

By: Romero, Jr.

H.B. No. 862

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the regulation of migrant labor housing facilities;
3 authorizing an increase in the amount of a fee; changing the amount
4 of a civil penalty.

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

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

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

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

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

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

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

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

23 (d) An applicant who seeks to substitute an inspection
24 conducted by the United States Department of Labor or the Texas

1 Workforce Commission for a pre-occupation inspection conducted by
2 the department under Section 2306.924 must include with the
3 application:

4 (1) individualized affirmations regarding the
5 facility's compliance with each state standard established by this
6 subchapter; and

7 (2) electronically submitted digital images of the
8 facility that hold metadata verifying when and where the images
9 were taken.

10 (e) The department shall prescribe the form and manner of an
11 application made under this section.

12 (f) The application must be accompanied by a reasonable
13 [the] license fee established by the board by rule in an amount
14 sufficient to cover the costs of administering this subchapter,
15 including costs associated with conducting inspections and
16 reinspections under this subchapter.

17 (g) A fee collected under this section shall be deposited to
18 the credit of the general revenue fund and may be appropriated to
19 the department for the administration of this subchapter.

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

22 Sec. 2306.924. PRE-OCCUPATION INSPECTION.

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

25 (a) If a migrant labor housing facility for which a license
26 application is made does not meet the reasonable minimum standards
27 of construction, sanitation, equipment, and operation required by

1 rules adopted under this subchapter, the department at the time of
2 inspection shall give the license applicant in writing the reasons
3 that the facility does not meet those standards. The applicant may
4 remedy the deficiency and request the department to reinspect the
5 facility not later than the 10th [~~60th~~] day after the date on which
6 the reasons are given.

7 SECTION 6. Section [2306.926](#)(b), Government Code, is amended
8 to read as follows:

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

13 SECTION 7. Subchapter [LL](#), Chapter [2306](#), Government Code, is
14 amended by adding Section [2306.9261](#) to read as follows:

15 Sec. 2306.9261. THIRD-PARTY APPEAL OF LICENSE
16 DETERMINATION. The department by rule shall adopt procedures
17 through which third parties, including migrant agricultural
18 workers and advocacy groups, may appeal the issuance or denial of a
19 license or the imposition of a condition on a license.

20 SECTION 8. Subchapter [LL](#), Chapter [2306](#), Government Code, is
21 amended by amending Sections [2306.927](#), [2306.928](#), and [2306.929](#) and
22 adding Section [2306.9281](#) to read as follows:

23 Sec. [2306.927](#). [~~LICENSE~~] POSTING OF LICENSE AND COMPLAINT
24 INFORMATION. A person who holds a license issued under this
25 subchapter shall post [~~the license~~] in the licensed migrant labor
26 housing facility at all times during the maintenance or operation
27 of the facility a copy of:

1 (1) the license; and

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

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

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

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

12 (b) An authorized representative of the department, after
13 giving or making a reasonable attempt to give notice under
14 Subsection (a):

15 (1) shall inspect the facility:

16 (A) on receipt of a complaint under Section
17 2306.929, including a report of an unlicensed migrant labor housing
18 facility; and

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

21 (2) [~~to the operator of a migrant labor housing~~
22 facility,] may otherwise enter and inspect the facility during
23 reasonable hours and investigate conditions, practices, or other
24 matters as necessary or appropriate to determine whether a person
25 has violated this subchapter or a rule adopted under this
26 subchapter.

27 (c) In addition to the inspections required under

1 Subsection (b)(1), the department by rule shall establish an annual
2 quota of proactive inspections of suspected unlicensed or
3 noncompliant migrant labor housing facilities. The quota
4 established under this subsection may not be less than 50 percent of
5 the number of migrant labor housing facilities licensed under this
6 subchapter in the preceding state fiscal year.

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

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

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

15 (3) take photographs of any violations.

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

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

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

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

26 (1) a narrative regarding the alleged violation and
27 the methods used to investigate the alleged violation;

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

3 (3) evidence supporting the determination made under
4 Subdivision (2), including any photographs taken under Section
5 2306.928(d)(3).

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

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

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

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

21 (2) adopt a standardized complaint form.

22 (b) The procedures established under Subsection (a)(1) must
23 allow the submission of complaints:

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

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

1 by telephone, or in writing.

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

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

5 (A) the employer;

6 (B) the farm labor contractor; and

7 (C) the migrant labor housing facility provider;

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

10 (3) the number of migrant agricultural workers:

11 (A) currently occupying the facility; and

12 (B) occupying the facility during the peak period
13 of occupancy;

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

17 (5) the type of work performed by the workers
18 occupying the facility;

19 (6) whether the postings required under Section
20 2306.927 are displayed;

21 (7) complaints about the facility; and

22 (8) any other information the department considers
23 necessary.

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

27 (e) The department shall make available to a person

1 submitting a complaint, if the identity of that person is known,
2 information regarding other housing and transportation resources
3 available to the person [~~The board shall set the license fee in an~~
4 ~~amount not to exceed \$250~~].

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

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

14 (1) meets the occupancy standards of this subchapter;
15 and
16 (2) is located in the same area as the vacated
17 facility.

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

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

23 Sec. 2306.931. ENFORCEMENT; ADOPTION OF RULES REGARDING
24 HEALTH AND SAFETY AND LICENSING.

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

27 (e) The board by rule shall adopt minimum standards for

1 issuing, revoking, or suspending a license issued under this
2 subchapter, including rules that provide for the immediate
3 suspension or revocation of a license for certain violations that
4 constitute threats to the health and safety of persons living in
5 migrant labor housing facilities.

6 SECTION 12. Subchapter LL, Chapter 2306, Government Code,
7 is amended by amending Section 2306.933 and adding Sections
8 2306.934, 2306.935, and 2306.936 to read as follows:

9 Sec. 2306.933. CIVIL PENALTY. (a) A person who violates
10 this subchapter or a rule adopted under this subchapter is subject
11 to a civil penalty of not less than \$50 for each person occupying
12 the migrant labor housing facility in violation of this subchapter
13 [\$200] for each day that the violation occurs.

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

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

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

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

26 (c) The department by rule shall adopt a penalty schedule
27 that increases the amount of the penalty assessed against a person

1 who repeatedly violates this subchapter or rules adopted under this
2 subchapter.

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

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

11 Sec. 2306.935. RETALIATION PROHIBITED. A person who owns,
12 establishes, maintains, operates, procures, makes arrangements
13 for, or otherwise provides a migrant labor housing facility, a
14 person who employs a migrant agricultural worker who occupies a
15 migrant labor housing facility, or a farm labor contractor may not
16 retaliate against a person for filing a complaint or providing
17 information in good faith relating to a possible violation of this
18 subchapter.

19 Sec. 2306.936. OUTREACH AND EDUCATION. (a) The department
20 shall provide:

21 (1) to migrant agricultural workers in different
22 regions of the state, educational materials or programs that are
23 presented in English, Spanish, and other languages as appropriate
24 and that inform the workers of their rights and remedies under this
25 subchapter; and

26 (2) to persons who own, establish, maintain, operate,
27 procure, make arrangements for, or otherwise provide migrant labor

1 housing facilities, educational materials or programs that are
2 presented in English, Spanish, and other languages as appropriate
3 and that inform the persons of their obligations under this
4 subchapter.

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

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

11 (2) conduct research, including by surveying migrant
12 agricultural workers, concerning:

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

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

17 SECTION 13. Not later than March 1, 2022, the Texas
18 Department of Housing and Community Affairs shall adopt the rules
19 necessary to implement Subchapter LL, Chapter 2306, Government
20 Code, as amended by this Act.

21 SECTION 14. (a) Except as provided by Subsection (b) of
22 this section, the change in law made by this Act applies only to an
23 administrative or regulatory action taken on or after the effective
24 date of this Act. An administrative or regulatory action taken
25 before the effective date of this Act is governed by the law
26 applicable to the administrative or regulatory action immediately
27 before the effective date of this Act, and that law is continued in

1 effect for that purpose.

2 (b) The change in law made by this Act in amending Section
3 2306.933, Government Code, and adding Section 2306.934, Government
4 Code, applies only to a violation that occurs on or after the
5 effective date of this Act. A violation occurs before the effective
6 date of this Act if any element of the violation occurs before that
7 date. A violation that occurs before the effective date of this Act
8 is governed by the law in effect on the date the violation occurred,
9 and the former law is continued in effect for that purpose.

10 SECTION 15. This Act takes effect September 1, 2021.