

House Bill 2706
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Subchapter C, Chapter 1201, Occupations Code, is amended by adding Section 1201.1021 to read as follows:

Sec. 1201.1021. POWERS OF DIRECTOR DURING DECLARED EMERGENCY. (a) For purposes of this section, a declared emergency exists when an emergency declaration is issued by the governor or a federal agency.

(b) During a declared emergency that exceeds a period of 14 days, the director may:

(1) waive licensing requirements to ensure the continued and adequate supply of professionals to build, sell, transport, insure, finance, and install manufactured homes; and

(2) require a person to register with the department before engaging in any activity regulated under this chapter.

(c) Following the cessation of a declared emergency, the director may require a person registered with the department under Subsection (b)(2) to comply with the criminal history background check requirements and other licensing requirements of this chapter.

SECTION 2. Section 1201.1025, Occupations Code, is amended by adding Subsection (a-1) and amending Subsection (c) to read as follows:

(a-1) A person is exempt from holding a retailer's license as required by Section 1201.101(b) if all manufactured homes sold or offered for sale by the person are:

(1) located in a manufactured home community, as defined by Section 94.001, Property Code; and

(2) sold or offered for sale to the same purchaser in connection with a sale of the real property of the community.

SENATE VERSION (CS)

No equivalent provision.

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(c) A person who is eligible for an exemption under this section remains subject to the other applicable provisions of this subchapter and department rules regarding the sale or transfer of manufactured homes.

SECTION 3. Section 1201.1031(a), Occupations Code, is amended to read as follows:

(a) Except as provided by Section 1201.1021, the [~~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.

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

(g) Subsections (a), (a-2), (a-3), and (a-4) do not apply:

(1) to a license holder who applies:

(A) [(1)] for a license for an additional business location; or

(B) [(2)] to renew or reinstate a license; or

(2) during a declared emergency as described by Section 1201.1021.

SECTION 5. Section 1201.153(c), Occupations Code, is amended to read as follows:

(c) The notice must:

SENATE VERSION (CS)

No equivalent provision.

No equivalent provision.

SECTION 2. Same as House version.

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- (1) contain the information required by:
 - (A) the United States Department of Housing and Urban Development; or
 - (B) the board; and
- (2) be of the type, size, and format required by the director.

SECTION 6. Section 1201.201(5), Occupations Code, is amended to read as follows:

- (5) "Inventory":
 - (A) has the meaning assigned by Section 9.102, Business & Commerce Code; and
 - (B) does not include manufactured homes used by a retailer as equipment, as defined by Section 9.102(a)(33), Business & Commerce Code ~~[means new and used manufactured homes that:~~
 - ~~[(A) a retailer has designated as the retailer's inventory for sale pursuant to the process implemented by the department; and~~
 - ~~[(B) are not used as residential dwellings when so designated].~~

SECTION 7. Sections 1201.219(a) and (c), Occupations Code, are amended to read as follows:

- (a) A lien on manufactured homes in inventory is perfected only by filing a financing statement in accordance with Section 9.310, Business & Commerce Code, and the other provisions of that code related to security interests for inventory ~~[the lien with the department on the required form]~~. Once perfected, the lien applies to the manufactured homes in the inventory as well as to any proceeds from the sale of those homes. The department may suspend or revoke

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the license of a retailer who fails to satisfy a perfected inventory lien.

(c) Notwithstanding any other provision of this section or any other law, the filing of a financing statement to perfect a lien [~~security agreement~~] on the inventory of a retailer as described by Subsection (a) does not prevent a buyer in the ordinary course of business, as defined by Section 1.201, Business & Commerce Code, from acquiring good and marketable title free of that lien, and the department may not consider that lien for the purpose of title issuance.

SECTION 8. Section 1201.357(b), Occupations Code, is amended to read as follows:

(b) If the manufacturer, retailer, or installer, as applicable, fails or refuses to provide warranty service in accordance with the department order under Section 1201.356, the director may [~~shall~~] hold an informal meeting at which the manufacturer, retailer, or installer must show cause as to why the manufacturer's, retailer's, or installer's license should not be suspended or revoked and at which the consumer may express the person's views. Following the meeting, the director shall either resolve the matter by agreed order, dismiss the matter if no violation is found to have occurred, or institute an administrative action, which may include license suspension or revocation, the assessment of administrative penalties, or a combination of such actions.

SECTION 9. This Act takes effect September 1, 2023.

SENATE VERSION (CS)

SECTION 5. Same as House version.

SECTION 6. Same as House version.

CONFERENCE