

1-1 By: Dutton (Senate Sponsor - Birdwell) H.B. No. 3361
1-2 (In the Senate - Received from the House April 29, 2013;
1-3 April 29, 2013, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 10, 2013, reported adversely,
1-5 with favorable Committee Substitute by the following vote: Yeas 5,
1-6 Nays 0; May 10, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Hinojosa	X		
1-10	Nichols	X		
1-11	Garcia	X		
1-12	Paxton	X		
1-13	Taylor	X		

1-14 COMMITTEE SUBSTITUTE FOR H.B. No. 3361 By: Nichols

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to the continuation and functions of the Texas Department
1-18 of Housing and Community Affairs; authorizing and otherwise
1-19 affecting the application of certain fees.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 ARTICLE 1. GENERAL OPERATIONS AND ADMINISTRATION OF THE TEXAS

1-22 DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

1-23 SECTION 1.01. Section 2306.022, Government Code, is amended
1-24 to read as follows:

1-25 Sec. 2306.022. APPLICATION OF SUNSET ACT. The Texas
1-26 Department of Housing and Community Affairs is subject to Chapter
1-27 325 (Texas Sunset Act). Unless continued in existence as provided
1-28 by that chapter, the department is abolished and this chapter
1-29 expires September 1, 2025 [~~2013~~].

1-30 SECTION 1.02. Section 2306.043(c), Government Code, is
1-31 amended to read as follows:

1-32 (c) The notice must:

1-33 (1) include a brief summary of the alleged violation;
1-34 (2) state the amount of the recommended penalty; and
1-35 (3) inform the person of the person's right to a
1-36 hearing before the State Office of Administrative Hearings [~~board~~]
1-37 on the occurrence of the violation, the amount of the penalty, or
1-38 both.

1-39 SECTION 1.03. Section 2306.044(a), Government Code, is
1-40 amended to read as follows:

1-41 (a) Not later than the 20th day after the date the person
1-42 receives the notice, the person in writing may:

1-43 (1) accept the determination and recommended penalty
1-44 of the director; or

1-45 (2) make a request for a hearing before the State
1-46 Office of Administrative Hearings [~~board~~] on the occurrence of the
1-47 violation, the amount of the penalty, or both.

1-48 SECTION 1.04. Section 2306.045, Government Code, is amended
1-49 to read as follows:

1-50 Sec. 2306.045. HEARING. (a) If the person requests a
1-51 hearing before the State Office of Administrative Hearings [~~board~~]
1-52 or fails to respond in a timely manner to the notice, the director
1-53 shall set a hearing and give written notice of the hearing to the
1-54 person.

1-55 (b) The State Office of Administrative Hearings [~~board~~]
1-56 shall:

1-57 (1) hold the hearing;

1-58 (2) [~~and~~] make findings of fact and conclusions of law
1-59 about the occurrence of the violation and the amount of a proposed
1-60 penalty; and

2-1 (3) issue a proposal for decision regarding the
2-2 penalty and provide notice of the proposal to the board.

2-3 (c) Any administrative proceedings relating to the
2-4 imposition of a penalty under Section 2306.041 is a contested case
2-5 under Chapter 2001.

2-6 SECTION 1.05. Section 2306.046(a), Government Code, is
2-7 amended to read as follows:

2-8 (a) The board shall issue an order after receiving a
2-9 proposal for decision from the State Office of Administrative
2-10 Hearings under Section 2306.045. [Based on the findings of fact and
2-11 conclusions of law, the board by order may:

2-12 [~~(1) find that a violation occurred and impose a~~
2-13 penalty, or

2-14 [~~(2) find that a violation did not occur.~~]

2-15 SECTION 1.06. Section 2306.049(a), Government Code, is
2-16 amended to read as follows:

2-17 (a) Judicial review of a board order imposing an
2-18 administrative penalty is under the substantial evidence rule [by
2-19 trial de novo].

2-20 SECTION 1.07. Section 2306.6721, Government Code, is
2-21 transferred to Subchapter B, Chapter 2306, Government Code,
2-22 redesignated as Section 2306.0504, Government Code, and amended to
2-23 read as follows:

2-24 Sec. 2306.0504 [~~2306.6721~~]. DEBARMENT FROM PROGRAM
2-25 PARTICIPATION. (a) The board by rule shall adopt a policy
2-26 providing for the debarment of a person from participation in
2-27 programs administered by the department [~~the low income housing tax~~
2-28 credit program as described by this section].

2-29 (b) The department may debar a person from participation in
2-30 a department [~~the~~] program on the basis of the person's past failure
2-31 to comply with any condition imposed by the department in the
2-32 administration of its programs [~~connection with the allocation of~~
2-33 housing tax credits].

2-34 (c) The department shall debar a person from participation
2-35 in a department [~~the~~] program if the person:

2-36 (1) materially or repeatedly violates any condition
2-37 imposed by the department in connection with the administration of
2-38 a department program, including a material or repeated violation of
2-39 a land use restriction agreement regarding a development supported
2-40 with a [~~allocation of~~] housing tax credit allocation [~~credits~~]; or

2-41 (2) is debarred from participation in federal housing
2-42 programs by the United States Department of Housing and Urban
2-43 Development [~~, or~~

2-44 [~~(3) is in material noncompliance with or has~~
2-45 repeatedly violated a land use restriction agreement regarding a
2-46 development supported with a housing tax credit allocation].

2-47 (d) A person debarred by the department from participation
2-48 in a department [~~the~~] program may appeal the person's debarment to
2-49 the board.

2-50 ARTICLE 2. LOW INCOME HOUSING TAX CREDIT PROGRAM

2-51 SECTION 2.01. Section 2306.67021, Government Code, is
2-52 amended to read as follows:

2-53 Sec. 2306.67021. APPLICABILITY OF SUBCHAPTER. Except as
2-54 provided by Sections [~~Section~~] 2306.6703 and 2306.67071, this
2-55 subchapter does not apply to the allocation of housing tax credits
2-56 to developments financed through the private activity bond program.

2-57 SECTION 2.02. Subchapter DD, Chapter 2306, Government Code,
2-58 is amended by adding Section 2306.67071 to read as follows:

2-59 Sec. 2306.67071. ADDITIONAL APPLICATION REQUIREMENT:
2-60 NOTICE, HEARING, AND RESOLUTION BY CERTAIN GOVERNING BODIES. (a)
2-61 Before submitting to the department an application for housing tax
2-62 credits for developments financed through the private activity bond
2-63 program, including private activity bonds issued by the department,
2-64 the Texas State Affordable Housing Corporation, or a local issuer,
2-65 an applicant must provide notice of the intent to file the
2-66 application to:

2-67 (1) the governing body of a municipality in which the
2-68 proposed development site is to be located;

2-69 (2) subject to Subdivision (3), the commissioners

3-1 court of a county in which the proposed development site is to be
3-2 located, if the proposed site is to be located in an area of a county
3-3 that is not part of a municipality; or

3-4 (3) the commissioners court of a county in which the
3-5 proposed development site is to be located and the governing body of
3-6 the applicable municipality, if the proposed site is to be located
3-7 in the extraterritorial jurisdiction of a municipality.

3-8 (b) A county or municipality, as applicable, shall hold a
3-9 hearing at which public comment may be made on the application.

3-10 (c) The board may not approve an application for housing tax
3-11 credits for developments financed through the private activity bond
3-12 program unless the applicant has submitted to the department a
3-13 certified copy of a resolution from each applicable governing body
3-14 described by Subsection (a). The resolution must certify that:

3-15 (1) notice has been provided to each governing body as
3-16 required by Subsection (a);

3-17 (2) each governing body has had sufficient opportunity
3-18 to obtain a response from the applicant regarding any questions or
3-19 concerns about the proposed development;

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

3-22 (4) after due consideration of the information
3-23 provided by the applicant and public comment, the governing body
3-24 does not object to the filing of the proposed application.

3-25 (d) The department by rule may provide for the time and
3-26 manner of the submission to the department of a resolution required
3-27 by Subsection (c).

3-28 SECTION 2.03. Section 2306.6710(b), Government Code, is
3-29 amended to read as follows:

3-30 (b) If an application satisfies the threshold criteria, the
3-31 department shall score and rank the application using a point
3-32 system that:

3-33 (1) prioritizes in descending order criteria
3-34 regarding:

3-35 (A) financial feasibility of the development
3-36 based on the supporting financial data required in the application
3-37 that will include a project underwriting pro forma from the
3-38 permanent or construction lender;

3-39 (B) quantifiable community participation with
3-40 respect to the development, evaluated on the basis of a resolution
3-41 concerning the development that is voted on and adopted by the
3-42 following, as applicable:

3-43 (i) the governing body of a municipality in
3-44 which ~~written statements from any neighborhood organizations on~~
3-45 ~~record with the state or county in which the development is to be~~
3-46 ~~located and whose boundaries contain] the proposed development site~~
3-47 ~~is to be located;~~

3-48 (ii) subject to Subparagraph (iii), the
3-49 commissioners court of a county in which the proposed development
3-50 site is to be located, if the proposed site is to be located in an
3-51 area of a county that is not part of a municipality; or

3-52 (iii) the commissioners court of a county
3-53 in which the proposed development site is to be located and the
3-54 governing body of the applicable municipality, if the proposed site
3-55 is to be located in the extraterritorial jurisdiction of a
3-56 municipality;

3-57 (C) the income levels of tenants of the
3-58 development;

3-59 (D) the size and quality of the units;

3-60 (E) the commitment of development funding by
3-61 local political subdivisions;

3-62 (F) ~~the level of community support for the~~
3-63 ~~application, evaluated on the basis of written statements from the~~
3-64 ~~state representative or the state senator that represents the~~
3-65 ~~district containing the proposed development site;~~

3-66 ~~[(G)] the rent levels of the units;~~

3-67 (G) ~~[(H)] the cost of the development by square~~
3-68 foot;

3-69 (H) ~~[(I)] the services to be provided to tenants~~

4-1 of the development; ~~and~~
4-2 (I) [~~(J)~~] whether, at the time the complete
4-3 application is submitted or at any time within the two-year period
4-4 preceding the date of submission, the proposed development site is
4-5 located in an area declared to be a disaster under Section 418.014;
4-6 and

4-7 (J) quantifiable community participation with
4-8 respect to the development, evaluated on the basis of written
4-9 statements from any neighborhood organizations on record with the
4-10 state or county in which the development is to be located and whose
4-11 boundaries contain the proposed development site;

4-12 (2) uses criteria imposing penalties on applicants or
4-13 affiliates who have requested extensions of department deadlines
4-14 relating to developments supported by housing tax credit
4-15 allocations made in the application round preceding the current
4-16 round or a developer or principal of the applicant that has been
4-17 removed by the lender, equity provider, or limited partners for its
4-18 failure to perform its obligations under the loan documents or
4-19 limited partnership agreement; and

4-20 (3) encourages applicants to provide free notary
4-21 public service to the residents of the developments for which the
4-22 allocation of housing tax credits is requested.

4-23 SECTION 2.04. Section 2306.6717(a), Government Code, is
4-24 amended to read as follows:

4-25 (a) Subject to Section 2306.67041, the department shall
4-26 make the following items available on the department's website:

4-27 (1) as soon as practicable, any proposed application
4-28 submitted through the preapplication process established by this
4-29 subchapter;

4-30 (2) before the 30th day preceding the date of the
4-31 relevant board allocation decision, except as provided by
4-32 Subdivision (3), the entire application, including all supporting
4-33 documents and exhibits, the application log, a scoring sheet
4-34 providing details of the application score, and any other document
4-35 relating to the processing of the application;

4-36 (3) not later than the third working day after the date
4-37 of the relevant determination, the results of each stage of the
4-38 application process, including the results of the application
4-39 scoring and underwriting phases and the allocation phase;

4-40 (4) before the 15th day preceding the date of board
4-41 action on the amendment, notice of an amendment under Section
4-42 2306.6712 and the recommendation of the director and monitor
4-43 regarding the amendment; and

4-44 (5) an appeal filed with the department or board under
4-45 Section 2306.0504 or 2306.6715 [~~or 2306.6721~~] and any other
4-46 document relating to the processing of the appeal.

4-47 SECTION 2.05. Section 2306.6718(b), Government Code, is
4-48 amended to read as follows:

4-49 (b) The department shall provide the elected officials with
4-50 an opportunity to comment on the application during the application
4-51 evaluation process [~~provided by Section 2306.6710~~] and shall
4-52 consider those comments in evaluating applications [~~under that~~
4-53 ~~section~~].

4-54 SECTION 2.06. Section 2306.6719, Government Code, is
4-55 amended by adding Subsections (c), (d), (e), and (f) to read as
4-56 follows:

4-57 (c) For a violation other than a violation that poses an
4-58 imminent hazard or threat to health and safety, the department must
4-59 provide the owner of a development with the following periods to
4-60 correct a failure to comply with a condition or law described by
4-61 Subsection (a)(1) or (2):

4-62 (1) 30 days for a failure to file the annual owner's
4-63 compliance report; and

4-64 (2) 90 days for any other failure to comply under this
4-65 section.

4-66 (d) For good cause shown, the executive director may extend
4-67 the periods provided under Subsection (c).

4-68 (e) Solely for purposes of determining eligibility to apply
4-69 for and receive financial assistance from the department, a

5-1 development may not be considered to be in noncompliance with an
 5-2 applicable condition or law if the owner of the development takes
 5-3 appropriate corrective action during the period provided under
 5-4 Subsection (c).

5-5 (f) Notwithstanding Subsection (e), the department shall:

5-6 (1) submit to the applicable federal agency any report
 5-7 required by federal law regarding an owner's noncompliance with a
 5-8 condition or law described by Subsection (a)(1) or (2); and

5-9 (2) for purposes of developing and administering the
 5-10 policy relating to debarment under Section 2306.0504, consider
 5-11 recurring violations of a condition or law described by Subsection
 5-12 (a)(1) or (2), including violations that are corrected during the
 5-13 applicable period provided under Subsection (c).

5-14 SECTION 2.07. Subchapter DD, Chapter 2306, Government Code,
 5-15 is amended by adding Section 2306.6739 to read as follows:

5-16 Sec. 2306.6739. HOUSING TAX CREDITS FINANCED USING FEDERAL
 5-17 EMERGENCY FUNDS. (a) To the extent the department receives federal
 5-18 emergency funds that must be awarded by the department in the same
 5-19 manner as and that are subject to the same limitations as awards of
 5-20 housing tax credits, any reference in this chapter to the
 5-21 administration of the housing tax credit program applies equally to
 5-22 the administration of the federal funds, subject to Subsection (b).

5-23 (b) Notwithstanding any other law, the department may
 5-24 establish a separate application procedure for the federal
 5-25 emergency funds that does not follow the uniform application cycle
 5-26 required by Section 2306.1111 or the deadlines established by
 5-27 Section 2306.6724, and any reference in this chapter to an
 5-28 application period occurring in relation to those federal emergency
 5-29 funds refers to the period beginning on the date the department
 5-30 begins accepting applications for the federal funds and continuing
 5-31 until all of the available federal funds are awarded.

5-32 ARTICLE 3. MANUFACTURED HOUSING

5-33 SECTION 3.01. Section 2306.6022, Government Code, is
 5-34 amended by adding Subsections (e) and (f) to read as follows:

5-35 (e) The division director may allow an authorized employee
 5-36 of the division to dismiss a complaint if an investigation
 5-37 demonstrates that:

5-38 (1) a violation did not occur; or

5-39 (2) the subject of the complaint is outside the
 5-40 division's jurisdiction under this subchapter.

5-41 (f) An employee who dismisses a complaint under Subsection
 5-42 (e) shall report the dismissal to the division director and the
 5-43 board. The report must include a sufficient explanation of the
 5-44 reason the complaint was dismissed.

5-45 SECTION 3.02. Subchapter AA, Chapter 2306, Government Code,
 5-46 is amended by adding Section 2306.6023 to read as follows:

5-47 Sec. 2306.6023. NEGOTIATED RULEMAKING AND ALTERNATIVE
 5-48 DISPUTE RESOLUTION. (a) The division shall develop and implement a
 5-49 policy to encourage the use of:

5-50 (1) negotiated rulemaking procedures under Chapter
 5-51 2008 for the adoption of division rules; and

5-52 (2) appropriate alternative dispute resolution
 5-53 procedures under Chapter 2009 to assist in the resolution of
 5-54 internal and external disputes under the division's jurisdiction.

5-55 (b) The division's procedures relating to alternative
 5-56 dispute resolution must conform, to the extent possible, to any
 5-57 model guidelines issued by the State Office of Administrative
 5-58 Hearings for the use of alternative dispute resolution by state
 5-59 agencies.

5-60 (c) The division shall:

5-61 (1) coordinate the implementation of the policy
 5-62 adopted under Subsection (a);

5-63 (2) provide training as needed to implement the
 5-64 procedures for negotiated rulemaking or alternative dispute
 5-65 resolution; and

5-66 (3) collect data concerning the effectiveness of those
 5-67 procedures.

5-68 SECTION 3.03. Section 1201.003(17), Occupations Code, is
 5-69 amended to read as follows:

6-1 (17) "License holder" or "licensee" means a person who
6-2 holds a department-issued license as a manufacturer, retailer,
6-3 broker, ~~[rebuilder,]~~ salesperson, or installer.

6-4 SECTION 3.04. Sections 1201.055(a) and (b), Occupations
6-5 Code, are amended to read as follows:

6-6 (a) With guidance from the federal Housing and Community
6-7 Development Act of 1974 (42 U.S.C. Section 5301 et seq.) and from
6-8 the rules and regulations adopted under the National Manufactured
6-9 Housing Construction and Safety Standards Act of 1974 (42 U.S.C.
6-10 Section 5401 et seq.), the board shall establish fees as follows:

6-11 (1) if the department acts as a design approval
6-12 primary inspection agency, a schedule of fees for the review of
6-13 HUD-code manufactured home blueprints and supporting information,
6-14 to be paid by the manufacturer seeking approval of the blueprints
6-15 and supporting information;

6-16 (2) except as provided by Subsection (e), a fee for the
6-17 inspection of each HUD-code manufactured home manufactured or
6-18 assembled in this state, to be paid by the manufacturer of the home;

6-19 (3) a fee for the inspection of an alteration made to
6-20 the structure or plumbing, heating, or electrical system of a
6-21 HUD-code manufactured home, to be charged on an hourly basis and to
6-22 be paid by the person making the alteration;

6-23 (4) a fee for the inspection of the rebuilding of a
6-24 salvaged manufactured home, to be paid by the retailer ~~[rebuilder]~~;

6-25 (5) a fee for the inspection of a used manufactured
6-26 home to determine whether the home is habitable for the issuance of
6-27 a new statement of ownership and location; and

6-28 (6) a fee for the issuance of a seal for a used mobile
6-29 or HUD-code manufactured home.

6-30 (b) In addition to the fees imposed under Subsections
6-31 (a)(2), (3), and (4), a manufacturer or ~~[r]~~ a person making an
6-32 alteration, ~~[or a rebuilder,]~~ as appropriate, shall be charged for
6-33 the actual cost of travel of a department representative to and
6-34 from:

6-35 (1) the manufacturing facility, for an inspection
6-36 described by Subsection (a)(2); or

6-37 (2) the place of inspection, for an inspection
6-38 described by Subsection (a)(3) or (4).

6-39 SECTION 3.05. Section 1201.056, Occupations Code, is
6-40 amended to read as follows:

6-41 Sec. 1201.056. LICENSE FEES. (a) The board shall establish
6-42 fees for the issuance and renewal of licenses for:

- 6-43 (1) manufacturers;
- 6-44 (2) retailers;
- 6-45 (3) brokers;
- 6-46 (4) salespersons; and
- 6-47 (5) ~~[rebuilders, and~~
- 6-48 ~~[(6)]~~ installers.

6-49 (b) The board by rule may establish a fee for reprinting a
6-50 license issued under this chapter.

6-51 SECTION 3.06. Sections 1201.101(e) and (f-1), Occupations
6-52 Code, are amended to read as follows:

6-53 (e) A person may not repair, rebuild, or otherwise alter a
6-54 salvaged manufactured home unless the person holds a ~~[rebuilder's~~
6-55 ~~or]~~ retailer's license.

6-56 (f-1) A retailer may not be licensed to operate more than
6-57 [at a principal location and] one location ~~[or more branch~~
6-58 ~~locations]~~ under a single license ~~[, provided, however, that a~~
6-59 ~~separate application must be made for each branch, and each branch~~
6-60 ~~must be separately bonded].~~

6-61 SECTION 3.07. Sections 1201.103(a) and (b), Occupations
6-62 Code, are amended to read as follows:

6-63 (a) An applicant for a license as a manufacturer, retailer,
6-64 broker, ~~[rebuilder,]~~ or installer must file with the director a
6-65 license application containing:

6-66 (1) the legal name, address, and telephone number of
6-67 the applicant and each person who will be a related person at the
6-68 time the requested license is issued;

6-69 (2) all trade names, and the names of all other

7-1 business organizations, under which the applicant does business
7-2 subject to this chapter, the name of each such business
7-3 organization registered with the secretary of state, and the
7-4 address of such business organization;

7-5 (3) the dates on which the applicant became the owner
7-6 and operator of the business; and

7-7 (4) the location to which the license will apply.

7-8 (b) A license application must be accompanied by:

7-9 (1) proof of the security required by this subchapter;

7-10 [~~and~~]

7-11 (2) payment of the fee required for issuance of the
7-12 license; and

7-13 (3) the information and the cost required under
7-14 Section 1201.1031.

7-15 SECTION 3.08. Subchapter C, Chapter 1201, Occupations Code,
7-16 is amended by adding Section 1201.1031 to read as follows:

7-17 Sec. 1201.1031. CRIMINAL HISTORY RECORD INFORMATION

7-18 REQUIREMENT FOR LICENSE. (a) The department shall require that an

7-19 applicant for a license or renewal of an unexpired license submit a

7-20 complete and legible set of fingerprints, on a form prescribed by

7-21 the board, to the department or to the Department of Public Safety

7-22 for the purpose of obtaining criminal history record information

7-23 from the Department of Public Safety and the Federal Bureau of

7-24 Investigation. The applicant is required to submit a set of

7-25 fingerprints only once under this section unless a replacement set

7-26 is otherwise needed to complete the criminal history check required

7-27 by this section.

7-28 (b) The department shall refuse to issue a license to or

7-29 renew the license of a person who does not comply with the

7-30 requirement of Subsection (a).

7-31 (c) The department shall conduct a criminal history check of

7-32 each applicant for a license or renewal of a license using

7-33 information:

7-34 (1) provided by the individual under this section; and

7-35 (2) made available to the department by the Department

7-36 of Public Safety, the Federal Bureau of Investigation, and any

7-37 other criminal justice agency under Chapter 411, Government Code.

7-38 (d) The department may enter into an agreement with the

7-39 Department of Public Safety to administer a criminal history check

7-40 required under this section.

7-41 (e) The applicant shall pay the cost of a criminal history

7-42 check under this section.

7-43 SECTION 3.09. Section 1201.104(a), Occupations Code, is

7-44 amended to read as follows:

7-45 (a) Except as provided by Subsection (g), as a requirement

7-46 for a manufacturer's, retailer's, broker's, installer's, [~~salvage~~

7-47 ~~rebuilder's,~~] or salesperson's license, a person who was not

7-48 licensed or registered with the department or a predecessor agency

7-49 on September 1, 1987, must, not more than 12 months before applying

7-50 for the person's first license under this chapter, attend and

7-51 successfully complete eight hours of instruction in the law,

7-52 including instruction in consumer protection regulations.

7-53 SECTION 3.10. Section 1201.106(a), Occupations Code, is

7-54 amended to read as follows:

7-55 (a) An applicant for a license or a license holder shall

7-56 file a bond or other security under Section 1201.105 for the

7-57 issuance or renewal of a license in the following amount:

7-58 (1) \$100,000 for a manufacturer;

7-59 (2) \$50,000 for a retailer [~~retailer's principal~~

7-60 ~~location~~];

7-61 (3) [~~\$50,000 for each retailer's branch location,~~

7-62 [~~(4) \$50,000 for a rebuilder,~~

7-63 [~~(5) \$50,000 for a broker; or~~

7-64 (4) [~~(6) \$25,000 for an installer.~~

7-65 SECTION 3.11. Section 1201.110, Occupations Code, is

7-66 amended to read as follows:

7-67 Sec. 1201.110. SECURITY: DURATION. The department shall

7-68 maintain on file a security other than a bond canceled as provided

7-69 by Section 1201.109(a) until the later of:

8-1 (1) the second anniversary of the date the
 8-2 manufacturer, retailer, broker, or installer [~~, or rebuilder~~]
 8-3 ceases doing business; or

8-4 (2) the date the director determines that a claim does
 8-5 not exist against the security.

8-6 SECTION 3.12. Section 1201.116(a), Occupations Code, is
 8-7 amended to read as follows:

8-8 (a) The department shall renew a license if, before the
 8-9 expiration date of the license, the department receives the renewal
 8-10 application and payment of the required fee as well as the cost
 8-11 required under Section 1201.1031 [~~before the expiration date of the~~
 8-12 ~~license~~].

8-13 SECTION 3.13. Section 1201.357, Occupations Code, is
 8-14 amended by adding Subsection (b-1) to read as follows:

8-15 (b-1) As authorized by Section 1201.6041, the director may
 8-16 order a manufacturer, retailer, or installer, as applicable, to pay
 8-17 a refund directly to a consumer as part of an agreed order described
 8-18 by Subsection (b) instead of or in addition to instituting an
 8-19 administrative action under this chapter.

8-20 SECTION 3.14. Section 1201.461(d), Occupations Code, is
 8-21 amended to read as follows:

8-22 (d) A person may not sell, convey, or otherwise transfer to
 8-23 a consumer in this state a manufactured home that is salvaged. A
 8-24 salvaged manufactured home may be sold only to a licensed retailer
 8-25 [~~or licensed rebuilder~~].

8-26 SECTION 3.15. Subchapter M, Chapter 1201, Occupations Code,
 8-27 is amended by adding Section 1201.6041 to read as follows:

8-28 Sec. 1201.6041. DIRECT CONSUMER COMPENSATION. (a) Instead
 8-29 of requiring a consumer to apply for compensation from the trust
 8-30 fund under Subchapter I, the director may order a manufacturer,
 8-31 retailer, broker, or installer, as applicable, to pay a refund
 8-32 directly to a consumer who sustains actual damages resulting from
 8-33 an unsatisfied claim against a licensed manufacturer, retailer,
 8-34 broker, or installer if the unsatisfied claim results from a
 8-35 violation of:

8-36 (1) this chapter;
 8-37 (2) a rule adopted by the director;
 8-38 (3) the National Manufactured Housing Construction
 8-39 and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.);
 8-40 (4) a rule or regulation of the United States
 8-41 Department of Housing and Urban Development; or
 8-42 (5) Subchapter E, Chapter 17, Business & Commerce
 8-43 Code.

8-44 (b) For purposes of this section, the refund of a consumer's
 8-45 actual damages is determined according to Section 1201.405.

8-46 (c) The director shall prepare information for notifying
 8-47 consumers of the director's option to order a direct refund under
 8-48 this section, shall post the information on the department's
 8-49 Internet website, and shall make printed copies available on
 8-50 request.

8-51 SECTION 3.16. Sections 1201.610(a), (b), and (f),
 8-52 Occupations Code, are amended to read as follows:

8-53 (a) The [~~If the director has reasonable cause to believe~~
 8-54 ~~that a person licensed under this chapter has violated or is about~~
 8-55 ~~to violate any provision of this chapter or rules adopted by the~~
 8-56 ~~department under this chapter, the] director may issue without
 8-57 notice and hearing an order to cease and desist from continuing a
 8-58 particular action or an order to take affirmative action, or both,
 8-59 to enforce compliance with this chapter if the director has
 8-60 reasonable cause to believe that a person has violated or is about
 8-61 to violate any provision of this chapter or a rule adopted under
 8-62 this chapter.~~

8-63 (b) The director may issue an order to any person [~~licensee~~]
 8-64 to cease and desist from violating any law, rule, or written
 8-65 agreement or to take corrective action with respect to any such
 8-66 violations if the violations in any way are related to the sale,
 8-67 financing, or installation of a manufactured home or the providing
 8-68 of goods or services in connection with the sale, financing, or
 8-69 installation of a manufactured home unless the matter that is the

9-1 basis of such violation is expressly subject to inspection and
9-2 regulation by another state agency; provided, however, that if any
9-3 matter involves a law that is subject to any other administration or
9-4 interpretation by another agency, the director shall consult with
9-5 the person in charge of the day-to-day administration of that
9-6 agency before issuing an order.

9-7 (f) If a person licensed under this chapter fails to pay an
9-8 administrative penalty that has become final or fails to comply
9-9 with an order of the director that has become final, in addition to
9-10 any other remedy provided by law, the director, after not less than
9-11 10 days' notice to the person, may without a prior hearing suspend
9-12 the person's license. The suspension shall continue until the
9-13 person has complied with the cease and desist order or paid the
9-14 administrative penalty. During the period of suspension, the
9-15 person may not perform any act requiring a license under this
9-16 chapter, and all compensation received by the person during the
9-17 period of suspension is subject to forfeiture to the person from
9-18 whom it was received.

9-19 SECTION 3.17. Section 1302.061, Occupations Code, is
9-20 amended to read as follows:

9-21 Sec. 1302.061. MANUFACTURED HOMES. This chapter does not
9-22 apply to a person or entity licensed as a manufacturer, retailer,
9-23 ~~[rebuilder,~~ or installer under Chapter 1201 and engaged
9-24 exclusively in air conditioning and refrigeration contracting for
9-25 manufactured homes if the installation of air conditioning
9-26 components at the site where the home will be occupied is performed
9-27 by a person licensed under this chapter.

9-28 ARTICLE 4. WEATHERIZATION ASSISTANCE PROGRAM

9-29 SECTION 4.01. Section 39.905(f), Utilities Code, is amended
9-30 to read as follows:

9-31 (f) Unless funding is provided under Section 39.903, each
9-32 unbundled transmission and distribution utility shall include in
9-33 its energy efficiency plan a targeted low-income energy efficiency
9-34 program as described by Section 39.903(f)(2), and the savings
9-35 achieved by the program shall count toward the transmission and
9-36 distribution utility's energy efficiency goal. The commission
9-37 shall determine the appropriate level of funding to be allocated to
9-38 both targeted and standard offer low-income energy efficiency
9-39 programs in each unbundled transmission and distribution utility
9-40 service area. The level of funding for low-income energy
9-41 efficiency programs shall be provided from money approved by the
9-42 commission for the transmission and distribution utility's energy
9-43 efficiency programs. The commission shall ensure that annual
9-44 expenditures for the targeted low-income energy efficiency
9-45 programs of each unbundled transmission and distribution utility
9-46 are not less than 10 percent of the transmission and distribution
9-47 utility's energy efficiency budget for the year. A targeted
9-48 low-income energy efficiency program must comply with the same
9-49 audit requirements that apply to federal weatherization
9-50 subrecipients. In an energy efficiency cost recovery factor
9-51 proceeding related to expenditures under this subsection, the
9-52 commission shall make findings of fact regarding whether the
9-53 utility meets requirements imposed under this subsection. The
9-54 state agency that administers the federal weatherization
9-55 assistance program shall ~~[provide reports as required by the~~
9-56 ~~commission to provide the most current information available on~~
9-57 ~~energy and peak demand savings achieved in each transmission and~~
9-58 ~~distribution utility service area. The agency shall]~~ participate
9-59 in energy efficiency cost recovery factor proceedings related to
9-60 expenditures under this subsection to ensure that targeted
9-61 low-income weatherization programs are consistent with federal
9-62 weatherization programs and adequately funded.

9-63 ARTICLE 5. REPEALER

9-64 SECTION 5.01. The following provisions of the Government
9-65 Code are repealed:

- 9-66 (1) Section 2306.255(h);
- 9-67 (2) Section 2306.560(d); and
- 9-68 (3) Section 2306.6710(f).

ARTICLE 6. TRANSITION PROVISIONS

10-1 SECTION 6.01. The change in law made by this Act to Sections
10-2 2306.043, 2306.044, 2306.045, 2306.046, and 2306.049, Government
10-3 Code, applies only to a violation committed on or after the
10-4 effective date of this Act. A violation committed before the
10-5 effective date of this Act is governed by the law in effect when the
10-6 violation was committed, and the former law is continued in effect
10-7 for that purpose.

10-8 SECTION 6.02. The change in law made by this Act to Section
10-9 2306.6022, Government Code, applies only to a complaint filed on or
10-10 after the effective date of this Act. A complaint filed before the
10-11 effective date of this Act is governed by the law in effect at the
10-12 time the complaint was filed, and the former law is continued in
10-13 effect for that purpose.

10-14 SECTION 6.03. The changes in law made by this Act in
10-15 amending Sections 2306.6710 and 2306.6718, Government Code, and
10-16 adding Section 2306.67071, Government Code, apply only to an
10-17 application for low income housing tax credits that is submitted to
10-18 the Texas Department of Housing and Community Affairs during an
10-19 application cycle that begins on or after the effective date of this
10-20 Act. An application that is submitted during an application cycle
10-21 that began before the effective date of this Act is governed by the
10-22 law in effect at the time the application cycle began, and the
10-23 former law is continued in effect for that purpose.

10-24 SECTION 6.04. Notwithstanding Sections 1201.101(f-1) and
10-25 1201.106(a), Occupations Code, as amended by this Act, a retailer
10-26 licensed to operate one or more branch locations on or before the
10-27 effective date of this Act is not required to comply with the
10-28 changes in law made by those sections until March 1, 2014.

10-29 SECTION 6.05. (a) The change in law made by this Act in
10-30 amending Sections 1201.103 and 1201.104, Occupations Code, applies
10-31 only to an application for a license filed with the executive
10-32 director of the manufactured housing division of the Texas
10-33 Department of Housing and Community Affairs on or after the
10-34 effective date of this Act. An application for a license filed
10-35 before that date is governed by the law in effect on the date the
10-36 application was filed, and the former law is continued in effect for
10-37 that purpose.

10-38 (b) The change in law made by this Act in adding Section
10-39 1201.1031, Occupations Code, applies only to an application for a
10-40 license or license renewal filed with the executive director of the
10-41 manufactured housing division of the Texas Department of Housing
10-42 and Community Affairs on or after the effective date of this Act.
10-43 An application for a license or license renewal filed before that
10-44 date is governed by the law in effect on the date the application
10-45 was filed, and the former law is continued in effect for that
10-46 purpose.

10-47 (c) The change in law made by this Act in amending Section
10-48 1201.116, Occupations Code, applies only to an application for a
10-49 license renewal filed with the executive director of the
10-50 manufactured housing division of the Texas Department of Housing
10-51 and Community Affairs on or after the effective date of this Act.
10-52 An application for a license renewal filed before that date is
10-53 governed by the law in effect on the date the application was filed,
10-54 and the former law is continued in effect for that purpose.

ARTICLE 7. EFFECTIVE DATE

10-55 SECTION 7.01. This Act takes effect September 1, 2013.

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