

By: Romero, Jr.

H.B. No. 2365

Substitute the following for H.B. No. 2365:

By: Alvarado

C.S.H.B. No. 2365

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of migrant labor housing facilities.

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

SECTION 1. Section 2306.922, Government Code, is amended to read as follows:

Sec. 2306.922. LICENSE REQUIRED. A person may not:

(1) establish, maintain, or operate a migrant labor housing facility without obtaining a license for the facility from the department; or

(2) procure, make arrangements for, or otherwise provide housing for migrant agricultural workers without ensuring that the applicable migrant labor housing facility is licensed under this subchapter.

SECTION 2. The heading to Section 2306.923, Government Code, is amended to read as follows:

Sec. 2306.923. LICENSE APPLICATION; FEE [~~APPLICATION INSPECTION~~].

SECTION 3. Section 2306.923, Government Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) The application must be accompanied by a license fee in an amount established by board rule.

(e) A fee collected under this section shall be deposited to the credit of the general revenue fund and may be appropriated to

1 the department for the enforcement of this subchapter.

2 SECTION 4. The heading to Section 2306.924, Government  
3 Code, is amended to read as follows:

4 Sec. 2306.924. PRE-OCCUPATION INSPECTION.

5 SECTION 5. Section 2306.925(a), Government Code, is amended  
6 to read as follows:

7 (a) If a migrant labor housing facility for which a license  
8 application is made does not meet the reasonable minimum standards  
9 of construction, sanitation, equipment, and operation required by  
10 rules adopted under this subchapter, the department at the time of  
11 inspection shall give the license applicant in writing the reasons  
12 that the facility does not meet those standards. The applicant may  
13 remedy the deficiency and request the department to reinspect the  
14 facility not later than the 10th [~~60th~~] day after the date on which  
15 the reasons are given.

16 SECTION 6. Section 2306.926(b), Government Code, is amended  
17 to read as follows:

18 (b) The license expires on the first anniversary of the date  
19 of issuance. Not later than the 60th day before the date a license  
20 is scheduled to expire, the department shall give notice of the  
21 expiration to the license holder.

22 SECTION 7. Subchapter LL, Chapter 2306, Government Code, is  
23 amended by adding Section 2306.9261 to read as follows:

24 Sec. 2306.9261. THIRD-PARTY APPEAL OF LICENSE  
25 DETERMINATION. The department by rule shall adopt procedures  
26 through which third parties, including migrant agricultural  
27 workers and advocacy groups, may appeal the issuance or denial of a

1 license or the imposition of a condition on a license.

2 SECTION 8. Subchapter LL, Chapter 2306, Government Code, is  
3 amended by amending Sections 2306.927, 2306.928, and 2306.929 and  
4 adding Section 2306.9281 to read as follows:

5 Sec. 2306.927. [~~LICENSE~~] POSTING OF LICENSE AND COMPLAINT  
6 INFORMATION. A person who holds a license issued under this  
7 subchapter shall post [~~the license~~] in the licensed migrant labor  
8 housing facility at all times during the maintenance or operation  
9 of the facility a copy of:

10 (1) the license; and

11 (2) information describing in English and Spanish the  
12 complaint procedures provided by Section 2306.929.

13 Sec. 2306.928. INSPECTION OF FACILITIES. (a) Before  
14 conducting an inspection of a migrant labor housing facility under  
15 this section, an authorized representative of the department must  
16 give or make a reasonable attempt to give notice to the persons who:

17 (1) are the providers of the facility, based on  
18 evidence available to the department; and

19 (2) if applicable, are alleged to be the providers of  
20 the facility in any complaint filed under this chapter.

21 (b) An authorized representative of the department, after  
22 giving or making a reasonable attempt to give notice under  
23 Subsection (a):

24 (1) shall inspect the facility:

25 (A) on receipt of a complaint under Section  
26 2306.929, including a report of an unlicensed migrant labor housing  
27 facility; and

1           (B) at least once during the probable period of  
2 use of the facility as stated under Section 2306.923(c)(3); and

3           (2) [~~to the operator of a migrant labor housing~~  
4 ~~facility,~~] may otherwise enter and inspect the facility during  
5 reasonable hours and investigate conditions, practices, or other  
6 matters as necessary or appropriate to determine whether a person  
7 has violated this subchapter or a rule adopted under this  
8 subchapter.

9           (c) In addition to the inspections required under  
10 Subsection (b)(1), the department by rule shall establish an annual  
11 quota of proactive inspections of suspected unlicensed or  
12 noncompliant migrant labor housing facilities. The quota  
13 established under this subsection may not be less than 50 percent of  
14 the number of migrant labor housing facilities licensed under this  
15 subchapter in the preceding state fiscal year.

16           (d) During an inspection conducted under Subsection (b)(1),  
17 the inspector shall:

18           (1) conduct interviews with not less than 10 percent  
19 of the occupants of the facility, including any person who  
20 submitted a complaint requiring the inspection under Subsection  
21 (b)(1)(A), if known;

22           (2) make written notes regarding the inspection at the  
23 time of the inspection or immediately after the inspection; and

24           (3) take photographs of any violations.

25           (e) An interview under Subsection (d)(1) must be conducted:

26           (1) after working hours or on rest days, to the extent  
27 possible; and

1           (2) out of the presence of any person who owns or  
2 establishes or who maintains, operates, or otherwise provides the  
3 migrant labor housing facility or any person who employs the  
4 migrant agricultural workers occupying the facility.

5           Sec. 2306.9281. INSPECTION REPORT. (a) After an  
6 inspection, the inspector shall submit to the department a report  
7 containing:

8           (1) a narrative regarding the alleged violation and  
9 the methods used to investigate the alleged violation;

10           (2) a determination of whether the alleged violation,  
11 or any other violation, exists; and

12           (3) evidence supporting the determination made under  
13 Subdivision (2), including any photographs taken under Section  
14 2306.928(d)(3).

15           (b) A report under Subsection (a) must be made available to  
16 the public on the department's Internet website. The department  
17 shall redact each migrant agricultural worker's name and other  
18 personal information contained in a report made available under  
19 this subsection.

20           (c) The department by rule shall establish and require the  
21 use of a standardized inspection report form for conducting  
22 inspections under Section 2306.928.

23           Sec. 2306.929. COMPLAINTS [~~FE~~]. (a) The department by  
24 rule shall:

25           (1) establish procedures for the submission,  
26 investigation, and resolution of complaints of alleged violations  
27 of this subchapter, including a procedure through which other state

1 agencies that receive a complaint under Subsection (b)(2) can  
2 report the complaint to the department; and

3 (2) adopt a standardized complaint form.

4 (b) The procedure established under Subsection (a)(1) must  
5 allow the submission of complaints:

6 (1) anonymously or by a third party; and

7 (2) through the department's Internet website, in  
8 person at any nonprofit organization that assists migrant  
9 agricultural workers in finding employment or at any state agency,  
10 by phone, or in writing.

11 (c) The form adopted under Subsection (a)(2) must allow for  
12 the collection of information regarding:

13 (1) the name, address, and contact information of:

14 (A) the employer;

15 (B) the farm labor contractor; and

16 (C) the migrant labor housing facility provider;

17 (2) the address, including a unit number, and location  
18 of the facility and directions to the facility;

19 (3) the number of migrant agricultural workers:

20 (A) currently occupying the facility; and

21 (B) occupying the facility during the peak period  
22 of occupancy;

23 (4) the dates the facility has been occupied and the  
24 approximate length of the season for which the facility will be  
25 occupied;

26 (5) the type of work performed by the workers  
27 occupying the facility;

1           (6) whether the postings required under Section  
2 2306.927 are displayed;  
3           (7) complaints about the facility; and  
4           (8) any other information the department considers  
5 necessary.

6           (d) The department shall consider a report regarding an  
7 unlicensed migrant labor housing facility to be a complaint under  
8 this section.

9           (e) The department shall make available to a person  
10 submitting a complaint, if the identity of that person is known,  
11 information regarding other housing and transportation resources  
12 available to the person [~~The board shall set the license fee in an~~  
13 ~~amount not to exceed \$250].~~

14           SECTION 9. Subchapter LL, Chapter 2306, Government Code, is  
15 amended by adding Section 2306.9305 to read as follows:

16           Sec. 2306.9305. DUTY TO PROVIDE HOUSING ON SUSPENSION OR  
17 REVOCAION OF LICENSE. (a) The department by rule shall establish  
18 procedures requiring the owner or provider of a migrant labor  
19 housing facility, on suspension or revocation of a license as  
20 provided by Section 2306.930, to relocate or provide for the  
21 relocation of the occupants of the facility to another facility  
22 that:

23                   (1) meets the occupancy standards of this subchapter;  
24 and  
25                   (2) is located in the same area as the vacated  
26 facility.

27           (b) An owner or provider required to relocate an occupant

1 under Subsection (a) shall pay any rental cost of the relocation  
2 facility that exceeds the rent of the vacated facility.

3 SECTION 10. The heading to Section 2306.931, Government  
4 Code, is amended to read as follows:

5 Sec. 2306.931. ENFORCEMENT; ADOPTION OF RULES REGARDING  
6 HEALTH AND SAFETY AND LICENSING.

7 SECTION 11. Section 2306.931(e), Government Code, is  
8 amended to read as follows:

9 (e) The board by rule shall adopt minimum standards for  
10 issuing, revoking, or suspending a license issued under this  
11 subchapter, including rules that provide for the immediate  
12 suspension or revocation of a license for certain violations that  
13 constitute threats to the health and safety of persons living in  
14 migrant labor housing facilities.

15 SECTION 12. Subchapter LL, Chapter 2306, Government Code,  
16 is amended by amending Section 2306.933 and adding Sections  
17 2306.934, 2306.935, and 2306.936 to read as follows:

18 Sec. 2306.933. CIVIL PENALTY. (a) A person who violates  
19 this subchapter or a rule adopted under this subchapter is subject  
20 to a civil penalty of not less than \$50 for each person occupying  
21 the migrant labor housing facility in violation of this subchapter  
22 [\$200] for each day that the violation occurs.

23 (b) An [~~The county attorney for the county in which the~~  
24 ~~violation occurred, or the attorney general, at the request of the~~  
25 ~~department, shall bring an~~] action [~~in the name of the state~~] to  
26 collect a [the] penalty under this section may be brought by:

27 (1) the department through the contested case hearing



1 process described by Section 2306.930(b);

2 (2) the county attorney for the county in which the  
3 violation occurred, or the attorney general, at the request of the  
4 department; or

5 (3) a migrant agricultural worker who, at the time of  
6 the violation, lived in the migrant labor housing facility that is  
7 the subject of the violation.

8 (c) The department by rule shall adopt a penalty schedule  
9 that increases the amount of the penalty assessed against a person  
10 who repeatedly violates this subchapter or rules adopted under this  
11 subchapter.

12 (d) A penalty collected under Subsection (b)(1) or (2) shall  
13 be deposited to the credit of the general revenue fund and may be  
14 appropriated only to the department for the enforcement of this  
15 subchapter.

16 Sec. 2306.934. ATTORNEY'S FEES. A person against whom a  
17 civil penalty is assessed under Section 2306.933 is liable for  
18 paying the costs and attorney's fees of the person who brought the  
19 action under Section 2306.933(b).

20 Sec. 2306.935. RETALIATION PROHIBITED. A person who owns,  
21 establishes, maintains, operates, procures, makes arrangements  
22 for, or otherwise provides a migrant labor housing facility, a  
23 person who employs a migrant agricultural worker who occupies a  
24 migrant labor housing facility, or a farm labor contractor may not  
25 retaliate against a person for filing a complaint or providing  
26 information in good faith relating to a possible violation of this  
27 subchapter.

1       Sec. 2306.936. OUTREACH AND EDUCATION. (a) The department  
2 shall provide:

3           (1) to migrant agricultural workers in different  
4 regions of the state, educational materials or programs that are  
5 presented in English, Spanish, and other languages as appropriate  
6 and that inform the workers of their rights and remedies under this  
7 subchapter; and

8           (2) to persons who own, establish, maintain, operate,  
9 procure, make arrangements for, or otherwise provide migrant labor  
10 housing facilities, educational materials or programs that are  
11 presented in English, Spanish, and other languages as appropriate  
12 and that inform the persons of their obligations under this  
13 subchapter.

14       (b) To better provide the services described by Subsection  
15 (a), the department shall:

16           (1) ensure that, in each region of the state where  
17 migrant labor housing facilities are most common, there are persons  
18 capable of providing the information described by Subsection (a) in  
19 English, Spanish, and other languages as appropriate; and

20           (2) conduct research, including by surveying migrant  
21 agricultural workers, concerning:

22                   (A) what types of migrant labor housing  
23 facilities are most common in different regions of the state; and

24                   (B) what regions of the state most need  
25 additional or improved migrant labor housing facilities.

26       SECTION 13. Not later than March 1, 2018, the Texas  
27 Department of Housing and Community Affairs shall adopt the rules

1 necessary to implement Subchapter LL, Chapter 2306, Government  
2 Code, as amended by this Act.

3 SECTION 14. (a) Except as provided by Subsection (b) of  
4 this section, the change in law made by this Act applies only to an  
5 administrative or regulatory action taken on or after the effective  
6 date of this Act. An administrative or regulatory action taken  
7 before the effective date of this Act is governed by the law  
8 applicable to the administrative or regulatory action immediately  
9 before the effective date of this Act, and that law is continued in  
10 effect for that purpose.

11 (b) The change in law made by this Act in amending Section  
12 2306.933, Government Code, and adding Section 2306.934, Government  
13 Code, applies only to a violation that occurs on or after the  
14 effective date of this Act. A violation occurs before the effective  
15 date of this Act if any element of the violation occurs before that  
16 date. A violation that occurs before the effective date of this Act  
17 is governed by the law in effect on the date the violation occurred,  
18 and the former law is continued in effect for that purpose.

19 SECTION 15. This Act takes effect September 1, 2017.