

## **BILL ANALYSIS**

C.S.H.B. 2019  
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Licensing & Administrative Procedures  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that with both technology enhancements and changes in general practices and federal law, many statutory provisions relating to the regulation of manufactured homes are inapplicable and inaccurate or do not comport with other areas of the law. C.S.H.B. 2019 seeks to address this issue by revising and updating provisions relating to the regulation of manufactured homes.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the manufactured housing board within the Texas Department of Housing and Community Affairs in SECTION 7 of this bill.

### **ANALYSIS**

C.S.H.B. 2019 amends the Occupations Code to revise and update statutory provisions relating to the regulation of manufactured homes under the Texas Manufactured Housing Standards Act. The bill removes the option for the lease-purchase of a manufactured home, replaces references to a statement of ownership and location with references to a statement of ownership, and makes related changes. The bill requires the Texas Department of Housing and Community Affairs (TDHCA) to provide to the public through the TDHCA website searchable and downloadable information regarding manufactured home ownership records, lien records, installation records, license holder records, and enforcement actions. The bill requires the manufactured housing board within the TDHCA for the purpose of maintaining affordability of manufactured homes in Texas to conduct a cost benefit analysis for any rule, process, or policy change that will increase a fee or another incurred cost by more than \$50 for license holders or consumers and to present at the next board meeting an analysis detailing whether the need for the rule, process, or policy change justifies the increase.

C.S.H.B. 2019 authorizes an individual who is listed as an owner, principal, partner, corporate officer, registered agent, or related person of an entity that is licensed as a retailer or broker to act on behalf of that license holder in the capacity of a retailer, broker, or salesperson without holding the appropriate license if at least one individual who is listed as an owner, principal, partner, corporate officer, registered agent, or related person of the entity has satisfied certain requirements relating to the qualifications, certification, and continuing education requirements for an applicable license. The bill requires the board, if the examination failure rate for a manufactured homes manufacturer, retailer, broker, installer, or salesperson license exceeds 25

percent, to review the examination and examination procedures and adopt rules intended to maintain the historical passage rate for the examination. The bill authorizes the executive director of the manufactured housing division of the TDHCA to require an additional bond or other security for the sponsoring of certain salespersons.

C.S.H.B. 2019 removes references to board administration of continuing education programs for manufactured housing licensees as an alternative to the requirement that the board approve such programs. The bill authorizes the executive director to approve the continued administration of a continuing education program for which approval expires between regularly scheduled board meetings until the next board meeting on receipt of the required renewal application, fee, and necessary documentation of education material. The bill establishes that retention of real property appraisal and title work expenses from a refund to a consumer after the consumer exercises a right of rescission is not allowed if the consumer exercises the right of rescission in accordance with certain federal regulations.

C.S.H.B. 2019 authorizes a retailer to collect from a consumer in advance or deduct from the consumer's deposit or down payment any real property appraisal and title work expenses incurred by the retailer if, after receiving a conditional notification of approval from a lender chosen by the consumer, the consumer contracts with the retailer to arrange for services that are performed by an appraiser of real property or a title company in connection with real property that will be included in the purchase or exchange or is intended to be pledged by the consumer as collateral for the consumer's purchase or exchange of a manufactured home, the consumer is provided notice of laws relating to rescission and real property appraisal and title work expenses before signing the contract for real property appraisal and title work services, and the consumer is provided an itemized list of the specific real property appraisal and title work expenses incurred by the retailer. The bill prohibits a retailer from charging to the consumer any fees or expenses other than the real property appraisal and title work expenses disclosed to the consumer. The bill authorizes the TDHCA to demand copies of contracts, invoices, receipts, or other proof of any such expenses retained by a retailer. The bill authorizes a person who acquires a manufactured home from or through a licensee by purchase or exchange, in a transfer that is based wholly or partly on a credit transaction occurring not later than the third day after the date of the signing of the binding note, security agreement, or other financing credit contract with respect to which the consumer's purchased manufactured home will serve as collateral for the credit transaction, to rescind the contract without penalty or charge other than the real property appraisal and title work expenses incurred.

C.S.H.B. 2019 establishes that a licensed retailer acting as a warehouse and warehouseman satisfies all storage, bonding, insurance, public sale, and security requirements if the storage of a manufactured home occurs on the retailer's lot and the home is secured in the same manner the retailer secures a manufactured home held on the lot as inventory. The bill establishes that a licensed retailer acting as a warehouse to enforce a warehouse's lien is considered to have sold a manufactured home in a commercially reasonable manner if the retailer sells the manufactured home in the same manner the retailer would sell a manufactured home at retail. The bill revises rescission and disclosure provisions relating to the purchase of a manufactured home needed to meet a bona fide personal emergency.

C.S.H.B. 2019 provides for a certificate of attachment as a written instrument issued solely by and under the authority of the executive director before September 1, 2001, that provides certain information and beginning September 1, 2003, is considered to be, and may be exchanged for, a statement of ownership. The bill requires the TDHCA to make available to the public on the TDHCA website in a searchable and downloadable format all ownership and lienholder information contained on a statement of ownership. The bill prohibits the TDHCA from requiring an inspection for habitability before issuing a statement of ownership with respect to a manufactured home if the home is being sold to or ownership is otherwise being transferred to a retailer and clarifies that the TDHCA remains subject to the other statutory requirements regarding conversion of a manufactured home from real property to personal property. The bill

requires a real property owner applying for a statement of ownership for an abandoned manufactured home to include with the application an affidavit stating that the person owns the real property where the manufactured home is located and that the name of the person to whom title to the home will be transferred is the same name that is listed in the real property or tax records indicating the current ownership of the real property. The bill authorizes an owner of real property on which a manufactured home has been abandoned to apply for a new statement of ownership with respect to a home that was previously declared abandoned and then resold and abandoned again. The bill requires the TDHCA to make its monthly reports to each chief appraiser of an appraisal district available to the public on the TDHCA website in a searchable and downloadable format. The bill limits the prohibition against an uninstalled manufactured home being occupied for any purpose to the home being occupied for any purpose other than to view the home on a retailer's lot.

C.S.H.B. 2019 requires the TDHCA to administer the manufactured homeowner consumer claims program to provide a remedy for damages resulting from prohibited conduct by a person licensed under the Texas Manufactured Housing Standards Act, replaces references to the manufactured homeowners' recovery trust fund with references to that program, and makes related changes. The bill authorizes the TDHCA to make a payment under the program only after all other departmental operating expenses are sufficiently funded. The bill provides an exception to the statutory provision establishing that a used manufactured home that is sold or exchanged to a purchaser for the purchaser's business use is not required to be habitable for a purchaser who discloses to the retailer in writing at the time of purchase that the purchaser intends for a person to be present in the home for regularly scheduled work shifts of not less than eight hours each day. The bill establishes that if the sale or exchange of a used manufactured home is for the purchaser's nonresidential use other than a business use the home is not required to be habitable and requires the purchaser of the home to file with the TDHCA an application for the issuance of a statement of ownership indicating that the home is for a nonresidential use other than a business use. The bill authorizes the executive director to deny, permanently revoke, or suspend a license for a definite period and specified sales location or geographic area on determination that an applicant or license holder failed to pay the required fee to obtain or renew a license.

C.S.H.B. 2019 amends the Finance Code and the Property Code to make conforming changes and update references to federal law and federal regulatory entities pertaining to manufactured homes.

C.S.H.B. 2019 amends the Tax Code to revise provisions relating to determining the market value of a retail manufactured housing inventory for purposes of the computation of property taxes. The bill requires a chief appraiser to appraise retail manufactured housing inventory in the manner provided by those statutory provisions.

C.S.H.B. 2019 repeals Occupations Code provisions that require \$10 of the fee for each purchase, exchange, or lease-purchase of a manufactured home to be deposited to the credit of the manufactured homeowners' recovery trust fund and used for applicable protection programs. The bill repeals a provision relating to certain requirements regarding notice of installation of a manufactured home and a provision that requires the TDHCA, until a revocation or suspension of a statement of ownership has become final, to place a hold on any activity relating to the statement other than the recordation of liens. The bill repeals a provision relating to the requirement that the executive director by rule establish a third-party installation inspection program to supplement the inspections of the TDHCA if the TDHCA is not able to inspect at least 75 percent of manufactured homes installed in each of the calendar years 2012, 2013, and 2014. The bill repeals provisions relating to the manufactured homeowners' recovery trust fund.

C.S.H.B. 2019 repeals the following provisions of the Occupations Code:

- Sections 1201.003(16) and (31)
- Section 1201.058(b)

- Sections 1201.206(i), (i-1), and (j)
- Section 1201.210(d)
- Sections 1201.303(c), (d), (e), (f), and (g)
- Section 1201.402
- Section 1201.403
- Section 1201.611(h)

**EFFECTIVE DATE**

September 1, 2017.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2019 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 1201.003, Occupations Code, is amended by amending Subdivisions (1), (6), (7), (8), (19), (23), (24), (26), (30), and (32) and adding Subdivisions (21-a) and (22-a) to read as follows:

SECTION 1. Section 1201.003, Occupations Code, is amended by amending Subdivisions (1), (6), (7), (8), (19), (23), (24), (26), (30), and (32) and adding Subdivisions (9-a), (21-a), and (26-a) to read as follows:

(1), (6), (7), (8)

(1), (6), (7), (8). Same as introduced version.

No equivalent provision.

(9-a) "Credit transaction" has the meaning assigned by Section 347.002(a)(3), Finance Code.

(19), (21-a)

(19), (21-a). Same as introduced version.

(22-a) "Refurbish" means any general repairs, improvements, or aesthetic changes to a manufactured home that do not constitute the rebuilding of a salvaged manufactured home.

No equivalent provision.

(23) "Related person" means a person who directly [~~or indirectly~~] participates in management or policy decisions, holds a supervisory position over employees, or has the authority to enter into binding agreements on behalf of the company or business.

(23) "Related person" means a person who: (A) directly [~~or indirectly~~] participates in management or policy decisions; and (B) is designated by an entity and satisfies the requirements of Sections 1201.104 and 1201.113 on behalf of the entity, if the entity is licensed or seeking licensure under this chapter.

(24), (26)

(24), (26). Same as introduced version.

No equivalent provision.

(26-a) "Sales purchase contract" means the contract between a retailer and a consumer for the purchase of a manufactured home

(30), (32)

SECTION 2. Subchapter A, Chapter 1201, Occupations Code, is amended by adding Section 1201.010 to read as follows:

Sec. 1201.010. ELECTRONIC PUBLIC RECORDS REQUIRED. The department shall provide to the public through the department's Internet website searchable and downloadable information regarding manufactured home ownership records, lien records, installation records, license holder records, manufacturers' monthly shipment reports, and enforcement actions.

SECTION 3. Section 1201.054, Occupations Code, is amended.

SECTION 4. Section 1201.055(a), Occupations Code, is amended.

SECTION 5. Section 1201.101, Occupations Code, is amended by amending Subsections (b), (c), (e), and (g) and adding Subsection (e-1) to read as follows:

(b), (c)

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

(e-1) A person other than a consumer may not refurbish a manufactured home that is not a salvaged manufactured home unless the person holds a retailer's license.

(g)

SECTION 6. Section 1201.102(d), Occupations Code, is amended to read as follows:

No equivalent provision.

from the retailer.

(30), (32). Same as introduced version.

SECTION 2. Subchapter A, Chapter 1201, Occupations Code, is amended by adding Section 1201.010 to read as follows:

Sec. 1201.010. ELECTRONIC PUBLIC RECORDS REQUIRED. The department shall provide to the public through the department's Internet website searchable and downloadable information regarding manufactured home ownership records, lien records, installation records, license holder records, and enforcement actions.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 5. Sections 1201.101(b), (c), and (g), Occupations Code, are amended to read as follows:

(b), (c). Same as introduced version.

No equivalent provision.

No equivalent provision.

(g). Same as introduced version.

SECTION 6. Section 1201.102, Occupations Code, is amended by adding Subsection (c-1) and amending Subsection (d) to read as follows:

(c-1) An individual who is listed as an owner, principal, partner, corporate officer, registered agent, or related person of an entity that is licensed as a retailer or broker may act on behalf of that license holder in the capacity of a retailer, broker, or salesperson without holding the appropriate license if at least one individual who is

listed as an owner, principal, partner, corporate officer, registered agent, or related person of the entity has satisfied the requirements of Sections 1201.104 and 1201.113.

(d)

SECTION 7. Sections 1201.104(a), (a-2), (b), and (h), Occupations Code, are 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, or salesperson's license, or to be designated as a related person, 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 or for designation as a related person, as applicable, attend and successfully complete eight hours of instruction in the law, including instruction in consumer protection regulations.

No equivalent provision.

(a-2)

(b) Except in the case of an applicant for a salesperson's license, successful completion of the course of instruction is a prerequisite to obtaining the license or to being designated as a related person.

(h)

No equivalent provision.

(d). Same as introduced version.

SECTION 7. Sections 1201.104(a-1), (a-2), and (h), Occupations Code, are amended to read as follows:

No equivalent provision.

(a-1) If the applicant is not an individual, the applicant must have at least one related person who satisfies the requirements of Subsection (a). If that applicant is applying for a retailer's license, the related person must be a management official who satisfies the requirements of Subsections (a) and (a-2) for [æt] each retail location operated by the applicant.

(a-2). Same as introduced version.

No equivalent provision.

(h). Same as introduced version.

SECTION 8. Section 1201.105(a), Occupations Code, is amended to read as follows:

(a) The department may not issue or renew a license unless a bond or other security in a form prescribed by the director is filed with the department as provided by this subchapter. The bond or other security is

payable to the manufactured homeowner consumer claims program [~~trust fund~~].

SECTION 8. Section 1201.106(a-1), Occupations Code, is amended to read as follows:

(a-1) Notwithstanding the provisions of Subsection (a), the director may require additional security for the licensing, renewal, or relicensing of a person, or the sponsoring of a salesperson, who, either directly, as a related person, or through a related person, has been the subject of a license revocation, has caused the trust fund to incur unreimbursed costs or liabilities in excess of available surety bond coverage, or has failed to pay an administrative penalty that has been assessed by final order.

SECTION 9. Sections 1201.107(b) and (d), Occupations Code, are amended.

SECTION 10. Section 1201.111(a), Occupations Code, is amended.

SECTION 11. The heading to Section 1201.113, Occupations Code, is amended.

SECTION 12. Section 1201.113, Occupations Code, is amended.

No equivalent provision.

SECTION 9. Section 1201.106(a-1), Occupations Code, is amended to read as follows:

(a-1) Notwithstanding the provisions of Subsection (a), the director may require additional security for the licensing, renewal, or relicensing of a person, or the sponsoring of a salesperson, who, either directly, as a related person, or through a related person, has been the subject of a license revocation, has caused the manufactured homeowner consumer claims program [~~trust fund~~] to incur unreimbursed costs or liabilities in excess of available surety bond coverage, or has failed to pay an administrative penalty that has been assessed by final order.

SECTION 10. Same as introduced version.

SECTION 11. Same as introduced version.

SECTION 12. Same as introduced version.

SECTION 13. Same as introduced version.

SECTION 14. Section 1201.118, Occupations Code, is amended to read as follows:

Sec. 1201.118. RULES RELATING TO CERTAIN PERSONS. The board shall adopt rules providing for additional review and scrutiny of any application for an initial or renewal license that involves a person who has previously:

- (1) been found in a final order to have participated in one or more violations of this chapter that served as grounds for the suspension or revocation of a license;
- (2) been found to have engaged in activity subject to this chapter without possessing the required license;
- (3) caused the manufactured homeowner consumer claims program [~~trust fund~~] to incur unreimbursed payments or claims; or
- (4) failed to abide by the terms of a final order, including the payment of any assessed administrative penalties.

SECTION 13. Section 1201.151(e), Occupations Code, is amended to read as follows:

(e) A deposit becomes a down payment upon execution of a retail sales contract or other applicable contract [~~binding written agreement~~]. Thereafter, if the consumer exercises the consumer's three-day [a] right of rescission in accordance with Section 1201.1521, the retailer shall, not later than the 15th day after the date of the rescission, refund to the consumer all money and other consideration received from the consumer, with only the allowable [~~without offset or~~] deduction for third-party expenses in accordance with Section 1201.1511.

No equivalent provision.

SECTION 14. Subchapter D, Chapter 1201, Occupations Code, is amended by adding Section 1201.1511 to read as follows:

Sec. 1201.1511. THIRD-PARTY EXPENSES. (a) Notwithstanding Section 1201.151 or 1201.1521, a retailer may collect from a consumer in advance or deduct from the consumer's deposit or down payment any third-party expenses incurred by the retailer if the consumer:

(1) contracts with the retailer to arrange for services that are performed by a third party and related to the construction and installation of a manufactured home;

(2) is provided notice of laws relating to rescission and third-party expenses before signing the contract for third-party services; and

(3) is provided an itemized list of the specific third-party expenses incurred by the retailer.

(b) A retailer may not charge to the

SECTION 15. Section 1201.151, Occupations Code, is amended by amending Subsection (e) and adding Subsection (f) to read as follows:

(e) A deposit becomes a down payment upon execution of a sales purchase contract [~~binding written agreement~~]. Thereafter, if the consumer exercises the consumer's three-day [a] right of rescission in accordance with Section 1201.1521, the retailer shall, not later than the 15th day after the date of the rescission, refund to the consumer all money and other consideration received from the consumer, with only the allowable [~~without offset or~~] deduction for real property appraisal and title work expenses in accordance with Section 1201.1511.

(f) Retention of real property appraisal and title work expenses authorized by Subsection (e) is not allowed if the consumer exercises the right of rescission in accordance with 12 C.F.R. Section 1026.23.

SECTION 16. Subchapter D, Chapter 1201, Occupations Code, is amended by adding Section 1201.1511 to read as follows:

Sec. 1201.1511. REAL PROPERTY APPRAISAL AND TITLE WORK EXPENSES. (a) Notwithstanding Section 1201.151 or 1201.1521, a retailer may collect from a consumer in advance or deduct from the consumer's deposit or down payment any expenses incurred by the retailer if, after receiving a conditional notification of approval from a lender chosen by the consumer, the consumer:

(1) contracts with the retailer to arrange for services that are performed by an appraiser of real property or a title company in connection with real property that will be included in the purchase or exchange or is intended to be pledged by the consumer as collateral for the consumer's purchase or exchange of a manufactured home;

(2) is provided notice of laws relating to rescission and real property appraisal and title work expenses before signing the contract for real property appraisal and title work services; and

(3) is provided an itemized list of the specific real property appraisal and title work expenses incurred by the retailer.

(b) A retailer may not charge to the



consumer any fees or expenses other than the third-party expenses disclosed to the consumer under Subsection (a)(3).

(c) The department may demand copies of contracts, invoices, receipts, or other proof of any third-party expenses retained by a retailer.

SECTION 15. Section 1201.152(a), Occupations Code, is amended.

SECTION 16. Section 1201.1521, Occupations Code, is amended to read as follows:

Sec. 1201.1521. RESCISSION OF CONTRACT FOR SALE OR~~;~~ EXCHANGE~~[-OR LEASE PURCHASE]~~ OF HOME. (a) A person who acquires a manufactured home from or through a licensee by purchase or~~;~~ exchange~~[-or lease purchase]~~ may, not later than the third day after the date the retail sales contract or other applicable contract is signed, rescind the contract without penalty or charge other than a third-party expense incurred in accordance with Section 1201.1511.

No equivalent provision.

(b)

(c) Notwithstanding Subsection (a), if the purchase of the manufactured home is made wholly or partly with a consumer credit transaction in which a creditor will obtain a lien or other security interest in the manufactured home during the term of the

consumer any fees or expenses other than the real property appraisal and title work expenses disclosed to the consumer under Subsection (a)(3).

(c) The department may demand copies of contracts, invoices, receipts, or other proof of any real property appraisal and title work expenses retained by a retailer.

SECTION 17. Same as introduced version.

SECTION 18. Section 1201.1521, Occupations Code, is amended to read as follows:

Sec. 1201.1521. RESCISSION OF CONTRACT FOR SALE OR~~;~~ EXCHANGE~~[-OR LEASE PURCHASE]~~ OF HOME. (a) A person who acquires a manufactured home from or through a licensee by purchase or~~;~~ exchange~~[-or lease purchase]~~ may, in a cash transaction occurring not later than the third day after the date the sales purchase [applicable] contract is signed, rescind the contract without penalty or charge other than the real property appraisal and title work expenses incurred in accordance with Section 1201.1511.

(b) A person who acquires a manufactured home from or through a licensee by purchase or exchange may, in a transfer that is based wholly or partly on a credit transaction occurring not later than the third day after the date of the signing of the binding note, security agreement, or other financing credit contract with respect to which the consumer's purchased manufactured home will serve as collateral for the credit transaction, rescind the contract without penalty or charge other than the real property appraisal and title work expenses incurred in accordance with Section 1201.1511.

(c) [(b)]. Substantially the same as introduced version.

No equivalent provision.

credit transaction, the right of rescission immediately terminates on the execution by the consumer of a binding note, security agreement, or other financing credit contract for which the consumer's purchased manufactured home will serve as collateral for the consumer credit transaction.

SECTION 17. Section 1201.156, Occupations Code, is amended.

SECTION 18. Section 1201.157, Occupations Code, is amended.

SECTION 19. Sections 1201.162(a) and (c), Occupations Code, are amended to read as follows:

(a)

(c) The right of rescission described in Subsection (a) shall apply only to the sale transaction between the retailer and the consumer. Failure by the retailer to comply with the disclosure provisions of this section does not affect the validity of a subsequent conveyance or transfer of title of a manufactured home or otherwise impair a title or lien position of a person other than the retailer. The consumer shall continue to have the right of rescission with regard to the retailer until the end of the third day after the retailer delivers a copy of the disclosure required by Subsection (a). The consumer's execution of a signed receipt of a copy of the disclosure required by Subsection (a) shall constitute conclusive proof of the delivery of the disclosure. If the consumer grants a person other than the retailer a lien on the manufactured home, the right of rescission [~~shall~~] terminates on execution of a binding note, security agreement, or other financing credit contract, or [ease] on the filing of the lien with the department.

SECTION 20. Section 1201.164, Occupations Code, is amended to read as follows:

Sec. 1201.164. ADVANCE COPY OF CONTRACT AND DISCLOSURE STATEMENTS; OFFER BY RETAILER.

(a) In a transaction that is to be financed and that will not be subject to the federal Real Estate Settlement Procedures Act of

SECTION 19. Same as introduced version.

SECTION 20. Same as introduced version.

SECTION 21. Section 1201.162(a), Occupations Code, is amended to read as follows:

(a). Same as introduced version.

**No equivalent provision.**

SECTION 22. Section 1201.164, Occupations Code, is amended to read as follows:

Sec. 1201.164. ADVANCE COPY OF SALES PURCHASE CONTRACT AND DISCLOSURE STATEMENTS; OFFER BY RETAILER.

(a) In a transaction that is to be financed and that will not be subject to the federal Real Estate Settlement

1974 (Pub. L. No. 93-533) and its implementing regulations, a retailer shall deliver to a consumer at least 24 hours before the retail sales contract or other applicable contract is fully executed the contract, with all required information included, signed by the retailer. The delivery of the contract, with all required information included, signed by the retailer constitutes a firm offer by the retailer. Except as provided for by [~~in~~] Subsection (b), the consumer may accept the offer not earlier than 24 hours after the delivery of the contract. If the consumer has not accepted the offer within 72 hours after the delivery of the contract, the retailer may withdraw the offer.

(b)

SECTION 21. The heading to Subchapter E, Chapter 1201, Occupations Code, is amended.

SECTION 22. Section 1201.201, Occupations Code, is amended.

SECTION 23. Section 1201.203, Occupations Code, is amended to read as follows:  
Sec. 1201.203. FORMS; RULES.

(a), (b)

(c) The department may make corrections and other nonsubstantive changes to forms described by this section when necessary to improve efficiency or to modernize the department's systems. The board shall review any changes made by the department at the next board meeting following the changes.

SECTION 24. Sections 1201.204(a) and (c), Occupations Code, are amended.

SECTION 25. Section 1201.205, Occupations Code, is amended.

SECTION 26. Sections 1201.2055(a), (c), (d), (e), (g), and (i), Occupations Code, are amended.

SECTION 27. The heading to Section

Procedures Act of 1974 (Pub. L. No. 93-533) and its implementing regulations, a retailer shall deliver to a consumer at least 24 hours before the sales purchase contract is fully executed the contract, with all required information included, signed by the retailer. The delivery of the contract, with all required information included, signed by the retailer constitutes a firm offer by the retailer. Except as provided for by [~~in~~] Subsection (b), the consumer may accept the offer not earlier than 24 hours after the delivery of the contract. If the consumer has not accepted the offer within 72 hours after the delivery of the contract, the retailer may withdraw the offer.

(b). Substantially the same as introduced version.

SECTION 23. Same as introduced version.

SECTION 24. Same as introduced version.

SECTION 25. Section 1201.203, Occupations Code, is amended to read as follows:  
Sec. 1201.203. FORMS; RULES.

(a), (b). Same as introduced version.

No equivalent provision.

SECTION 26. Same as introduced version.

SECTION 27. Same as introduced version.

SECTION 28. Same as introduced version.

SECTION 29. Same as introduced version.

1201.206, Occupations Code, is amended.

SECTION 28. Sections 1201.206(a), (b), (c), (e), (f), (g), (h), and (k), Occupations Code, are amended to read as follows:

(a), (b), (c), (e), (f)

(g) When an application is filed for the issuance of a statement of ownership [~~and location~~] for a used manufactured home that is not in a retailer's inventory or is being converted from personal property to real property in accordance with Section 1201.2075 [is filed], a statement from the tax assessor-collector for the taxing unit having power to tax the manufactured home shall also be filed with the department. The statement from the tax assessor-collector must indicate that there are no perfected and enforceable personal property taxes due that have not been extinguished and canceled in accordance with Section 32.015, Tax Code, on the manufactured home that may have accrued on each January 1 that falls within the 18 months before the date of the sale.

(h), (k)

SECTION 29. The heading to Section 1201.207, Occupations Code, is amended.

SECTION 30. Sections 1201.207(a), (a-1), (b), (c), and (d), Occupations Code, are amended.

SECTION 31. Section 1201.2075, Occupations Code, is amended.

SECTION 32. Section 1201.2076(a), Occupations Code, is amended to read as follows:

(a)

No equivalent provision.

SECTION 30. Sections 1201.206(a), (b), (c), (e), (f), (g), (h), and (k), Occupations Code, are amended to read as follows:

(a), (b), (c), (e), (f). Same as introduced version.

(g) When an application is filed for the issuance of a statement of ownership [~~and location~~] for a used manufactured home that is not in a retailer's inventory or is being converted from personal property to real property in accordance with Section 1201.2075 [is filed], a statement from the tax assessor-collector for the taxing unit having power to tax the manufactured home shall also be filed with the department. The statement from the tax assessor-collector must indicate that, with respect to each January 1 occurring in the 18-month period preceding the date of the sale, there are no perfected and enforceable tax liens on the manufactured home that have not been extinguished and canceled in accordance with Section 32.015, Tax Code, or personal property taxes due on the manufactured home [that may have accrued on each January 1 that falls within the 18 months before the date of the sale].

(h), (k). Same as introduced version.

SECTION 31. Same as introduced version.

SECTION 32. Same as introduced version.

SECTION 33. Same as introduced version.

SECTION 34. Section 1201.2076, Occupations Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a). Same as introduced version.

(a-1) Notwithstanding Subsection (a), the department may not require an inspection for habitability before issuing a statement of ownership with respect to a manufactured

home if the home is being sold to or ownership is otherwise being transferred to a retailer. The department remains subject to the other requirements of Subsection (a).

SECTION 33. Section 1201.208, Occupations Code, is amended.

SECTION 35. Same as introduced version.

SECTION 34. Section 1201.209, Occupations Code, is amended.

SECTION 36. Same as introduced version.

SECTION 35. The heading to Section 1201.210, Occupations Code, is amended.

SECTION 37. Same as introduced version.

SECTION 36. Section 1201.210(a), Occupations Code, is amended.

SECTION 38. Same as introduced version.

SECTION 37. Section 1201.212, Occupations Code, is amended.

SECTION 39. Same as introduced version.

SECTION 38. Section 1201.213(b), Occupations Code, is amended.

SECTION 40. Same as introduced version.

SECTION 39. Section 1201.214, Occupations Code, is amended.

SECTION 41. Same as introduced version.

SECTION 40. Section 1201.216, Occupations Code, is amended.

SECTION 42. Substantially the same as introduced version.

SECTION 41. Section 1201.217, Occupations Code, is amended.

SECTION 43. Same as introduced version.

SECTION 42. Section 1201.219(h), Occupations Code, is amended.

SECTION 44. Same as introduced version.

SECTION 43. Section 1201.220, Occupations Code, is amended.

SECTION 45. Same as introduced version.

SECTION 44. Section 1201.221(b), Occupations Code, is amended.

SECTION 46. Same as introduced version.

SECTION 45. Section 1201.222(a), Occupations Code, is amended.

SECTION 47. Same as introduced version.

SECTION 46. Section 1201.255(a), Occupations Code, is amended to read as follows:

SECTION 48. Section 1201.255(a), Occupations Code, is amended to read as follows:

(a) Except as authorized under Section 1201.252, manufactured housing that is installed must be installed in compliance with the standards and rules adopted and orders issued by the department. An uninstalled manufactured home may not be occupied for any residential purpose.

(a) Except as authorized under Section 1201.252, manufactured housing that is installed must be installed in compliance with the standards and rules adopted and orders issued by the department. An uninstalled manufactured home may not be occupied for any purpose other than to view

No equivalent provision.

SECTION 47. Section 1201.360(a), Occupations Code, is amended.

No equivalent provision.

No equivalent provision.

SECTION 48. Section 1201.403, Occupations Code, is amended to read as follows:

Sec. 1201.403. AMOUNT RESERVED IN TRUST FUND; PAYMENT OF COSTS.

(a) The amount [~~One million dollars shall be~~] reserved in the trust fund shall be determined by a specific appropriation made to the department and allocated to the fund by the operating budget of the department [~~for payment of valid consumer claims~~].

(b) If any part of the department's operating

the home on a retailer's sales lot.

SECTION 49. Section 1201.358(d), Occupations Code, is amended to read as follows:

(d) A manufacturer, retailer, or installer entitled to indemnification under this section is a consumer for purposes of Subchapter I and may recover actual damages from the manufactured homeowner consumer claims program [~~trust fund~~].

SECTION 50. Same as introduced version.

SECTION 51. The heading to Subchapter I, Chapter 1201, Occupations Code, is amended to read as follows:

SUBCHAPTER I. MANUFACTURED HOMEOWNER CONSUMER CLAIMS PROGRAM [~~HOMEOWNERS' RECOVERY TRUST FUND~~]

SECTION 52. Section 1201.401, Occupations Code, is amended to read as follows:

Sec. 1201.401. MANUFACTURED HOMEOWNER CONSUMER CLAIMS PROGRAM [~~HOMEOWNERS' RECOVERY TRUST FUND~~]. (a) The department shall administer the manufactured homeowner consumer claims program to provide a remedy for damages resulting from prohibited conduct by a person licensed under this chapter [~~homeowners' recovery trust fund is an account in the general revenue fund~~].

(b) The department may make a payment under the manufactured homeowner consumer claims program only after all other departmental operating expenses are sufficiently funded.

No equivalent provision.

budget is based on appropriated receipts, [Unless the balance of the trust fund is less than \$1 million, the costs of the director and the department in administering] the trust fund shall be funded out of the appropriated receipts only after all other department operations have been sufficiently funded [; keeping books and records, investigating consumer complaints, and conducting the informal dispute resolution process shall be paid from the trust fund].

No equivalent provision.

SECTION 49. Section 1201.405(d), Occupations Code, is amended to read as follows:

No equivalent provision.

SECTION 53. Section 1201.404, Occupations Code, is amended to read as follows:

Sec. 1201.404. CONSUMER COMPENSATION. (a) Except as otherwise provided by Subchapter C, a payment made under the manufactured homeowner consumer claims program [the trust fund] shall be paid directly to a consumer or, at the director's option, to a third party on behalf of a consumer to compensate 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) The department is [trust fund and the director are] not liable to the consumer if the manufactured homeowner consumer claims program [trust fund] does not have the money necessary to pay the actual damages determined to be payable. The director shall record the date and time of receipt of each verified complaint and, as money becomes available, pay the consumer whose claim is the earliest by date and time to have been found to be verified and properly payable.

SECTION 54. Sections 1201.405(c), (d), (f), and (g), Occupations Code, are amended to read as follows:

(c) Under the manufactured homeowner

(d) Notwithstanding other provisions of this subchapter, this subchapter does not apply to, and a consumer may not recover against the trust fund as a result of, a claim against a license holder that results from a cause of action directly related to the sale, [~~lease-purchase,~~] exchange, brokerage, or installation of a manufactured home before September 1, 1987.

No equivalent provision.

No equivalent provision.

consumer claims program, the department [~~The trust fund~~] is not liable for and the director may not pay:

- (1) punitive, exemplary, double, or treble damages; or
- (2) damages for pain and suffering, mental anguish, emotional distress, or other analogous tort claims.

(d) Notwithstanding other provisions of this subchapter, this subchapter does not apply to, and a consumer may not recover through the manufactured homeowner consumer claims program [~~against the trust fund~~] as a result of, a claim against a license holder that results from a cause of action directly related to the sale, [~~lease-purchase,~~] exchange, brokerage, or installation of a manufactured home before September 1, 1987.

(f) Under the manufactured homeowner consumer claims program, the department [~~The trust fund~~] is not liable for and the director may not pay:

- (1) actual damages to reimburse an affiliate or related person of a licensee, except when the director issues an order under Sections 1201.358(b) and (c);
- (2) actual damages to correct matters that are solely cosmetic in nature;
- (3) for attorney's fees; or
- (4) actual damages to address other matters, unless the matters involve:
  - (A) a breach of warranty;
  - (B) a failure to return or apply as agreed money received from a consumer or money for which the consumer was obligated; [~~or~~]
  - (C) the breach of an agreement to provide goods or services necessary to the safe and habitable use of a manufactured home such as steps, air conditioning, access to utilities, or access to sewage and wastewater treatment; or
  - (D) perfected and enforceable tax liens not extinguished and canceled in accordance with Section 32.015, Tax Code.

(g) The board by rule may place reasonable limits on the costs that may be approved for payment under the manufactured homeowner consumer claims program [~~from the trust fund~~], including the costs of reassigned warranty work, and require consumers making claims that may be



subject to reimbursement under the manufactured homeowner consumer claims program [~~from the trust fund~~] to provide estimates establishing that the cost will be reasonable. Such rules may also specify such procedures and requirements as the board may deem necessary and advisable for the administration of the manufactured homeowner consumer claims program [~~trust fund~~].

No equivalent provision.

SECTION 55. The heading to Section 1201.406, Occupations Code, is amended to read as follows:

Sec. 1201.406. PROCEDURE FOR RECOVERY UNDER MANUFACTURED HOMEOWNER CONSUMER CLAIMS PROGRAM [~~FROM TRUST FUND~~].

No equivalent provision.

SECTION 56. Section 1201.406(a), Occupations Code, is amended to read as follows:

(a) To recover under the manufactured homeowner consumer claims program [~~from the trust fund~~], a consumer must file a written, sworn complaint in the form required by the director not later than the second anniversary of:

- (1) the date of the alleged act or omission causing the actual damages; or
- (2) the date the act or omission is discovered or should reasonably have been discovered.

No equivalent provision.

SECTION 57. Sections 1201.409(a) and (c), Occupations Code, are amended to read as follows:

(a) Except as otherwise provided by Subchapter C, the manufactured homeowner consumer claims program [~~trust fund~~] shall be reimbursed by the surety on a bond or from other security filed under Subchapter C for the amount of a claim that is paid out under the manufactured homeowner consumer claims program [~~of the trust fund~~] by the director to a consumer in accordance with this subchapter.

(c) If payment to the manufactured homeowner consumer claims program [~~trust fund~~] of a claim is not made by the surety or from the other security in a timely manner, the attorney general shall file suit for recovery of the amount due the manufactured homeowner consumer claims program [~~trust fund~~]. Venue for the suit is

No equivalent provision.

SECTION 50. Section 1201.451, Occupations Code, is amended.

SECTION 51. Section 1201.452(a), Occupations Code, is amended.

SECTION 52. Section 1201.455, Occupations Code, is amended.

SECTION 53. Section 1201.456, Occupations Code, is amended.

SECTION 54. Section 1201.457, Occupations Code, is amended to read as follows:

Sec. 1201.457. HABITABILITY: CHANGE TO OR FROM NONRESIDENTIAL [~~BUSINESS~~] USE OR SALVAGE. (a) If the sale or[-] exchange[, ~~or lease purchase~~] of a used manufactured home is to a purchaser for the purchaser's business use, the home is not required to be habitable.

The purchaser of the home shall file with the department an application for the issuance of a statement of ownership [~~and location~~] indicating that the home is reserved for a business use.

(a-1), (b)

SECTION 55. Section 1201.459(c), Occupations Code, is amended.

in Travis County.

SECTION 58. Section 1201.410, Occupations Code, is amended to read as follows:

Sec. 1201.410. INFORMATION ON RECOVERY UNDER MANUFACTURED HOMEOWNER CONSUMER CLAIMS PROGRAM [~~FROM TRUST FUND~~]. The director shall prepare information for notifying consumers of their rights to recover under the manufactured homeowner consumer claims program [~~from the trust fund~~], shall post the information on the department's website, and shall make printed copies available on request.

SECTION 59. Same as introduced version.

SECTION 60. Same as introduced version.

SECTION 61. Same as introduced version.

SECTION 62. Same as introduced version.

SECTION 63. Section 1201.457, Occupations Code, is amended to read as follows:

Sec. 1201.457. HABITABILITY: CHANGE TO OR FROM NONRESIDENTIAL [~~BUSINESS~~] USE OR SALVAGE. (a) If the sale or[-] exchange[, ~~or lease purchase~~] of a used manufactured home is to a purchaser for the purchaser's business use, the home is not required to be habitable unless the purchaser discloses to the retailer in writing at the time of purchase that the purchaser intends for a person to be present in the home for regularly scheduled work shifts of not less than eight hours each day. The purchaser of the home shall file with the department an application for the issuance of a statement of ownership [~~and location~~] indicating that the home is reserved for a business use.

(a-1), (b). Same as introduced version.

SECTION 64. Same as introduced version.

SECTION 56. Section 1201.460, Occupations Code, is amended.

SECTION 57. Sections 1201.461(b), (c), (e), (f), and (h), Occupations Code, are amended to read as follows:

(b), (c)

(e) A person may not repair, rebuild, or otherwise refurbish [~~alter~~] a salvaged manufactured home unless the person complies with the rules of the director relating to rebuilding a salvaged manufactured home.

(f), (h)

SECTION 58. Section 1201.504, Occupations Code, is amended.

SECTION 59. Sections 1201.512(b) and (c), Occupations Code, are amended.

SECTION 60. Section 1201.513(b), Occupations Code, is amended.

SECTION 61. Section 1201.551(a), Occupations Code, is amended to read as follows:

(a)

No equivalent provision.

No equivalent provision.

SECTION 65. Same as introduced version.

SECTION 66. Sections 1201.461(b), (c), (e), (f), and (h), Occupations Code, are amended to read as follows:

(b), (c). Same as introduced version.

(e) A person may not repair, rebuild, or otherwise refurbish [~~alter~~] a salvaged manufactured home unless the person complies with the rules of the director relating to rebuilding a salvaged manufactured home. For purposes of this subsection, "refurbish" means any general repairs, improvements, or aesthetic changes to a manufactured home that do not constitute the rebuilding of a salvaged manufactured home.

(f), (h). Same as introduced version.

SECTION 67. Same as introduced version.

SECTION 68. Same as introduced version.

SECTION 69. Same as introduced version.

SECTION 70. Section 1201.551, Occupations Code, is amended to read as follows:

Sec. 1201.551. DENIAL OF LICENSE; DISCIPLINARY ACTION.

(a). Same as introduced version.

(b) The director may suspend or revoke a license if, after receiving notice of a claim, the license holder or the license holder's surety fails or refuses to pay a final claim paid under the manufactured homeowner consumer claims program [~~from the trust fund~~] for which demand for reimbursement was made.

SECTION 71. Section 1201.6041(a), Occupations Code, is amended to read as follows:

(a) Instead of requiring a consumer to apply for compensation under the manufactured homeowner consumer claims program [~~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.

SECTION 62. Section 347.002(b), Finance Code, is amended.

SECTION 72. Same as introduced version.

SECTION 63. Section 347.004(a), Finance Code, is amended.

SECTION 73. Same as introduced version.

SECTION 64. Section 347.056, Finance Code, is amended.

SECTION 74. Same as introduced version.

SECTION 65. Section 347.155(b), Finance Code, is amended.

SECTION 75. Same as introduced version.

SECTION 66. Section 347.356, Finance Code, is amended.

SECTION 76. Same as introduced version.

SECTION 67. Section 347.455(b), Finance Code, is amended.

SECTION 77. Same as introduced version.

SECTION 68. Section 63.005(a), Property Code, is amended.

SECTION 78. Same as introduced version.

No equivalent provision.

SECTION 79. Section 1.04(3-a), Tax Code, is amended to read as follows:

(3-a) Notwithstanding anything contained herein to the contrary, a manufactured home is an improvement to real property only if the owner of the home has elected to treat the manufactured home as real property pursuant to Section 1201.2055, Occupations Code, and a ~~certified~~ copy of the statement of ownership ~~[and location]~~ has been filed with the real property records of the county in which the home is located as provided in Section 1201.2055(d), Occupations Code.

No equivalent provision.

SECTION 80. Section 11.432(a), Tax

Code, is amended to read as follows:

(a) Except as provided by Subsection (a-1), for a manufactured home to qualify as a residence homestead under Section 11.13, the application for exemption required by Section 11.43 must be accompanied by:

(1) a copy of the statement of ownership [~~and location~~] for the manufactured home issued by the manufactured housing division of the Texas Department of Housing and Community Affairs under Section 1201.207, Occupations Code, showing that the individual applying for the exemption is the owner of the manufactured home;

(2) a copy of the sales purchase agreement or other applicable contract or agreement or the payment receipt showing that the applicant is the purchaser of the manufactured home; or

(3) a sworn affidavit by the applicant stating that:

(A) the applicant is the owner of the manufactured home;

(B) the seller of the manufactured home did not provide the applicant with the applicable [a purchase] contract or agreement; and

(C) the applicant could not locate the seller after making a good faith effort.

SECTION 69. Section 23.127(a), Tax Code, is amended.

SECTION 70. Section 23.127, Tax Code, is amended by adding Subsection (m) to read as follows:

(m) When a retailer files a declaration under this section, the chief appraiser:

(1) may impose only a property tax on retail manufactured housing inventory as described by this section and Section 23.128; and

(2) may not tax as personal property homes declared as retail manufactured housing inventory.

No equivalent provision.

SECTION 81. Same as introduced version.

SECTION 82. Section 23.127, Tax Code, is amended by adding Subsection (m) to read as follows:

(m) Except as provided by Subsection (d), a chief appraiser shall appraise retail manufactured housing inventory in the manner provided by this section.

SECTION 83. Section 25.08(e), Tax Code, is amended to read as follows:

(e) A manufactured home shall be listed together with the land on which the home is located if:

(1) the statement of ownership [~~and location~~] for the home issued under Section 1201.207, Occupations Code, reflects that the owner has elected to treat the home as

real property; and  
(2) a [certified] copy of the statement of ownership [~~and location~~] has been filed in the real property records in the county in which the home is located.

No equivalent provision.

SECTION 84. Section 32.03(b), Tax Code, is amended to read as follows:

(b) A bona fide purchaser for value or the holder of a lien recorded on a manufactured home statement of ownership [~~and location~~] is not required to pay any taxes that have not been recorded with the Texas Department of Housing and Community Affairs. In this section, manufactured home has the meaning assigned by Section 32.015(b). Unless a tax lien has been filed timely with the Texas Department of Housing and Community Affairs, no taxing unit, nor anyone acting on its behalf, may use a tax warrant or any other method to attempt to execute or foreclose on the manufactured home.

SECTION 71. The following provisions of the Occupations Code are repealed:

- (1) Section 1201.003(16);
- (2) Section 1201.058(b);
- (3) Section 1201.101(f-1);
- (4) Sections 1201.206(i), (i-1), and (j);
- (5) Section 1201.210(d); and
- (6) Sections 1201.303(c), (d), (e), (f), and (g).

SECTION 85. The following provisions of the Occupations Code are repealed:

- (1) Sections 1201.003(16) and (31);
- (2) Section 1201.058(b);
- (3) Sections 1201.206(i), (i-1), and (j);
- (4) Section 1201.210(d);
- (5) Sections 1201.303(c), (d), (e), (f), and (g);
- (6) Section 1201.402;
- (7) Section 1201.403; and
- (8) Section 1201.611(h).

SECTION 72. This Act take effect September 1, 2018.

SECTION 86. This Act takes effect September 1, 2017.