

By: Romero, Jr.

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 2306.921(3), Government Code, is amended to read as follows:

(3) "Migrant labor housing facility" means a facility that is established, operated, or used for more than three days as living quarters for [~~two or more seasonal, temporary, or migrant families or~~] three or more [~~seasonal, temporary, or~~] migrant agricultural workers, whether rent is paid or reserved in connection with the use of the facility.

SECTION 2. 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) otherwise provide housing for migrant agricultural workers without ensuring that the migrant labor housing facility is licensed under this subchapter.

SECTION 3. The heading to Section 2306.923, Government Code, is amended to read as follows:

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

1 SECTION 4. Section 2306.923(d), Government Code, is amended
2 to read as follows:

3 (d) The application must be accompanied by a [the] license
4 fee in an amount established by board rule.

5 SECTION 5. The heading to Section 2306.924, Government
6 Code, is amended to read as follows:

7 Sec. 2306.924. PRE-OCCUPATION INSPECTION.

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

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

19 SECTION 7. Section 2306.926(b), Government Code, is amended
20 to read as follows:

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

25 SECTION 8. Subchapter LL, Chapter 2306, Government Code, is
26 amended by adding Section 2306.9261 to read as follows:

27 Sec. 2306.9261. THIRD-PARTY APPEAL OF LICENSE

1 DETERMINATION. The department by rule shall adopt procedures
2 through which third parties, including migrant agricultural
3 workers and advocacy groups, may appeal the issuance or denial of a
4 license or the imposition of a condition on a license.

5 SECTION 9. Subchapter LL, Chapter 2306, Government Code, is
6 amended by amending Sections 2306.927, 2306.928, and 2306.929 and
7 adding Section 2306.9281 to read as follows:

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

- 13 (1) the license; and
14 (2) information describing in English and Spanish the
15 complaint procedures provided by Section 2306.929.

16 Sec. 2306.928. INSPECTION OF FACILITIES. (a) An
17 authorized representative of the department, after giving or making
18 a reasonable attempt to give notice to the provider [~~operator~~] of a
19 migrant labor housing facility:

- 20 (1) shall inspect the facility:
21 (A) on receipt of a complaint under Section
22 2306.929, including a report of an unlicensed migrant labor housing
23 facility; and

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

- 26 (2) [~~7~~] may otherwise enter and inspect the facility
27 during reasonable hours and investigate conditions, practices, or

1 other matters as necessary or appropriate to determine whether a
2 person has violated this subchapter or a rule adopted under this
3 subchapter.

4 (b) In addition to the inspections required under
5 Subsection (a)(1), the department by rule shall establish an annual
6 quota of proactive inspections of suspected unlicensed or
7 noncompliant migrant labor housing facilities.

8 (c) During an inspection conducted under Subsection (a)(1),
9 the inspector shall:

10 (1) conduct interviews with occupants of the facility,
11 including any person who submitted a complaint requiring the
12 inspection under Subsection(a)(1)(A), if known; and

13 (2) take photographs of any violations.

14 (d) An interview under Subsection (c)(1) must be conducted:

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

17 (2) out of the presence of a person who owns or
18 establishes or who maintains, operates, or otherwise provides the
19 migrant labor housing facility and a person who employs the migrant
20 agricultural workers occupying the facility.

21 Sec. 2306.9281. INSPECTION REPORT. (a) After an
22 inspection, the inspector shall submit to the department a report
23 containing:

24 (1) a narrative regarding the alleged violation and
25 the methods used to investigate the alleged violation;

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

1 (3) evidence supporting the determination made under
2 Subdivision (2), including any photographs taken under Section
3 2306.928(c)(2).

4 (b) A report under Subsection (a) must be made available to
5 the public on the department's Internet website. The department
6 shall redact each migrant agricultural worker's name and other
7 personal information contained in a report made available under
8 this subsection.

9 (c) The department by rule shall establish a standardized
10 inspection report form for use in conducting inspections under
11 Section 2306.928.

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

14 (1) establish procedures for the submission,
15 investigation, and resolution of complaints of alleged violations
16 of this subchapter, including a procedure through which other state
17 agencies that receive a complaint under Subsection (b)(2) can
18 report the complaint to the department; and

19 (2) adopt a standardized complaint form.

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

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

23 (2) through the department's Internet website, in
24 person at any nonprofit organization that assists migrant
25 agricultural workers in finding employment or at any state agency,
26 by phone, or in writing.

27 (c) The form adopted under Subsection (a)(2) must allow for

1 the collection of information regarding:

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

3 (A) the employer;

4 (B) the farm labor contractor; and

5 (C) the migrant labor housing facility provider;

6 (2) the address and location of and directions to the
7 facility;

8 (3) the number of migrant agricultural workers:

9 (A) currently occupying the facility; and

10 (B) occupying the facility during the peak period
11 of occupancy;

12 (4) the dates the facility has been occupied and the
13 approximate length of the season for which the facility will be
14 occupied;

15 (5) the type of work performed by the workers
16 occupying the facility;

17 (6) whether the postings required under Section
18 2306.927 are displayed;

19 (7) complaints about the facility; and

20 (8) any other information the department considers
21 necessary.

22 (d) The department shall consider a report regarding an
23 unlicensed migrant labor housing facility to be a complaint under
24 this section.

25 (e) The department shall make available to a person
26 submitting a complaint, if the identity of that person is known,
27 information regarding other housing and transportation resources

1 available to the person [~~The board shall set the license fee in an~~
2 ~~amount not to exceed \$250~~].

3 SECTION 10. Subchapter LL, Chapter 2306, Government Code,
4 is amended by adding Section 2306.9305 to read as follows:

5 Sec. 2306.9305. DUTY TO PROVIDE HOUSING ON SUSPENSION OR
6 REVOCAION OF LICENSE. (a) The department by rule shall establish
7 procedures requiring the owner or provider of a migrant labor
8 housing facility, on suspension or revocation of a license as
9 provided by Section 2306.930, to relocate or provide for the
10 relocation of the occupants of the facility to another facility
11 that:

12 (1) meets the occupancy standards of this subchapter;

13 and

14 (2) is located in the same area as the vacated
15 facility.

16 (b) An owner or provider required to relocate an occupant
17 under Subsection (a) shall pay any rental cost of the relocation
18 facility that exceeds the rent of the vacated facility.

19 SECTION 11. The heading to Section 2306.931, Government
20 Code, is amended to read as follows:

21 Sec. 2306.931. ENFORCEMENT; ADOPTION OF RULES REGARDING
22 HEALTH AND SAFETY AND LICENSING.

23 SECTION 12. Section 2306.931(e), Government Code, is
24 amended to read as follows:

25 (e) The board by rule shall adopt minimum standards for
26 issuing, revoking, or suspending a license issued under this
27 subchapter, including rules that provide for the immediate

1 suspension or revocation of a license for certain violations that
2 constitute severe threats to the health and safety of persons
3 living in migrant labor housing facilities.

4 SECTION 13. Subchapter LL, Chapter 2306, Government Code,
5 is amended by amending Section 2306.933 and adding Sections
6 2306.934, 2306.935, and 2306.936 to read as follows:

7 Sec. 2306.933. CIVIL PENALTY. (a) A person who violates
8 this subchapter or a rule adopted under this subchapter is subject
9 to a civil penalty of not less than \$50 for each person occupying
10 the migrant labor housing facility in violation of this subchapter
11 [\$200] for each day that the violation occurs.

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

16 (1) the department through the contested case hearing
17 process described by Section 2306.930(b);

18 (2) the county attorney for the county in which the
19 violation occurred, or the attorney general, at the request of the
20 department; or

21 (3) a migrant agricultural worker who, at the time of
22 the violation, lived in the migrant labor housing facility that is
23 the subject of the violation.

24 (c) The department by rule shall adopt a penalty schedule
25 that increases the amount of the penalty assessed against a person
26 who repeatedly violates this subchapter or rules adopted under this
27 subchapter.

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

5 Sec. 2306.934. RETALIATION PROHIBITED. A person who owns,
6 establishes, maintains, operates, or otherwise provides a migrant
7 labor housing facility, a person who employs a migrant agricultural
8 worker who occupies a migrant labor housing facility, or a farm
9 labor contractor may not retaliate against a person for filing a
10 complaint or providing information in good faith relating to a
11 possible violation of this subchapter.

12 Sec. 2306.935. ATTORNEY'S FEES. The court in a suit brought
13 under this subchapter may award reasonable attorney's fees to the
14 prevailing party.

15 Sec. 2306.936. OUTREACH AND EDUCATION. (a) The department
16 shall provide:

17 (1) to migrant agricultural workers in different
18 regions of the state, educational materials or programs in English
19 and Spanish informing the workers of their rights and remedies
20 under this subchapter; and

21 (2) to persons who own, establish, maintain, operate,
22 or otherwise provide migrant labor housing facilities, educational
23 materials or programs in English and Spanish informing the persons
24 of their obligations under this subchapter.

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

27 (1) ensure that, in each region of the state where

1 migrant labor housing facilities are most common, there are persons
2 capable of providing in English and Spanish the information
3 described by Subsection (a); and

4 (2) conduct research, including by surveying migrant
5 agricultural workers, concerning:

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

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

10 SECTION 14. Not later than March 1, 2018, the Texas
11 Department of Housing and Community Affairs shall adopt the rules
12 necessary to implement Subchapter LL, Chapter 2306, Government
13 Code, as amended by this Act.

14 SECTION 15. (a) Except as provided by Subsection (b) of
15 this section, the change in law made by this Act applies only to an
16 administrative or regulatory action taken on or after the effective
17 date of this Act. An administrative or regulatory action taken
18 before the effective date of this Act is governed by the law
19 applicable to the administrative or regulatory action immediately
20 before the effective date of this Act, and that law is continued in
21 effect for that purpose.

22 (b) The change in law made by this Act in amending Section
23 2306.933, Government Code, and adding Section 2306.935, Government
24 Code, applies only to a violation that occurs on or after the
25 effective date of this Act. A violation occurs before the effective
26 date of this Act if any element of the violation occurs before that
27 date. A violation that occurs before the effective date of this Act

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1 is governed by the law in effect on the date the violation occurred,
2 and the former law is continued in effect for that purpose.

3 SECTION 16. This Act takes effect September 1, 2017.