

House Bill 3361
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ARTICLE 1. GENERAL OPERATIONS AND ADMINISTRATION OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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

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

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

(c) The notice must:

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

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

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

- (1) accept the determination and recommended penalty of the director; or
- (2) make a request for a hearing before the State Office of Administrative Hearings [~~board~~] on the occurrence of the

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Same as House version.

SECTION 1.01. Same as House version.

SECTION 1.02. Same as House version.

SECTION 1.03. Same as House version.

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violation, the amount of the penalty, or both.

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

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

(b) The State Office of Administrative Hearings [~~board~~] shall:
(1) hold the hearing;

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

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

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

SECTION 1.04. Same as House version.

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

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

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

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

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

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

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

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

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

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

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

(2) is debarred from participation in federal housing programs by the United States Department of Housing and Urban

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Development[; or
~~[(3) is in material noncompliance with or has repeatedly violated a land use restriction agreement regarding a development supported with a housing tax credit allocation].~~
(d) A person debarred by the department from participation in a department ~~[the]~~ program may appeal the person's debarment to the board.

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

Sec. 2306.3591. ADDITIONAL APPLICATION REQUIREMENT: NOTICE, HEARING, AND RESOLUTION BY CERTAIN GOVERNING BODIES. (a)

Not later than the 60th day before submitting to the department an application for the issuance of private activity bonds, an applicant must provide notice of the intent to file the application to:

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

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

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

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

(c) In addition to the application information otherwise

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required under this subchapter, an application for the issuance of private activity bonds must be accompanied by a certified copy of a resolution from each governing body described by Subsection (a). The resolution must certify that:
(1) notice has been provided to the governing body as required by Subsection (a);
(2) the governing body has had sufficient opportunity to obtain a response from the applicant regarding any questions or concerns about the proposed development;
(3) the governing body has held a hearing under Subsection (b); and
(4) after due consideration of the information provided by the applicant and public comment, the governing body does not object to the filing of the proposed application.

ARTICLE 2. LOW INCOME HOUSING TAX CREDIT PROGRAM

Same as House version.

SECTION 2.01. Section 2306.67021, Government Code, is amended to read as follows:
Sec. 2306.67021. APPLICABILITY OF SUBCHAPTER. Except as provided by Sections [~~Section~~] 2306.6703 and 2306.67071, this subchapter does not apply to the allocation of housing tax credits to developments financed through the private activity bond program.

SECTION 2.01. Same as House version.

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

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

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Sec. 2306.67071. ADDITIONAL APPLICATION REQUIREMENT: NOTICE, HEARING, AND RESOLUTION BY CERTAIN GOVERNING BODIES. (a) Not later than the 60th day before submitting to the department an application for housing tax credits, an applicant must provide notice of the intent to file the application to:

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

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

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

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

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

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

(2) each governing body has had sufficient opportunity to

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

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

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

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

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

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

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

(2) each governing body has had sufficient opportunity to

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obtain a response from the applicant regarding any questions or concerns about the proposed development;

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

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

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

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

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

(1) prioritizes in descending order criteria regarding:

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

(B) quantifiable community support [participation] with respect to the development, evaluated on the basis of:

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

(ii) only if neither a state representative nor a state senator provides a written statement expressing either support or opposition under Subparagraph (i) before the date specified by the department under Subsection (g)(1), a resolution

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obtain a response from the applicant regarding any questions or concerns about the proposed development;

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

(4) after due consideration of the information provided by the applicant and public comment, the governing body does not object to the proposed application. [FA1]

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

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

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

(1) prioritizes in descending order criteria regarding:

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

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

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concerning the development that is voted on and adopted by:

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

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

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

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

(D) the size and quality of the units;

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

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

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

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

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

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

(J) quantifiable community participation with respect to the

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

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

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

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

(D) the size and quality of the units;

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

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

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

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

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

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

(J) quantifiable community participation with respect to the

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development, evaluated on the basis of written statements from any neighborhood organizations on record with the state or county in which the development is to be located and whose boundaries contain the proposed development site;

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

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

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

(1) positive points for positive written statements received;

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

(3) zero points for neutral statements received.

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

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

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

SECTION 2.04. Section 2306.6717(a), Government Code, is

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development, evaluated on the basis of written statements from any neighborhood organizations on record with the state or county in which the development is to be located and whose boundaries contain the proposed development site;

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

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

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amended to read as follows:

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

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

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

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

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

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

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

No equivalent provision.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 3. MANUFACTURED HOUSING

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

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

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- (1) a violation did not occur; or
- (2) the subject of the complaint is outside the division's jurisdiction under this subchapter.
- (f) An employee who dismisses a complaint under Subsection (e) shall report the dismissal to the division director and the board. The report must include a sufficient explanation of the reason the complaint was dismissed.

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

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

- (1) negotiated rulemaking procedures under Chapter 2008 for the adoption of division rules; and
- (2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the division's jurisdiction.

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

(c) The division shall:

- (1) coordinate the implementation of the policy adopted under Subsection (a);
- (2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution;
- and

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

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

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

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

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

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

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

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

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- (4) a fee for the inspection of the rebuilding of a salvaged manufactured home, to be paid by the retailer ~~[rebuilder]~~;
 - (5) a fee for the inspection of a used manufactured home to determine whether the home is habitable for the issuance of a new statement of ownership and location; and
 - (6) a fee for the issuance of a seal for a used mobile or HUD-code manufactured home.
- (b) In addition to the fees imposed under Subsections (a)(2), (3), and (4), a manufacturer or ~~[;]~~ a person making an alteration, ~~[or a rebuilder,]~~ as appropriate, shall be charged for the actual cost of travel of a department representative to and from:
- (1) the manufacturing facility, for an inspection described by Subsection (a)(2); or
 - (2) the place of inspection, for an inspection described by Subsection (a)(3) or (4).

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

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

- (1) manufacturers;
- (2) retailers;
- (3) brokers;
- (4) salespersons; and
- (5) ~~[rebuilders; and~~
~~[(6)]~~ installers.

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

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

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

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

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

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

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

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

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

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

(b) A license application must be accompanied by:

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

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

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

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

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

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

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

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

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

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

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check required under this section.

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

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

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

SECTION 3.09. Same as House version.

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

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

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

SECTION 3.10. Same as House version.

SECTION 3.11. Section 1201.110, Occupations Code, is

SECTION 3.11. Same as House version.

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amended to read as follows:

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

- (1) the second anniversary of the date the manufacturer, retailer, broker, or installer ~~[, or rebuilder]~~ ceases doing business; or
- (2) the date the director determines that a claim does not exist against the security.

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

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

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

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

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

(d) A person may not sell, convey, or otherwise transfer to a

SECTION 3.12. Same as House version.

SECTION 3.13. Same as House version.

SECTION 3.14. Same as House version.

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consumer in this state a manufactured home that is salvaged. A salvaged manufactured home may be sold only to a licensed retailer ~~[or licensed-rebuilder]~~.

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

Sec. 1201.6041. DIRECT CONSUMER COMPENSATION.

(a) Instead of requiring a consumer to apply for compensation from the trust fund under Subchapter I, the director may order a manufacturer, retailer, broker, or installer, as applicable, to pay a refund directly to a consumer who sustains actual damages resulting from an unsatisfied claim against a licensed manufacturer, retailer, broker, or installer if the unsatisfied claim results from a violation of:

(1) this chapter;

(2) a rule adopted by the director;

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

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

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

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

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

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SECTION 3.15. Same as House version.

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

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

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

(f) If a person licensed under this chapter fails to pay an administrative penalty that has become final or fails to comply with an order of the director that has become final, in addition to any other remedy provided by law, the director, after not less than 10 days' notice to the person, may without a prior hearing suspend the person's license. The suspension shall continue until the person has complied with the cease and

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SECTION 3.16. Same as House version.

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desist order or paid the administrative penalty. During the period of suspension, the person may not perform any act requiring a license under this chapter, and all compensation received by the person during the period of suspension is subject to forfeiture to the person from whom it was received.

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

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

ARTICLE 4. WEATHERIZATION ASSISTANCE PROGRAM

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

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

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SECTION 3.17. Same as House version.

Same as House version.

SECTION 4.01. Same as House version.

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funding to be allocated to both targeted and standard offer low-income energy efficiency programs in each unbundled transmission and distribution utility service area. The level of funding for low-income energy efficiency programs shall be provided from money approved by the commission for the transmission and distribution utility's energy efficiency programs. The commission shall ensure that annual expenditures for the targeted low-income energy efficiency programs of each unbundled transmission and distribution utility are not less than 10 percent of the transmission and distribution utility's energy efficiency budget for the year. A targeted low-income energy efficiency program must comply with the same audit requirements that apply to federal weatherization subrecipients. In an energy efficiency cost recovery factor proceeding related to expenditures under this subsection, the commission shall make findings of fact regarding whether the utility meets requirements imposed under this subsection. The state agency that administers the federal weatherization assistance program shall ~~provide reports as required by the commission to provide the most current information available on energy and peak demand savings achieved in each transmission and distribution utility service area. The agency shall~~ participate in energy efficiency cost recovery factor proceedings related to expenditures under this subsection to ensure that targeted low-income weatherization programs are consistent with federal weatherization programs and adequately funded.

ARTICLE 5. REPEALER

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

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

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. Section 2306.3591, Government Code, as added by this Act, applies only to an application for the issuance of private activity bonds 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 submitted during an application cycle that began before the effective date of this Act is governed by the law in effect at the time the application cycle

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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).

Same as House version.

SECTION 6.01. Same as House version.

No equivalent provision.

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began, and the former law is continued in effect for that purpose.

SECTION 6.03. 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 6.04. The changes in law made by this Act to Section 2306.6710, 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 that began before the effective date of this Act is governed by the law in effect at the time the application cycle began, and the former law is continued in effect for that purpose.

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

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SECTION 6.02. Same as House version.

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

SECTION 6.04. Same as House version.

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

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

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

ARTICLE 7. EFFECTIVE DATE

SECTION 6.05. Same as House version.

Same as House version.

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

SECTION 7.01. Same as House version.