and (a-4)
20 do ~~does~~ not apply to a license holder who applies:

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

22 or

23 (2) to renew or reinstate a license.

24 (h) An examination must be a requirement of successful
25 completion of any initial required course of instruction under this
26 section. The period needed to complete an examination under this
27 subsection may not be used to satisfy the minimum education

1 requirements under Subsection (a), (a-2), (a-3), or (a-4).

2 SECTION 4.10. Section 1201.106(a), Occupations Code, is
3 amended to read as follows:

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

7 (1) \$100,000 for a manufacturer;

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

10 (3) [~~\$50,000 for each retailer's branch location,~~

11 [~~(4) \$50,000 for a rebuilder,~~

12 [~~(5)~~] \$50,000 for a broker; or

13 (4) [~~(6)~~] \$25,000 for an installer.

14 SECTION 4.11. Section 1201.110, Occupations Code, is
15 amended to read as follows:

16 Sec. 1201.110. SECURITY: DURATION. The department shall
17 maintain on file a security other than a bond canceled as provided
18 by Section 1201.109(a) until the later of:

19 (1) the second anniversary of the date the
20 manufacturer, retailer, broker, or installer [~~, or rebuilder~~]
21 ceases doing business; or

22 (2) the date the director determines that a claim does
23 not exist against the security.

24 SECTION 4.12. Section 1201.116(a), Occupations Code, is
25 amended to read as follows:

26 (a) The department shall renew a license if, before the
27 expiration date of the license, the department receives the renewal

1 application and payment of the required fee as well as the cost
2 required under Section 1201.1031 [~~before the expiration date of the~~
3 ~~license~~].

4 SECTION 4.13. Section 1201.303, Occupations Code, is
5 amended by amending Subsection (b) and adding Subsections (c), (d),
6 (e), (f), and (g) to read as follows:

7 (b) The department shall establish an installation
8 inspection program in which at least 75 [~~25~~] percent of installed
9 manufactured homes are inspected on a sample basis for compliance
10 with the standards and rules adopted and orders issued by the
11 director. The program must place priority on inspecting
12 multisection homes and homes installed in Wind Zone II counties.

13 (c) On or after January 1, 2015, the director by rule shall
14 establish a third-party installation inspection program to
15 supplement the inspections of the department if the department is
16 not able to inspect at least 75 percent of manufactured homes
17 installed in each of the calendar years 2012, 2013, and 2014.

18 (d) The third-party installation inspection program
19 established under Subsection (c) must:

20 (1) establish qualifications for third-party
21 inspectors to participate in the program;

22 (2) require third-party inspectors to register with
23 the department before participating in the program;

24 (3) establish a biennial registration and renewal
25 process for third-party inspectors;

26 (4) require the list of registered third-party
27 inspectors to be posted on the department's Internet website;

1 (5) establish clear processes governing inspection
2 fees and payment to third-party inspectors;

3 (6) establish the maximum inspection fee that may be
4 charged to a consumer;

5 (7) require a third-party inspection to occur not
6 later than the 14th day after the date of installation of the
7 manufactured home;

8 (8) establish a process for a retailer or broker to
9 contract, as part of the sale of a new or used manufactured home,
10 with an independent third-party inspector to inspect the
11 installation of the home;

12 (9) establish a process for an installer to schedule
13 an inspection for each consumer-to-consumer sale where a home is
14 reinstalled;

15 (10) if a violation is noted in an inspection, require
16 the installer to:

17 (A) remedy the violations noted;

18 (B) have the home reinspected at the installer's
19 expense; and

20 (C) certify to the department that all violations
21 have been corrected;

22 (11) require an inspector to report inspection results
23 to the retailer, installer, and the department;

24 (12) require all persons receiving inspection results
25 under Subdivision (11) to maintain a record of the results at least
26 until the end of the installation warranty period;

27 (13) authorize the department to charge a filing fee

1 and an inspection fee for third-party inspections;

2 (14) authorize the department to continue to conduct
3 no-charge complaint inspections under Section 1201.355 on request,
4 but only after an initial installation inspection is completed;

5 (15) establish procedures to revoke the registration
6 of inspectors who fail to comply with rules adopted under this
7 section; and

8 (16) require the department to notify the relevant
9 state agency if the department revokes an inspector registration
10 based on a violation that is relevant to a license issued to the
11 applicable person by another state agency.

12 (e) Not later than January 1, 2015, the department shall
13 submit to the Legislative Budget Board, the Governor's Office of
14 Budget, Planning, and Policy, and the standing committee of each
15 house of the legislature having primary jurisdiction over housing a
16 report concerning whether the department inspected at least 75
17 percent of manufactured homes installed in each of the calendar
18 years 2012, 2013, and 2014.

19 (f) Not later than December 1, 2015, the director shall
20 adopt rules as necessary to implement Subsections (c) and (d) if the
21 department did not inspect at least 75 percent of manufactured
22 homes installed in each of the calendar years 2012, 2013, and 2014.
23 Not later than January 1, 2016, the department shall begin
24 registering third-party inspectors under Subsections (c) and (d) if
25 the department inspections did not occur as described by this
26 subsection.

27 (g) If the department is not required to establish a

1 third-party installation inspection program as provided by
2 Subsection (c), Subsections (c), (d), (e), and (f) and this
3 subsection expire September 1, 2016.

4 SECTION 4.14. Section 1201.357, Occupations Code, is
5 amended by adding Subsection (b-1) to read as follows:

6 (b-1) As authorized by Section 1201.6041, the director may
7 order a manufacturer, retailer, or installer, as applicable, to pay
8 a refund directly to a consumer as part of an agreed order described
9 by Subsection (b) instead of or in addition to instituting an
10 administrative action under this chapter.

11 SECTION 4.15. Section 1201.461(d), Occupations Code, is
12 amended to read as follows:

13 (d) A person may not sell, convey, or otherwise transfer to
14 a consumer in this state a manufactured home that is salvaged. A
15 salvaged manufactured home may be sold only to a licensed retailer
16 [~~or licensed rebuilder~~].

17 SECTION 4.16. Subchapter M, Chapter 1201, Occupations Code,
18 is amended by adding Section 1201.6041 to read as follows:

19 Sec. 1201.6041. DIRECT CONSUMER COMPENSATION. (a) Instead
20 of requiring a consumer to apply for compensation from the trust
21 fund under Subchapter I, the director may order a manufacturer,
22 retailer, broker, or installer, as applicable, to pay a refund
23 directly to a consumer who sustains actual damages resulting from
24 an unsatisfied claim against a licensed manufacturer, retailer,
25 broker, or installer if the unsatisfied claim results from a
26 violation of:

27 (1) this chapter;

1 (2) a rule adopted by the director;

2 (3) the National Manufactured Housing Construction
3 and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.);

4 (4) a rule or regulation of the United States
5 Department of Housing and Urban Development; or

6 (5) Subchapter E, Chapter 17, Business & Commerce
7 Code.

8 (b) For purposes of this section, the refund of a consumer's
9 actual damages is determined according to Section 1201.405.

10 (c) The director shall prepare information for notifying
11 consumers of the director's option to order a direct refund under
12 this section, shall post the information on the department's
13 Internet website, and shall make printed copies available on
14 request.

15 SECTION 4.17. Sections 1201.610(a), (b), and (f),
16 Occupations Code, are amended to read as follows:

17 (a) The [~~If the director has reasonable cause to believe~~
18 ~~that a person licensed under this chapter has violated or is about~~
19 ~~to violate any provision of this chapter or rules adopted by the~~
20 ~~department under this chapter, the] director may issue without
21 notice and hearing an order to cease and desist from continuing a
22 particular action or an order to take affirmative action, or both,
23 to enforce compliance with this chapter if the director has
24 reasonable cause to believe that a person has violated or is about
25 to violate any provision of this chapter or a rule adopted under
26 this chapter.~~

27 (b) The director may issue an order to any person [~~licensee~~]

1 to cease and desist from violating any law, rule, or written
2 agreement or to take corrective action with respect to any such
3 violations if the violations in any way are related to the sale,
4 financing, or installation of a manufactured home or the providing
5 of goods or services in connection with the sale, financing, or
6 installation of a manufactured home unless the matter that is the
7 basis of such violation is expressly subject to inspection and
8 regulation by another state agency; provided, however, that if any
9 matter involves a law that is subject to any other administration or
10 interpretation by another agency, the director shall consult with
11 the person in charge of the day-to-day administration of that
12 agency before issuing an order.

13 (f) If a person licensed under this chapter fails to pay an
14 administrative penalty that has become final or fails to comply
15 with an order of the director that has become final, in addition to
16 any other remedy provided by law, the director, after not less than
17 10 days' notice to the person, may without a prior hearing suspend
18 the person's license. The suspension shall continue until the
19 person has complied with the cease and desist order or paid the
20 administrative penalty. During the period of suspension, the
21 person may not perform any act requiring a license under this
22 chapter, and all compensation received by the person during the
23 period of suspension is subject to forfeiture to the person from
24 whom it was received.

25 SECTION 4.18. Section 1302.061, Occupations Code, is
26 amended to read as follows:

27 Sec. 1302.061. MANUFACTURED HOMES. This chapter does not

1 apply to a person or entity licensed as a manufacturer, retailer,
2 [~~rebuilder,~~] or installer under Chapter 1201 and engaged
3 exclusively in air conditioning and refrigeration contracting for
4 manufactured homes if the installation of air conditioning
5 components at the site where the home will be occupied is performed
6 by a person licensed under this chapter.

7 ARTICLE 5. TRANSITION PROVISIONS

8 SECTION 5.01. (a) Not later than March 1, 2012, the Texas
9 Department of Housing and Community Affairs shall develop the plan
10 required under Section 2306.531, Government Code, as added by this
11 Act.

12 (b) Not later than May 1, 2012, the Texas Department of
13 Housing and Community Affairs shall obtain the governor's approval
14 of the plan developed under Section 2306.531, Government Code, as
15 added by this Act.

16 (c) Not later than May 1, 2012, the governor shall designate
17 a state agency to be the primary agency in charge of coordinating
18 the distribution of long-term disaster recovery funding as required
19 under Section 2306.531, Government Code, as added by this Act.

20 SECTION 5.02. The change in law made by this Act to Sections
21 2306.043, 2306.044, 2306.045, 2306.046, and 2306.049, Government
22 Code, applies only to a violation committed on or after the
23 effective date of this Act. A violation committed before the
24 effective date of this Act is governed by the law in effect when the
25 violation was committed, and the former law is continued in effect
26 for that purpose.

27 SECTION 5.03. The change in law made by this Act in adding

1 Section 2306.1875, Government Code, does not affect an energy audit
2 or analysis or energy testing performed or an energy rating awarded
3 before the effective date of this Act. An energy audit or analysis
4 or energy testing performed or an energy rating awarded before the
5 effective date of this Act is governed by the law in effect on the
6 date the audit, analysis, or testing was performed or the rating was
7 awarded, and the former law is continued in effect for that purpose.

8 SECTION 5.04. The change in law made by this Act to Section
9 2306.6022, Government Code, applies only to a complaint filed on or
10 after the effective date of this Act. A complaint filed before the
11 effective date of this Act is governed by the law in effect at the
12 time the complaint was filed, and the former law is continued in
13 effect for that purpose.

14 SECTION 5.05. The changes in law made by this Act to
15 Sections 2306.6711 and 2306.6725, Government Code, apply only to an
16 application for low income housing tax credits that is submitted to
17 the Texas Department of Housing and Community Affairs during an
18 application cycle that begins on or after the effective date of this
19 Act. An application that is submitted during an application cycle
20 that began before the effective date of this Act is governed by the
21 law in effect at the time the application cycle began, and the
22 former law is continued in effect for that purpose.

23 SECTION 5.06. Notwithstanding Sections 1201.101(f-1) and
24 1201.106(a), Occupations Code, as amended by this Act, a retailer
25 licensed to operate one or more branch locations on or before the
26 effective date of this Act is not required to comply with the
27 changes in law made by those sections until March 1, 2012.

1 SECTION 5.07. (a) The change in law made by this Act in
2 amending Sections 1201.103 and 1201.104, Occupations Code, applies
3 only to an application for a license filed with the executive
4 director of the manufactured housing division of the Texas
5 Department of Housing and Community Affairs on or after the
6 effective date of this Act. An application for a license filed
7 before that date is governed by the law in effect on the date the
8 application was filed, and the former law is continued in effect for
9 that purpose.

10 (b) The change in law made by this Act in adding Section
11 1201.1031, Occupations Code, applies only to an application for a
12 license or license renewal filed with the executive director of the
13 manufactured housing division of the Texas Department of Housing
14 and Community Affairs on or after the effective date of this Act.
15 An application for a license or license renewal filed before that
16 date is governed by the law in effect on the date the application
17 was filed, and the former law is continued in effect for that
18 purpose.

19 (c) The change in law made by this Act in amending Section
20 1201.116, Occupations Code, applies only to an application for a
21 license renewal filed with the executive director of the
22 manufactured housing division of the Texas Department of Housing
23 and Community Affairs on or after the effective date of this Act.
24 An application for a license renewal filed before that date is
25 governed by the law in effect on the date the application was filed,
26 and the former law is continued in effect for that purpose.

1 ARTICLE 6. EFFECTIVE DATE

2 SECTION 6.01. (a) Except as provided by Subsection (b) of
3 this section, this Act takes effect September 1, 2011.

4 (b) Section 2306.1875, Government Code, as added by this
5 Act, takes effect April 1, 2012.