

SUBJECT: Exempting nonprofit developers from builder registration requirements

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 8 ayes — Swinford, Paxton, Van Arsdale, Christian, Farrar, Flynn,
Parker, Veasey

0 nays

1 absent — B. Cook

WITNESSES: For — Janet Ahmad, Home Owners for Better Building; Irma Bowler, Blue-Ridge Subdivision; Patricia Cabrera, Raquel Martinez, Sara Ann Olivares, and Cynthia G. Yuman, Villa De Fortuna Subdivision; Steven Carriker, Texas Association of Community Development Corporations; Michael D Moore, Greater San Antonio Builders Association; Scott Norman, Texas Association of Builders; Stephanie Adame-Battle; Dorina Corrente; Connie Hudson; Eldo M Jones, M.D.; Marcia Kushner; Teresa Lyda; Alfonso Peña; Stephanie Thompson; (*Registered, but did not testify*: Ned Muñoz, Texas Association of Builders; Henrietta de Hoyos; James A Winslow)

Against — None

On — Geoff Bracken, Perry Homes; Duane A. Waddill, Texas Residential Construction Commission; Mark Eberwine

BACKGROUND: The Texas Residential Construction Commission (TRCC) Act provides that a person may not act as a builder unless the person has applied for and received a certificate of registration from the commission. A builder also is required to register a new home with TRCC on or before the 15th day of the month following transfer of title from the builder to the homeowner. Registration must include any information required by the TRCC by rule and must be accompanied by a fee not to exceed \$125.

A “builder” falling under these requirements is defined as any business entity or individual who, for a fixed price, commission, fee, wage, or other compensation, constructs, supervises, or manages the construction of a new home, a material improvement to a home, or an improvement to the

interior of an existing home if the cost of the work exceeds \$20,000. The term includes an owner, officer, director, shareholder, partner, affiliate, or employee of the builder.

Existing statutory provisions do not expressly except non-profit community development organizations involved in the financing and development of residential housing who contract the actual construction of such housing to an unaffiliated builder.

DIGEST:

HB 2636 would amend the definition of a builder in the Texas Residential Construction Commission Act to exclude a non-profit business entity that was classified as a 501(c)(3) organization for federal tax purposes if:

- the actual improvement to residential real property sold to a homeowner by such non-profit business entity was performed by a registered builder;
- the registered builder contractually agreed to comply with the provisions of the Act for the improvement to residential real property sold to a homeowner through the non-profit;
- the registered builder was liable contractually to the homeowner for the warranty, building, and performance standards of the improvement sold to the homeowner by the non-profit business entity, and
- the non-profit business entity did not participate in, supervise, or manage the construction of the residential improvement.

The bill would take effect September 1, 2007.