

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

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.

# ADOPTED

MAY 17 2013

*Atty Gen*  
Secretary of the Senate

By: Brian Birdwell

H.B. No. 3361

Substitute the following for H.B. No. 3361:

By: Robert Lee Nichols

C.S. 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 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 filing of 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. Section 2306.6710(b), Government Code, is  
11 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 and

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

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

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

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

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

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

27 (2) before the 30th day preceding the date of the

1 relevant board allocation decision, except as provided by  
2 Subdivision (3), the entire application, including all supporting  
3 documents and exhibits, the application log, a scoring sheet  
4 providing details of the application score, and any other document  
5 relating to the processing of the application;

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

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

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

17 SECTION 2.05. Section 2306.6718(b), Government Code, is  
18 amended to read as follows:

19 (b) The department shall provide the elected officials with  
20 an opportunity to comment on the application during the application  
21 evaluation process [~~provided by Section 2306.6710~~] and shall  
22 consider those comments in evaluating applications [~~under that~~  
23 ~~section~~].

24 SECTION 2.06. Section 2306.6719, Government Code, is  
25 amended by adding Subsections (c), (d), (e), and (f) to read as  
26 follows:

27 (c) For a violation other than a violation that poses an

1 imminent hazard or threat to health and safety, the department must  
2 provide the owner of a development with the following periods to  
3 correct a failure to comply with a condition or law described by  
4 Subsection (a)(1) or (2):

5 (1) 30 days for a failure to file the annual owner's  
6 compliance report; and

7 (2) 90 days for any other failure to comply under this  
8 section.

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

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

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

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

21 (2) for purposes of developing and administering the  
22 policy relating to debarment under Section 2306.0504, consider  
23 recurring violations of a condition or law described by Subsection  
24 (a)(1) or (2), including violations that are corrected during the  
25 applicable period provided under Subsection (c).

26 SECTION 2.07. Subchapter DD, Chapter 2306, Government Code,  
27 is amended by adding Section 2306.6739 to read as follows:



1 board. The report must include a sufficient explanation of the  
2 reason the complaint was dismissed.

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

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

8 (1) negotiated rulemaking procedures under Chapter  
9 2008 for the adoption of division rules; and

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

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

18 (c) The division shall:

19 (1) coordinate the implementation of the policy  
20 adopted under Subsection (a);

21 (2) provide training as needed to implement the  
22 procedures for negotiated rulemaking or alternative dispute  
23 resolution; and

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

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

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

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

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

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

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

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

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

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



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

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

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

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

12           SECTION 3.05. Section 1201.056, Occupations Code, is  
13 amended to read as follows:

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

- 16           (1) manufacturers;  
17           (2) retailers;  
18           (3) brokers;  
19           (4) salespersons; and  
20           (5) [~~rebuilters, and~~  
21           [~~(6)~~] installers.

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

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

26           (e) A person may not repair, rebuild, or otherwise alter a  
27 salvaged manufactured home unless the person holds a [~~rebuilder's~~

1 ~~or~~] retailer's license.

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

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

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

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

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

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

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

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

24 (1) proof of the security required by this subchapter;  
25 ~~[and]~~

26 (2) payment of the fee required for issuance of the  
27 license; and

1           (3) the information and the cost required under  
2 Section 1201.1031.

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

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

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

19           (c) The department shall conduct a criminal history check of  
20 each applicant for a license or renewal of a license using  
21 information:

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

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

26           (d) The department may enter into an agreement with the  
27 Department of Public Safety to administer a criminal history check

1 required under this section.

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

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

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

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

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

19 (1) \$100,000 for a manufacturer;

20 (2) \$50,000 for a retailer [~~retailer's principal~~  
21 ~~location~~];

22 (3) [~~\$50,000 for each retailer's branch location,~~

23 [~~(4) \$50,000 for a rebuilder,~~

24 [~~(5)~~] \$50,000 for a broker; or

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

26 SECTION 3.11. Section 1201.110, Occupations Code, is  
27 amended to read as follows:

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

4           (1) the second anniversary of the date the  
5 manufacturer, retailer, broker, or installer~~[, or rebuilder]~~  
6 ceases doing business; or

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

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

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

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

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

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

25           (d) A person may not sell, convey, or otherwise transfer to  
26 a consumer in this state a manufactured home that is salvaged. A  
27 salvaged manufactured home may be sold only to a licensed retailer

1 [~~or licensed rebuilder~~].

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

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

12 (1) this chapter;

13 (2) a rule adopted by the director;

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

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

18 (5) Subchapter E, Chapter 17, Business & Commerce  
19 Code.

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

22 (c) The director shall prepare information for notifying  
23 consumers of the director's option to order a direct refund under  
24 this section, shall post the information on the department's  
25 Internet website, and shall make printed copies available on  
26 request.

27 SECTION 3.16. Sections 1201.610(a), (b), and (f),

1 Occupations Code, are amended to read as follows:

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

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

25       (f) If a person licensed under this chapter fails to pay an  
26 administrative penalty that has become final or fails to comply  
27 with an order of the director that has become final, in addition to

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

10 SECTION 3.17. Section 1302.061, Occupations Code, is  
11 amended to read as follows:

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

19 ARTICLE 4. WEATHERIZATION ASSISTANCE PROGRAM

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

22 (f) Unless funding is provided under Section 39.903, each  
23 unbundled transmission and distribution utility shall include in  
24 its energy efficiency plan a targeted low-income energy efficiency  
25 program as described by Section 39.903(f)(2), and the savings  
26 achieved by the program shall count toward the transmission and  
27 distribution utility's energy efficiency goal. The commission



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

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ARTICLE 5. REPEALER

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

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

ARTICLE 6. TRANSITION PROVISIONS

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

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

SECTION 6.03. The changes in law made by this Act in amending Sections 2306.6710 and 2306.6718, Government Code, and adding Section 2306.67071, Government Code, apply only to an application for low income housing tax credits that is submitted to the Texas Department of Housing and Community Affairs during an application cycle that begins on or after the effective date of this Act. An application that is submitted during an application cycle

1 that began before the effective date of this Act is governed by the  
2 law in effect at the time the application cycle began, and the  
3 former law is continued in effect for that purpose.

4 SECTION 6.04. Notwithstanding Sections 1201.101(f-1) and  
5 1201.106(a), Occupations Code, as amended by this Act, a retailer  
6 licensed to operate one or more branch locations on or before the  
7 effective date of this Act is not required to comply with the  
8 changes in law made by those sections until March 1, 2014.

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

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

27 (c) The change in law made by this Act in amending Section

1 1201.116, Occupations Code, applies only to an application for a  
2 license renewal filed with the executive director of the  
3 manufactured housing division of the Texas Department of Housing  
4 and Community Affairs on or after the effective date of this Act.  
5 An application for a license renewal filed before that date is  
6 governed by the law in effect on the date the application was filed,  
7 and the former law is continued in effect for that purpose.

8                                   ARTICLE 7. EFFECTIVE DATE

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

# ADOPTED

MAY 17 2013

*Atty. Gen.*  
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Brian Birdwell*

1 Amend C.S.H.B. No. 3361 (senate committee report), in SECTION  
2 2.02 of the bill, in added Section 2306.67071(c)(4), Government  
3 Code (page 3, line 24), by striking "the filing of".

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 21, 2013**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB3361** by Dutton (Relating to the continuation and functions of the Texas Department of Housing and Community Affairs; authorizing and otherwise affecting the application of certain fees.), **As Passed 2nd House**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would amend the Government Code and the Occupations Code relating to the continuation and functions of the Texas Department of Housing and Community Affairs (TDHCA). The bill would continue TDHCA for 12 years.

Based on information provided by the TDHCA, the Sunset Advisory Commission, State Office of Administrative Hearings, and the Department of Public Safety, it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

**Local Government Impact**

The Texas Municipal League reported that there would be some costs to cities to give notice and hold hearings; however, fiscal impact would not be significant.

The Texas Association of Counties reported that Brazos County and Harris County anticipate no significant fiscal impact.

**Source Agencies:** 332 Department of Housing and Community Affairs, 116 Sunset Advisory Commission, 360 State Office of Administrative Hearings, 405 Department of Public Safety

**LBB Staff:** UP, KKR, NV, MW

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 10, 2013**

**TO:** Honorable Juan Hinojosa, Chair, Senate Committee on Intergovernmental Relations

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB3361** by Dutton (relating to the continuation and functions of the Texas Department of Housing and Community Affairs; authorizing and otherwise affecting the application of certain fees. ), **Committee Report 2nd House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Government Code and the Occupations Code relating to the continuation and functions of the Texas Department of Housing and Community Affairs (TDHCA). The bill would continue TDHCA for 12 years.

Based on information provided by the TDHCA, the Sunset Advisory Commission, State Office of Administrative Hearings, and the Department of Public Safety, it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

**Local Government Impact**

The Texas Municipal League reported that there would be some costs to cities to give notice and hold hearings; however, fiscal impact would not be significant.

The Texas Association of Counties reported that Brazos County and Harris County anticipate no significant fiscal impact.

**Source Agencies:** 332 Department of Housing and Community Affairs, 116 Sunset Advisory Commission, 360 State Office of Administrative Hearings, 405 Department of Public Safety

**LBB Staff:** UP, KKR, NV, MW

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 7, 2013**

**TO:** Honorable Juan Hinojosa, Chair, Senate Committee on Intergovernmental Relations

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB3361** by Dutton (Relating to the continuation and functions of the Texas Department of Housing and Community Affairs; authorizing and otherwise affecting the application of certain fees.), **As Engrossed**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would amend the Government Code and the Occupations Code relating to the continuation and functions of the Texas Department of Housing and Community Affairs (TDHCA). The bill would continue TDHCA for 12 years.

Based on information provided by the TDHCA, the Sunset Advisory Commission, State Office of Administrative Hearings, and the Department of Public Safety, it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

**Local Government Impact**

The Texas Municipal League reported that there would be some costs to cities to give notice and hold hearings; however, fiscal impact would not be significant.

The Texas Association of Counties reported that Brazos County and Harris County anticipate no significant fiscal impact.

**Source Agencies:** 332 Department of Housing and Community Affairs, 116 Sunset Advisory Commission, 360 State Office of Administrative Hearings, 405 Department of Public Safety

**LBB Staff:** UP, KKR, NV, MW



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**March 26, 2013**

**TO:** Honorable Harold V. Dutton, Jr., Chair, House Committee on Urban Affairs

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB3361** by Dutton (Relating to the continuation and functions of the Texas Department of Housing and Community Affairs; authorizing and otherwise affecting the application of certain fees.), **As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would amend the Government Code and the Occupations Code relating to the continuation and functions of the Texas Department of Housing and Community Affairs (TDHCA). The bill would continue TDHCA for 12 years. The bill would also establish changes for the tax credit program related to scoring, letters of support and creating new allocation cycles related to nonstandard federal assistance opportunities. The bill would clarify the TDHCA's ability to refer penalty appeals hearings to the State Office of Administrative Hearings (SOAH). The bill would authorize TDHCA to use debarment as a sanction and protection in all its programs and would require judicial review of appeals of the TDHCA's decisions to be based on the substantial evidence rule.

Regarding the Manufactured Housing Division, the bill would require the Division to conduct a fingerprint-based criminal background check of all manufactured housing licensees; grant cease-and-desist authority to the Division for unlicensed construction, sale, and installation of manufactured homes; authorize the Division to order direct refunds as part of the manufactured housing complaint settlement process; authorize Division staff to administratively dismiss baseless and non-jurisdictional complaints and report these actions to the Division's Board; eliminate the manufactured housing branch and rebuilder licenses from statute; and authorize the Division to collect a fee for reprinted manufactured housing licenses. The bill would also apply the standard Sunset across-the-board requirement for the Manufactured Housing Division to develop a policy regarding negotiated rulemaking and alternative dispute resolution.

The bill would abolish TDHCA's reports relating to energy and peak demand savings, the statutory Contract for Deed Conversion Guarantee Program, and transfers of funds, personnel, or in-kind services to the Texas State Affordable Housing Corporation.

Based on information provided by the TDHCA, the Sunset Advisory Commission, SOAH, and the Department of Public Safety, it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 116 Sunset Advisory Commission, 332 Department of Housing and Community Affairs, 360 State Office of Administrative Hearings, 405 Department of Public Safety

**LBB Staff:** UP, KKR, MW, NV