

By: Dutton

H.B. No. 3361

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the continuation and functions of the Texas Department
3 of Housing and Community Affairs; authorizing and otherwise
4 affecting the application of certain fees.

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

6 ARTICLE 1. GENERAL OPERATIONS AND ADMINISTRATION OF THE TEXAS
7 DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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

10 Sec. 2306.022. APPLICATION OF SUNSET ACT. The Texas
11 Department of Housing and Community Affairs is subject to Chapter
12 325 (Texas Sunset Act). Unless continued in existence as provided
13 by that chapter, the department is abolished and this chapter
14 expires September 1, 2025 [~~2013~~].

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

17 (c) The notice must:
18 (1) include a brief summary of the alleged violation;
19 (2) state the amount of the recommended penalty; and
20 (3) inform the person of the person's right to a
21 hearing before the State Office of Administrative Hearings [~~board~~]
22 on the occurrence of the violation, the amount of the penalty, or
23 both.

24 SECTION 1.03. Section 2306.044(a), Government Code, is

1 amended to read as follows:

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

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

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

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

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

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

18 (1) hold the hearing;

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

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

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

27 SECTION 1.05. Section 2306.046(a), Government Code, is

1 amended to read as follows:

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

6 [~~(1) find that a violation occurred and impose a~~
7 ~~penalty; or~~

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

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

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

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

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

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

1 (c) The department shall debar a person from participation
2 in a department [~~the~~] program if the person:

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

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

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

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

17 SECTION 1.08. Subchapter P, Chapter 2306, Government Code,
18 is amended by adding Section 2306.3591 to read as follows:

19 Sec. 2306.3591. ADDITIONAL APPLICATION REQUIREMENT:
20 NOTICE, HEARING, AND RESOLUTION BY CERTAIN GOVERNING BODIES. (a)
21 Not later than the 60th day before submitting to the department an
22 application for the issuance of private activity bonds, an
23 applicant must provide notice of the intent to file the application
24 to:

25 (1) the municipality in which any part of the proposed
26 development is to be located;

27 (2) the county in which the proposed development is to

1 be located if any part of the development is to be located in an area
2 of a county that is not part of a municipality; and

3 (3) the municipality and county in which the proposed
4 development is to be located if any part of the development is
5 located in the extraterritorial jurisdiction of a municipality.

6 (b) Not later than the 30th day after receiving notice under
7 Subsection (a), a county or municipality, as applicable, shall
8 provide for public comment on the application at a hearing held in
9 compliance with Chapter 551, Government Code.

10 (c) In addition to the application information otherwise
11 required under this subchapter, an application for the issuance of
12 private activity bonds must be accompanied by a certified copy of a
13 resolution from each governing body described by Subsection (a).
14 The resolution must certify that:

15 (1) notice has been provided to the governing body as
16 required by Subsection (a);

17 (2) the governing body has had sufficient opportunity
18 to obtain a response from the applicant regarding any questions or
19 concerns about the proposed development;

20 (3) the governing body has held a hearing under
21 Subsection (b); and

22 (4) after due consideration of the information
23 provided by the applicant and public comment, the governing body
24 does not object to the filing of the proposed application.

25 ARTICLE 2. LOW INCOME HOUSING TAX CREDIT PROGRAM

26 SECTION 2.01. Section 2306.67021, Government Code, is
27 amended to read as follows:

1 Sec. 2306.67021. APPLICABILITY OF SUBCHAPTER. Except as
2 provided by Sections [~~Section~~] 2306.6703 and 2306.67071, this
3 subchapter does not apply to the allocation of housing tax credits
4 to developments financed through the private activity bond program.

5 SECTION 2.02. Subchapter DD, Chapter 2306, Government Code,
6 is amended by adding Section 2306.67071 to read as follows:

7 Sec. 2306.67071. ADDITIONAL APPLICATION REQUIREMENT:
8 NOTICE, HEARING, AND RESOLUTION BY CERTAIN GOVERNING BODIES. (a)

9 Not later than the 60th day before submitting to the department an
10 application for housing tax credits, an applicant must provide
11 notice of the intent to file the application to:

12 (1) the municipality in which any part of the proposed
13 development is to be located;

14 (2) the county in which the proposed development is to
15 be located if any part of the development is to be located in an area
16 of a county that is not part of a municipality; and

17 (3) the municipality and county in which the proposed
18 development is to be located if any part of the development is to be
19 located in the extraterritorial jurisdiction of a municipality.

20 (b) Not later than the 30th day after receiving notice under
21 Subsection (a), a county or municipality, as applicable, shall
22 provide for public comment on the application at a hearing held in
23 compliance with Chapter 551.

24 (c) In addition to the application information otherwise
25 required under this subchapter, an application for housing tax
26 credits must be accompanied by a certified copy of a resolution from
27 each applicable governing body described by Subsection (a). The

1 resolution must certify that:

2 (1) notice has been provided to each governing body as
3 required by Subsection (a);

4 (2) each governing body has had sufficient opportunity
5 to obtain a response from the applicant regarding any questions or
6 concerns about the proposed development;

7 (3) each governing body has held a hearing under
8 Subsection (b); and

9 (4) after due consideration of the information
10 provided by the applicant and public comment, the governing body
11 does not object to the filing of the proposed application.

12 (d) A preapplication submitted under Section 2306.6704 is
13 not considered an application for purposes of this section.

14 SECTION 2.03. Section 2306.6710, Government Code, is
15 amended by amending Subsections (b) and (f) and adding Subsection
16 (g) to read as follows:

17 (b) If an application satisfies the threshold criteria, the
18 department shall score and rank the application using a point
19 system that:

20 (1) prioritizes in descending order criteria
21 regarding:

22 (A) financial feasibility of the development
23 based on the supporting financial data required in the application
24 that will include a project underwriting pro forma from the
25 permanent or construction lender;

26 (B) quantifiable community support
27 [~~participation~~] with respect to the development, evaluated on the

1 basis of:

2 (i) a written statement from the state
3 representative or the state senator who represents the district
4 containing the proposed development site; or

5 (ii) only if neither a state representative
6 nor a state senator provides a written statement expressing either
7 support or opposition under Subparagraph (i) before the date
8 specified by the department under Subsection (g)(1), a resolution
9 concerning the development that is voted on and adopted by:

10 (a) the governing body of the
11 municipality in which any part of [~~written statements from any~~
12 ~~neighborhood organizations on record with the state or county in~~
13 ~~which the development is to be located and whose boundaries~~
14 ~~contain~~] the proposed development site is to be located;

15 (b) the commissioners court of the
16 county in which the proposed development site is to be located, if
17 any part of the proposed site is to be located in an area of a county
18 that is not part of a municipality; or

19 (c) the governing bodies of the
20 municipality and county in which the proposed development site is
21 to be located, if any part of the proposed site is to be located in
22 the extraterritorial jurisdiction of a municipality;

23 (C) the income levels of tenants of the
24 development;

25 (D) the size and quality of the units;

26 (E) the commitment of development funding by
27 local political subdivisions;

1 (F) [~~the level of community support for the~~
2 ~~application, evaluated on the basis of written statements from the~~
3 ~~state representative or the state senator that represents the~~
4 ~~district containing the proposed development site,~~

5 [~~(G)~~] the rent levels of the units;

6 (G) [~~(H)~~] the cost of the development by square
7 foot;

8 (H) [~~(I)~~] the services to be provided to tenants
9 of the development; [~~and~~]

10 (I) [~~(J)~~] whether, at the time the complete
11 application is submitted or at any time within the two-year period
12 preceding the date of submission, the proposed development site is
13 located in an area declared to be a disaster under Section 418.014;
14 and

15 (J) quantifiable community participation with
16 respect to the development, evaluated on the basis of written
17 statements from any neighborhood organizations on record with the
18 state or county in which the development is to be located and whose
19 boundaries contain the proposed development site;

20 (2) uses criteria imposing penalties on applicants or
21 affiliates who have requested extensions of department deadlines
22 relating to developments supported by housing tax credit
23 allocations made in the application round preceding the current
24 round or a developer or principal of the applicant that has been
25 removed by the lender, equity provider, or limited partners for its
26 failure to perform its obligations under the loan documents or
27 limited partnership agreement; and

1 (3) encourages applicants to provide free notary
2 public service to the residents of the developments for which the
3 allocation of housing tax credits is requested.

4 (f) In evaluating the level of community support for an
5 application under Subsection (b)(1)(B)(i) [~~(b)(1)(F)~~], the
6 department shall award:

7 (1) positive points for positive written statements
8 received;

9 (2) negative points for negative written statements
10 received; and

11 (3) zero points for neutral statements received.

12 (g) The department by rule shall specify the dates by which:

13 (1) a state representative or state senator must
14 provide a written statement for consideration under Subsection
15 (b)(1)(B)(i); and

16 (2) the governing body of a municipality or the
17 commissioners court of a county must adopt a resolution for
18 consideration under Subsection (b)(1)(B)(ii).

19 SECTION 2.04. Section 2306.6717(a), Government Code, is
20 amended to read as follows:

21 (a) Subject to Section 2306.67041, the department shall
22 make the following items available on the department's website:

23 (1) as soon as practicable, any proposed application
24 submitted through the preapplication process established by this
25 subchapter;

26 (2) before the 30th day preceding the date of the
27 relevant board allocation decision, except as provided by

1 Subdivision (3), the entire application, including all supporting
2 documents and exhibits, the application log, a scoring sheet
3 providing details of the application score, and any other document
4 relating to the processing of the application;

5 (3) not later than the third working day after the date
6 of the relevant determination, the results of each stage of the
7 application process, including the results of the application
8 scoring and underwriting phases and the allocation phase;

9 (4) before the 15th day preceding the date of board
10 action on the amendment, notice of an amendment under Section
11 2306.6712 and the recommendation of the director and monitor
12 regarding the amendment; and

13 (5) an appeal filed with the department or board under
14 Section 2306.0504 or 2306.6715 [~~or 2306.6721~~] and any other
15 document relating to the processing of the appeal.

16 SECTION 2.05. Section 2306.6719, Government Code, is
17 amended by adding Subsections (c), (d), (e), and (f) to read as
18 follows:

19 (c) For a violation other than a violation that poses an
20 imminent hazard or threat to health and safety, the department must
21 provide the owner of a development with the following periods to
22 correct a failure to comply with a condition or law described by
23 Subsection (a)(1) or (2):

24 (1) 30 days for a failure to file the annual owner's
25 compliance report; and

26 (2) 90 days for any other failure to comply under this
27 section.

1 (d) For good cause shown, the executive director may extend
2 the periods provided under Subsection (c).

3 (e) For purposes of determining eligibility to apply for and
4 receive financial assistance from the department, a development may
5 not be considered to be in noncompliance with an applicable
6 condition or law if the owner of the development takes appropriate
7 corrective action during the period provided under Subsection (c).

8 (f) Notwithstanding Subsection (e), the department shall:

9 (1) submit to the applicable federal agency any report
10 required by federal law regarding an owner's noncompliance with a
11 condition or law described by Subsection (a)(1) or (2); and

12 (2) for purposes of developing and administering the
13 policy relating to debarment under Section 2306.0504, consider
14 recurring violations of a condition or law described by Subsection
15 (a)(1) or (2), including violations that are corrected during the
16 applicable period provided under Subsection (c).

17 SECTION 2.06. Subchapter DD, Chapter 2306, Government Code,
18 is amended by adding Section 2306.6739 to read as follows:

19 Sec. 2306.6739. HOUSING TAX CREDITS FINANCED USING FEDERAL
20 EMERGENCY FUNDS. (a) To the extent the department receives federal
21 emergency funds that must be awarded by the department in the same
22 manner as and that are subject to the same limitations as awards of
23 housing tax credits, any reference in this chapter to the
24 administration of the housing tax credit program applies equally to
25 the administration of the federal funds, subject to Subsection (b).

26 (b) Notwithstanding any other law, the department may
27 establish a separate application procedure for the federal

1 emergency funds that does not follow the uniform application cycle
2 required by Section 2306.1111 or the deadlines established by
3 Section 2306.6724, and any reference in this chapter to an
4 application period occurring in relation to those federal emergency
5 funds refers to the period beginning on the date the department
6 begins accepting applications for the federal funds and continuing
7 until all of the available federal funds are awarded.

8 ARTICLE 3. MANUFACTURED HOUSING

9 SECTION 3.01. Section 2306.6022, Government Code, is
10 amended by adding Subsections (e) and (f) to read as follows:

11 (e) The division director may allow an authorized employee
12 of the division to dismiss a complaint if an investigation
13 demonstrates that:

14 (1) a violation did not occur; or

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

17 (f) An employee who dismisses a complaint under Subsection
18 (e) shall report the dismissal to the division director and the
19 board. The report must include a sufficient explanation of the
20 reason the complaint was dismissed.

21 SECTION 3.02. Subchapter AA, Chapter 2306, Government Code,
22 is amended by adding Section 2306.6023 to read as follows:

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

26 (1) negotiated rulemaking procedures under Chapter
27 2008 for the adoption of division rules; and

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

4 (b) The division's procedures relating to alternative
5 dispute resolution must conform, to the extent possible, to any
6 model guidelines issued by the State Office of Administrative
7 Hearings for the use of alternative dispute resolution by state
8 agencies.

9 (c) The division shall:

10 (1) coordinate the implementation of the policy
11 adopted under Subsection (a);

12 (2) provide training as needed to implement the
13 procedures for negotiated rulemaking or alternative dispute
14 resolution; and

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

17 SECTION 3.03. Section 1201.003(17), Occupations Code, is
18 amended to read as follows:

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

22 SECTION 3.04. Sections 1201.055(a) and (b), Occupations
23 Code, are amended to read as follows:

24 (a) With guidance from the federal Housing and Community
25 Development Act of 1974 (42 U.S.C. Section 5301 et seq.) and from
26 the rules and regulations adopted under the National Manufactured
27 Housing Construction and Safety Standards Act of 1974 (42 U.S.C.

1 Section 5401 et seq.), the board shall establish fees as follows:

2 (1) if the department acts as a design approval
3 primary inspection agency, a schedule of fees for the review of
4 HUD-code manufactured home blueprints and supporting information,
5 to be paid by the manufacturer seeking approval of the blueprints
6 and supporting information;

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

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

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

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

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

21 (b) In addition to the fees imposed under Subsections
22 (a)(2), (3), and (4), a manufacturer or [7] a person making an
23 alteration, ~~[or a rebuilder]~~, as appropriate, shall be charged for
24 the actual cost of travel of a department representative to and
25 from:

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

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

3 SECTION 3.05. Section 1201.056, Occupations Code, is
4 amended to read as follows:

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

- 7 (1) manufacturers;
8 (2) retailers;
9 (3) brokers;
10 (4) salespersons; and
11 (5) ~~[rebuilders; and~~
12 ~~[~~(6)~~] installers.~~

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

15 SECTION 3.06. Sections 1201.101(e) and (f-1), Occupations
16 Code, are amended to read as follows:

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

20 (f-1) A retailer may not be licensed to operate more than
21 ~~[at a principal location and]~~ one location ~~[or more branch~~
22 ~~locations]~~ under a single license~~[, provided, however, that a~~
23 ~~separate application must be made for each branch, and each branch~~
24 ~~must be separately bonded].~~

25 SECTION 3.07. Sections 1201.103(a) and (b), Occupations
26 Code, are amended to read as follows:

27 (a) An applicant for a license as a manufacturer, retailer,

1 broker, [~~rebuilder,~~] or installer must file with the director a
2 license application containing:

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

6 (2) all trade names, and the names of all other
7 business organizations, under which the applicant does business
8 subject to this chapter, the name of each such business
9 organization registered with the secretary of state, and the
10 address of such business organization;

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

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

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

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

16 [~~and~~]

17 (2) payment of the fee required for issuance of the
18 license; and

19 (3) the information and the cost required under
20 Section 1201.1031.

21 SECTION 3.08. Subchapter C, Chapter 1201, Occupations Code,
22 is amended by adding Section 1201.1031 to read as follows:

23 Sec. 1201.1031. CRIMINAL HISTORY RECORD INFORMATION
24 REQUIREMENT FOR LICENSE. (a) The department shall require that an
25 applicant for a license or renewal of an unexpired license submit a
26 complete and legible set of fingerprints, on a form prescribed by
27 the board, to the department or to the Department of Public Safety

1 for the purpose of obtaining criminal history record information
2 from the Department of Public Safety and the Federal Bureau of
3 Investigation. The applicant is required to submit a set of
4 fingerprints only once under this section unless a replacement set
5 is otherwise needed to complete the criminal history check required
6 by this section.

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

10 (c) The department shall conduct a criminal history check of
11 each applicant for a license or renewal of a license using
12 information:

- 13 (1) provided by the individual under this section; and
14 (2) made available to the department by the Department
15 of Public Safety, the Federal Bureau of Investigation, and any
16 other criminal justice agency under Chapter 411, Government Code.

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

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

22 SECTION 3.09. Section 1201.104(a), Occupations Code, is
23 amended to read as follows:

24 (a) Except as provided by Subsection (g), as a requirement
25 for a manufacturer's, retailer's, broker's, installer's, [~~salvage~~
26 ~~rebuilder's,~~] or salesperson's license, a person who was not
27 licensed or registered with the department or a predecessor agency

1 on September 1, 1987, must, not more than 12 months before applying
2 for the person's first license under this chapter, attend and
3 successfully complete eight hours of instruction in the law,
4 including instruction in consumer protection regulations.

5 SECTION 3.10. Section 1201.106(a), Occupations Code, is
6 amended to read as follows:

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

- 10 (1) \$100,000 for a manufacturer;
- 11 (2) \$50,000 for a retailer [~~retailer's principal~~
12 ~~location~~];
- 13 (3) [~~\$50,000 for each retailer's branch location,~~
14 [~~(4) \$50,000 for a rebuilder,~~
15 [~~(5)~~] \$50,000 for a broker; or
16 (4) [~~(6)~~] \$25,000 for an installer.

17 SECTION 3.11. Section 1201.110, Occupations Code, is
18 amended to read as follows:

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

22 (1) the second anniversary of the date the
23 manufacturer, retailer, broker, or installer [~~, or rebuilder~~]
24 ceases doing business; or

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

27 SECTION 3.12. Section 1201.116(a), Occupations Code, is

1 amended to read as follows:

2 (a) The department shall renew a license if, before the
3 expiration date of the license, the department receives the renewal
4 application and payment of the required fee as well as the cost
5 required under Section 1201.1031 [~~before the expiration date of the~~
6 ~~license~~].

7 SECTION 3.13. Section 1201.357, Occupations Code, is
8 amended by adding Subsection (b-1) to read as follows:

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

14 SECTION 3.14. Section 1201.461(d), Occupations Code, is
15 amended to read as follows:

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

20 SECTION 3.15. Subchapter M, Chapter 1201, Occupations Code,
21 is amended by adding Section 1201.6041 to read as follows:

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

1 broker, or installer if the unsatisfied claim results from a
2 violation of:

3 (1) this chapter;

4 (2) a rule adopted by the director;

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

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

9 (5) Subchapter E, Chapter 17, Business & Commerce
10 Code.

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

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

18 SECTION 3.16. Sections 1201.610(a), (b), and (f),
19 Occupations Code, are amended to read as follows:

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

1 to violate any provision of this chapter or a rule adopted under
2 this chapter.

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

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

1 SECTION 3.17. Section 1302.061, Occupations Code, is
2 amended to read as follows:

3 Sec. 1302.061. MANUFACTURED HOMES. This chapter does not
4 apply to a person or entity licensed as a manufacturer, retailer,
5 [~~rebuilder,~~] or installer under Chapter 1201 and engaged
6 exclusively in air conditioning and refrigeration contracting for
7 manufactured homes if the installation of air conditioning
8 components at the site where the home will be occupied is performed
9 by a person licensed under this chapter.

10 ARTICLE 4. WEATHERIZATION ASSISTANCE PROGRAM

11 SECTION 4.01. Section 39.905(f), Utilities Code, is amended
12 to read as follows:

13 (f) Unless funding is provided under Section 39.903, each
14 unbundled transmission and distribution utility shall include in
15 its energy efficiency plan a targeted low-income energy efficiency
16 program as described by Section 39.903(f)(2), and the savings
17 achieved by the program shall count toward the transmission and
18 distribution utility's energy efficiency goal. The commission
19 shall determine the appropriate level of funding to be allocated to
20 both targeted and standard offer low-income energy efficiency
21 programs in each unbundled transmission and distribution utility
22 service area. The level of funding for low-income energy
23 efficiency programs shall be provided from money approved by the
24 commission for the transmission and distribution utility's energy
25 efficiency programs. The commission shall ensure that annual
26 expenditures for the targeted low-income energy efficiency
27 programs of each unbundled transmission and distribution utility

1 are not less than 10 percent of the transmission and distribution
2 utility's energy efficiency budget for the year. A targeted
3 low-income energy efficiency program must comply with the same
4 audit requirements that apply to federal weatherization
5 subrecipients. In an energy efficiency cost recovery factor
6 proceeding related to expenditures under this subsection, the
7 commission shall make findings of fact regarding whether the
8 utility meets requirements imposed under this subsection. The
9 state agency that administers the federal weatherization
10 assistance program shall ~~[provide reports as required by the~~
11 ~~commission to provide the most current information available on~~
12 ~~energy and peak demand savings achieved in each transmission and~~
13 ~~distribution utility service area. The agency shall]~~ participate
14 in energy efficiency cost recovery factor proceedings related to
15 expenditures under this subsection to ensure that targeted
16 low-income weatherization programs are consistent with federal
17 weatherization programs and adequately funded.

18 ARTICLE 5. REPEALER

19 SECTION 5.01. The following provisions of the Government
20 Code are repealed:

- 21 (1) Section 2306.255(h); and
22 (2) Section 2306.560(d).

23 ARTICLE 6. TRANSITION PROVISIONS

24 SECTION 6.01. The change in law made by this Act to Sections
25 2306.043, 2306.044, 2306.045, 2306.046, and 2306.049, Government
26 Code, applies only to a violation committed on or after the
27 effective date of this Act. A violation committed before the

1 effective date of this Act is governed by the law in effect when the
2 violation was committed, and the former law is continued in effect
3 for that purpose.

4 SECTION 6.02. Section 2306.3591, Government Code, as added
5 by this Act, applies only to an application for the issuance of
6 private activity bonds that is submitted to the Texas Department of
7 Housing and Community Affairs during an application cycle that
8 begins on or after the effective date of this Act. An application
9 submitted during an application cycle that began before the
10 effective date of this Act is governed by the law in effect at the
11 time the application cycle began, and the former law is continued in
12 effect for that purpose.

13 SECTION 6.03. The change in law made by this Act to Section
14 2306.6022, Government Code, applies only to a complaint filed on or
15 after the effective date of this Act. A complaint filed before the
16 effective date of this Act is governed by the law in effect at the
17 time the complaint was filed, and the former law is continued in
18 effect for that purpose.

19 SECTION 6.04. The changes in law made by this Act to Section
20 2306.6710, Government Code, apply only to an application for low
21 income housing tax credits that is submitted to the Texas
22 Department of Housing and Community Affairs during an application
23 cycle that begins on or after the effective date of this Act. An
24 application that is submitted during an application cycle that
25 began before the effective date of this Act is governed by the law
26 in effect at the time the application cycle began, and the former
27 law is continued in effect for that purpose.

1 SECTION 6.05. Notwithstanding Sections 1201.101(f-1) and
2 1201.106(a), Occupations Code, as amended by this Act, a retailer
3 licensed to operate one or more branch locations on or before the
4 effective date of this Act is not required to comply with the
5 changes in law made by those sections until March 1, 2014.

6 SECTION 6.06. (a) The change in law made by this Act in
7 amending Sections 1201.103 and 1201.104, Occupations Code, applies
8 only to an application for a license filed with the executive
9 director of the manufactured housing division of the Texas
10 Department of Housing and Community Affairs on or after the
11 effective date of this Act. An application for a license filed
12 before that date is governed by the law in effect on the date the
13 application was filed, and the former law is continued in effect for
14 that purpose.

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

24 (c) The change in law made by this Act in amending Section
25 1201.116, Occupations Code, applies only to an application for a
26 license renewal filed with the executive director of the
27 manufactured housing division of the Texas Department of Housing

1 and Community Affairs on or after the effective date of this Act.
2 An application for a license renewal filed before that date is
3 governed by the law in effect on the date the application was filed,
4 and the former law is continued in effect for that purpose.

5 ARTICLE 7. EFFECTIVE DATE

6 SECTION 7.01. This Act takes effect September 1, 2013.