

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 ARTICLE 2. LOW INCOME HOUSING TAX CREDIT PROGRAM

18 SECTION 2.01. Section 2306.67021, Government Code, is
19 amended to read as follows:

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

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

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

1 Before submitting to the department an application for housing tax
2 credits for developments financed through the private activity bond
3 program, including private activity bonds issued by the department,
4 the Texas State Affordable Housing Corporation, or a local issuer,
5 an applicant must provide notice of the intent to file the
6 application to:

7 (1) the governing body of a municipality in which the
8 proposed development site is to be located;

9 (2) subject to Subdivision (3), the commissioners
10 court of a county in which the proposed development site is to be
11 located, if the proposed site is to be located in an area of a county
12 that is not part of a municipality; or

13 (3) the commissioners court of a county in which the
14 proposed development site is to be located and the governing body of
15 the applicable municipality, if the proposed site is to be located
16 in the extraterritorial jurisdiction of a municipality.

17 (b) A county or municipality, as applicable, shall hold a
18 hearing at which public comment may be made on the application.

19 (c) The board may not approve an application for housing tax
20 credits for developments financed through the private activity bond
21 program unless the applicant has submitted to the department a
22 certified copy of a resolution from each applicable governing body
23 described by Subsection (a). The resolution must certify that:

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

26 (2) each governing body has had sufficient opportunity
27 to obtain a response from the applicant regarding any questions or

1 concerns about the proposed development;

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

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

7 (d) The department by rule may provide for the time and
8 manner of the submission to the department of a resolution required
9 by Subsection (c).

10 SECTION 2.03. Sections 2306.6710(b) and (f), Government
11 Code, are amended to read as follows:

12 (b) If an application satisfies the threshold criteria, the
13 department shall score and rank the application using a point
14 system that:

15 (1) prioritizes in descending order criteria
16 regarding:

17 (A) financial feasibility of the development
18 based on the supporting financial data required in the application
19 that will include a project underwriting pro forma from the
20 permanent or construction lender;

21 (B) quantifiable community participation with
22 respect to the development, evaluated on the basis of a resolution
23 concerning the development that is voted on and adopted by the
24 following, as applicable:

25 (i) the governing body of a municipality in
26 which ~~[written statements from any neighborhood organizations on~~
27 ~~record with the state or county in which the development is to be~~

1 ~~located and whose boundaries contain]~~ the proposed development site
2 is to be located;

3 (ii) subject to Subparagraph (iii), the
4 commissioners court of a county in which the proposed development
5 site is to be located, if the proposed site is to be located in an
6 area of a county that is not part of a municipality; or

7 (iii) the commissioners court of a county
8 in which the proposed development site is to be located and the
9 governing body of the applicable municipality, if the proposed site
10 is to be located in the extraterritorial jurisdiction of a
11 municipality;

12 (C) the income levels of tenants of the
13 development;

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

15 (E) the commitment of development funding by
16 local political subdivisions;

17 ~~(F) [the level of community support for the~~
18 ~~application, evaluated on the basis of written statements from the~~
19 ~~state representative or the state senator that represents the~~
20 ~~district containing the proposed development site;~~

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

22 (G) ~~[(H)]~~ the cost of the development by square
23 foot;

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

26 (I) ~~[(J)]~~ whether, at the time the complete
27 application is submitted or at any time within the two-year period

1 preceding the date of submission, the proposed development site is
2 located in an area declared to be a disaster under Section 418.014;

3 (J) quantifiable community participation with
4 respect to the development, evaluated on the basis of written
5 statements from any neighborhood organizations on record with the
6 state or county in which the development is to be located and whose
7 boundaries contain the proposed development site; and

8 (K) the level of community support for the
9 application, evaluated on the basis of a written statement from the
10 state representative who represents the district containing the
11 proposed development site;

12 (2) uses criteria imposing penalties on applicants or
13 affiliates who have requested extensions of department deadlines
14 relating to developments supported by housing tax credit
15 allocations made in the application round preceding the current
16 round or a developer or principal of the applicant that has been
17 removed by the lender, equity provider, or limited partners for its
18 failure to perform its obligations under the loan documents or
19 limited partnership agreement; and

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

23 (f) In evaluating the level of community support for an
24 application under Subsection (b)(1)(K) [~~(b)(1)(F)~~], the department
25 shall award:

26 (1) positive points for positive written statements
27 received;

1 (2) negative points for negative written statements
2 received; and

3 (3) zero points for neutral statements received.

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

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

8 (1) as soon as practicable, any proposed application
9 submitted through the preapplication process established by this
10 subchapter;

11 (2) before the 30th day preceding the date of the
12 relevant board allocation decision, except as provided by
13 Subdivision (3), the entire application, including all supporting
14 documents and exhibits, the application log, a scoring sheet
15 providing details of the application score, and any other document
16 relating to the processing of the application;

17 (3) not later than the third working day after the date
18 of the relevant determination, the results of each stage of the
19 application process, including the results of the application
20 scoring and underwriting phases and the allocation phase;

21 (4) before the 15th day preceding the date of board
22 action on the amendment, notice of an amendment under Section
23 2306.6712 and the recommendation of the director and monitor
24 regarding the amendment; and

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

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

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

9 (1) 30 days for a failure to file the annual owner's
10 compliance report; and

11 (2) 90 days for any other failure to comply under this
12 section.

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

15 (e) Solely for purposes of determining eligibility to apply
16 for and receive financial assistance from the department, a
17 development may not be considered to be in noncompliance with an
18 applicable condition or law if the owner of the development takes
19 appropriate corrective action during the period provided under
20 Subsection (c).

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

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

25 (2) for purposes of developing and administering the
26 policy relating to debarment under Section 2306.0504, consider
27 recurring violations of a condition or law described by Subsection

1 (a)(1) or (2), including violations that are corrected during the
2 applicable period provided under Subsection (c).

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

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

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

21 ARTICLE 3. MANUFACTURED HOUSING

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

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

27 (1) a violation did not occur; or

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

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

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

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

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

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

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

22 (c) The division shall:

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

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

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

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

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

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

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

15 (1) if the department acts as a design approval
16 primary inspection agency, a schedule of fees for the review of
17 HUD-code manufactured home blueprints and supporting information,
18 to be paid by the manufacturer seeking approval of the blueprints
19 and supporting information;

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

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

27 (4) a fee for the inspection of the rebuilding of a

1 salvaged manufactured home, to be paid by the retailer [~~rebuilder~~];

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

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

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

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

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

16 SECTION 3.05. Section 1201.056, Occupations Code, is
17 amended to read as follows:

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

- 20 (1) manufacturers;
21 (2) retailers;
22 (3) brokers;
23 (4) salespersons; and
24 (5) [~~rebuilters, and~~
25 [~~6~~] installers.

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

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

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

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

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

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

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

19 (2) all trade names, and the names of all other
20 business organizations, under which the applicant does business
21 subject to this chapter, the name of each such business
22 organization registered with the secretary of state, and the
23 address of such business organization;

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

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

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

- 1 (1) proof of the security required by this subchapter;
2 ~~[and]~~
3 (2) payment of the fee required for issuance of the
4 license; and
5 (3) the information and the cost required under
6 Section 1201.1031.

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

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

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

23 (c) The department shall conduct a criminal history check of
24 each applicant for a license or renewal of a license using
25 information:

- 26 (1) provided by the individual under this section; and
27 (2) made available to the department by the Department

1 of Public Safety, the Federal Bureau of Investigation, and any
2 other criminal justice agency under Chapter 411, Government Code.

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

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

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

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

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

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

23 (1) \$100,000 for a manufacturer;

24 (2) \$50,000 for a retailer [~~retailer's principal~~
25 ~~location~~];

26 (3) [~~\$50,000 for each retailer's branch location,~~

27 [~~(4) \$50,000 for a rebuilder,~~

1 ~~[(5)]~~ \$50,000 for a broker; or

2 (4) ~~[(6)]~~ \$25,000 for an installer.

3 SECTION 3.11. Section 1201.110, Occupations Code, is
4 amended to read as follows:

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

8 (1) the second anniversary of the date the
9 manufacturer, retailer, broker, or installer~~[, or rebuilder]~~
10 ceases doing business; or

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

13 SECTION 3.12. Section 1201.116(a), Occupations Code, is
14 amended to read as follows:

15 (a) The department shall renew a license if, before the
16 expiration date of the license, the department receives the renewal
17 application and payment of the required fee as well as the cost
18 required under Section 1201.1031 ~~[before the expiration date of the~~
19 ~~license]~~.

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

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

27 SECTION 3.14. Section 1201.461(d), Occupations Code, is

1 amended to read as follows:

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

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

8 Sec. 1201.6041. DIRECT CONSUMER COMPENSATION. (a) Instead
9 of requiring a consumer to apply for compensation from the trust
10 fund under Subchapter I, the director may order a manufacturer,
11 retailer, broker, or installer, as applicable, to pay a refund
12 directly to a consumer who sustains actual damages resulting from
13 an unsatisfied claim against a licensed manufacturer, retailer,
14 broker, or installer if the unsatisfied claim results from a
15 violation of:

- 16 (1) this chapter;
17 (2) a rule adopted by the director;
18 (3) the National Manufactured Housing Construction
19 and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.);
20 (4) a rule or regulation of the United States
21 Department of Housing and Urban Development; or
22 (5) Subchapter E, Chapter 17, Business & Commerce
23 Code.

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

26 (c) The director shall prepare information for notifying
27 consumers of the director's option to order a direct refund under

1 this section, shall post the information on the department's
2 Internet website, and shall make printed copies available on
3 request.

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

6 (a) The [~~If the director has reasonable cause to believe~~
7 ~~that a person licensed under this chapter has violated or is about~~
8 ~~to violate any provision of this chapter or rules adopted by the~~
9 ~~department under this chapter, the~~] director may issue without
10 notice and hearing an order to cease and desist from continuing a
11 particular action or an order to take affirmative action, or both,
12 to enforce compliance with this chapter if the director has
13 reasonable cause to believe that a person has violated or is about
14 to violate any provision of this chapter or a rule adopted under
15 this chapter.

16 (b) The director may issue an order to any person [~~licensee~~]
17 to cease and desist from violating any law, rule, or written
18 agreement or to take corrective action with respect to any such
19 violations if the violations in any way are related to the sale,
20 financing, or installation of a manufactured home or the providing
21 of goods or services in connection with the sale, financing, or
22 installation of a manufactured home unless the matter that is the
23 basis of such violation is expressly subject to inspection and
24 regulation by another state agency; provided, however, that if any
25 matter involves a law that is subject to any other administration or
26 interpretation by another agency, the director shall consult with
27 the person in charge of the day-to-day administration of that

1 agency before issuing an order.

2 (f) If a person licensed under this chapter fails to pay an
3 administrative penalty that has become final or fails to comply
4 with an order of the director that has become final, in addition to
5 any other remedy provided by law, the director, after not less than
6 10 days' notice to the person, may without a prior hearing suspend
7 the person's license. The suspension shall continue until the
8 person has complied with the cease and desist order or paid the
9 administrative penalty. During the period of suspension, the
10 person may not perform any act requiring a license under this
11 chapter, and all compensation received by the person during the
12 period of suspension is subject to forfeiture to the person from
13 whom it was received.

14 SECTION 3.17. Section 1302.061, Occupations Code, is
15 amended to read as follows:

16 Sec. 1302.061. MANUFACTURED HOMES. This chapter does not
17 apply to a person or entity licensed as a manufacturer, retailer,
18 [~~rebuilder,~~] or installer under Chapter 1201 and engaged
19 exclusively in air conditioning and refrigeration contracting for
20 manufactured homes if the installation of air conditioning
21 components at the site where the home will be occupied is performed
22 by a person licensed under this chapter.

23 ARTICLE 4. WEATHERIZATION ASSISTANCE PROGRAM

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

26 (f) Unless funding is provided under Section 39.903, each
27 unbundled transmission and distribution utility shall include in

1 its energy efficiency plan a targeted low-income energy efficiency
2 program as described by Section 39.903(f)(2), and the savings
3 achieved by the program shall count toward the transmission and
4 distribution utility's energy efficiency goal. The commission
5 shall determine the appropriate level of funding to be allocated to
6 both targeted and standard offer low-income energy efficiency
7 programs in each unbundled transmission and distribution utility
8 service area. The level of funding for low-income energy
9 efficiency programs shall be provided from money approved by the
10 commission for the transmission and distribution utility's energy
11 efficiency programs. The commission shall ensure that annual
12 expenditures for the targeted low-income energy efficiency
13 programs of each unbundled transmission and distribution utility
14 are not less than 10 percent of the transmission and distribution
15 utility's energy efficiency budget for the year. A targeted
16 low-income energy efficiency program must comply with the same
17 audit requirements that apply to federal weatherization
18 subrecipients. In an energy efficiency cost recovery factor
19 proceeding related to expenditures under this subsection, the
20 commission shall make findings of fact regarding whether the
21 utility meets requirements imposed under this subsection. The
22 state agency that administers the federal weatherization
23 assistance program shall ~~[provide reports as required by the~~
24 ~~commission to provide the most current information available on~~
25 ~~energy and peak demand savings achieved in each transmission and~~
26 ~~distribution utility service area. The agency shall]~~ participate
27 in energy efficiency cost recovery factor proceedings related to

1 expenditures under this subsection to ensure that targeted
2 low-income weatherization programs are consistent with federal
3 weatherization programs and adequately funded.

4 ARTICLE 5. REPEALER

5 SECTION 5.01. The following provisions of the Government
6 Code are repealed:

- 7 (1) Section 2306.255(h); and
8 (2) Section 2306.560(d).

9 ARTICLE 6. TRANSITION PROVISIONS

10 SECTION 6.01. The change in law made by this Act to Sections
11 2306.043, 2306.044, 2306.045, 2306.046, and 2306.049, Government
12 Code, applies only to a violation committed on or after the
13 effective date of this Act. A violation committed before the
14 effective date of this Act is governed by the law in effect when the
15 violation was committed, and the former law is continued in effect
16 for that purpose.

17 SECTION 6.02. The change in law made by this Act to Section
18 2306.6022, Government Code, applies only to a complaint filed on or
19 after the effective date of this Act. A complaint filed before the
20 effective date of this Act is governed by the law in effect at the
21 time the complaint was filed, and the former law is continued in
22 effect for that purpose.

23 SECTION 6.03. The changes in law made by this Act in
24 amending Section 2306.6710, Government Code, and adding Section
25 2306.67071, Government Code, apply only to an application for low
26 income housing tax credits that is submitted to the Texas
27 Department of Housing and Community Affairs during an application

1 cycle that begins on or after the effective date of this Act. An
2 application that is submitted during an application cycle that
3 began before the effective date of this Act is governed by the law
4 in effect at the time the application cycle began, and the former
5 law is continued in effect for that purpose.

6 SECTION 6.04. Notwithstanding Sections 1201.101(f-1) and
7 1201.106(a), Occupations Code, as amended by this Act, a retailer
8 licensed to operate one or more branch locations on or before the
9 effective date of this Act is not required to comply with the
10 changes in law made by those sections until March 1, 2014.

11 SECTION 6.05. (a) The change in law made by this Act in
12 amending Sections 1201.103 and 1201.104, Occupations Code, applies
13 only to an application for a license filed with the executive
14 director of the manufactured housing division of the Texas
15 Department of Housing and Community Affairs on or after the
16 effective date of this Act. An application for a license filed
17 before that date is governed by the law in effect on the date the
18 application was filed, and the former law is continued in effect for
19 that purpose.

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

1 purpose.

2 (c) The change in law made by this Act in amending Section
3 1201.116, Occupations Code, applies only to an application for a
4 license renewal filed with the executive director of the
5 manufactured housing division of the Texas Department of Housing
6 and Community Affairs on or after the effective date of this Act.
7 An application for a license renewal filed before that date is
8 governed by the law in effect on the date the application was filed,
9 and the former law is continued in effect for that purpose.

10 ARTICLE 7. EFFECTIVE DATE

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

President of the Senate

Speaker of the House

I certify that H.B. No. 3361 was passed by the House on April 25, 2013, by the following vote: Yeas 106, Nays 28, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3361 on May 22, 2013, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 3361 on May 26, 2013, by the following vote: Yeas 125, Nays 19, 2 present, not voting.

Chief Clerk of the House

H.B. No. 3361

I certify that H.B. No. 3361 was passed by the Senate, with amendments, on May 17, 2013, by the following vote: Yeas 29, Nays 1; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 3361 on May 26, 2013, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor