

**SUBJECT:** Amending licensing and other regulations related to manufactured homes

**COMMITTEE:** Licensing and Administrative Procedures — committee substitute recommended

**VOTE:** *After recommitted:*  
6 ayes — Kuempel, Guillen, Goldman, Hernandez, Herrero, S. Thompson

0 nays

3 absent — Frullo, Geren, Paddie

**WITNESSES:** *March 20 public hearing:*  
For — DJ Pendleton, Texas Manufactured Housing Association

Against — None

On — Michael Mosteit, Texas State Association of Electrical Workers, IBEW; (*Registered, but did not testify:* Joe Garcia, TDHCA Manufactured Housing Division; Sacha Jacobson)

**BACKGROUND:** The Texas Manufactured Housing Standards Act (Occupations Code, ch. 1201) provides licensing and other requirements for manufacturers, retailers, brokers, salespeople, and installers of manufactured homes. The act is administered by the Manufactured Housing Division and its board, which are under the Texas Department of Housing and Community Affairs.

Established under sec. 1201.401, the Manufactured Homeowners' Recovery Trust Fund is an account in the general revenue fund used to compensate consumers who sustained certain kinds of damage from unsatisfied claims against manufactured housing licensees.

Other statutes related to manufactured housing include Finance Code, ch. 347, which governs credit transactions for the purchase of manufactured homes, and Property Code, ch. 63, which provides requirements for

manufactured home liens.

**DIGEST:**

CSHB 2019 would make various changes to the Texas Manufactured Housing Standards Act and other manufactured housing laws. The bill would revise certain language and definitions, licensing requirements, and provisions related to habitability and abandonment.

**Cost benefit analysis.** The bill would require the Manufactured Housing Board to conduct a cost benefit analysis for any rule, policy, or process change that would increase a cost to license holders or consumers by more than \$50. The board would have to present at its next meeting an analysis detailing whether the need for the change would justify the increase.

**Trust fund.** CSHB 2019 would change the name of the Manufactured Homeowners' Recovery Trust Fund to the Manufactured Homeowner Consumer Claims Program. It also would remove language identifying the trust fund as an account in the general revenue fund and would repeal its definition and other provisions relating to administration of the trust fund.

The Texas Department of Housing and Community Affairs would administer the consumer claims program to provide a remedy for damages from conduct prohibited by manufactured housing licensees. The department could make a payment under the program only after all other departmental operating expenses were sufficiently funded.

**Habitability.** CSHB 2019 would prohibit the Department of Housing and Community Affairs from requiring an inspection for habitability of a manufactured home before issuing a statement of ownership if the home was being transferred to a retailer. It still would have to inspect a manufactured home for habitability before issuing a statement of ownership if the home was being converted from real to personal property.

The bill would require a manufactured home to be habitable when sold for business use if the purchaser disclosed that someone would be present in the home for regularly scheduled work shifts of at least eight hours each

day. A used home sold or exchanged for nonresidential, nonbusiness use would not have to be habitable.

**Abandonment.** If a manufactured home was abandoned on an individual's land and the land owner applied for a statement of ownership of the home, CSHB 2019 would require the land owner to include in the application an affidavit stating that she or he owned the land and was listed in the current real property or tax records as the owner.

**Deductions.** If a consumer exercised the three-day right of rescission after purchasing a manufactured home, the bill would allow in certain circumstances the retailer to collect from a consumer in advance or deduct from a consumer's deposit or down payment the cost of title and appraisal expenses incurred.

**Licensing.** CSHB 2019 would require that if the failure rate for manufactured housing licensing examinations exceeded 25 percent, the Manufactured Housing Board would review the examination and its procedures and adopt rules to maintain historical passage rates.

If the approval of a continuing education program, which licensees currently must complete to renew their licenses, expired between board meetings, the director could approve the continued administration of the program until the next board meeting.

The bill also would allow certain unlicensed individuals to act as a retailer, broker, or salesperson for an entity if at least one person listed as an owner, principal, partner, corporate officer, registered agent, or related person of the entity was licensed. Failure to pay the fee to obtain or renew a license as a manufacturer, retailer, broker, salesperson, or installer of manufactured homes would be added to the list of reasons why a license could be denied, revoked, or suspended.

**Publication of certain records.** CSHB 2019 would require electronic public records to be published on the department's website, including ownership and lienholder information, installation records, license holder

records, and enforcement actions.

**Language and definitions.** CSHB 2019 would repeal the term "lease-purchase" and its definition. It also would change the name of the manufactured home title document from "statement of ownership and location" (SOL) to "statement of ownership" (SO).

The bill would redefine "inventory" to mean new and used manufactured homes that a retailer had designated as inventory for sale and that were not used as residential dwellings when they received that designation. Chief appraisers would be required to appraise retail manufactured housing inventory as provided by the new definition. A licensed retailer acting as a warehouse and warehouseman would satisfy all storage, bonding, insurance, public sale, and security requirements if the storage of a manufactured home occurred on the retailer's lot and the home was secured in the same way the retailer secured manufactured homes held as inventory.

Certain references to federal law also would be amended.

The bill would take effect September 1, 2017.

**SUPPORTERS  
SAY:**

CSHB 2019 would codify current industry practice, remove confusing language, and ensure that Texas law properly referenced federal law on manufactured housing.

The bill would add specific language to the manufactured homes laws to ensure current practices were reflected in statute. For example, the Texas Department of Housing and Community Affairs (TDHCA) currently publishes all public information regarding the sale and ownership of manufactured homes on its website, and the industry relies on this publication for business operations. The bill would codify this practice and protect the businesses that have come to rely on it.

CSHB 2019 would rename the Manufactured Homeowners' Recovery Trust Fund because it no longer functions as a trust, and the fees

specifically created to fund it no longer are collected. The fund is currently a \$300,000 line item in the budget funded by the activities of the department with money remaining after operating expenses are paid. The bill would clarify the misleading name and help set reasonable expectations for consumers regarding payout timing.

The bill would modernize licensing language that was developed when most businesses were owner operated. Now, manufactured home businesses generally are larger entities, so the bill would define and expand who could act on behalf of a license holder. CSHB 2019 would define the term "inventory" for manufactured homes to clarify that inventory should be taxed as inventory, rather than personal property. The bill also would change the current name of the title to a manufactured home out of respect for buyers and their investment, eliminating an unfortunate acronym, SOL, which has a slang definition that many find offensive. CSHB 2019 would update references to now non-existent federal laws.

The bill would require the board to review the licensing examination if pass rates fell below 75 percent, protecting the industry from overly restrictive examinations. A large percentage of licensees are non-native English speakers, and the bill would help ensure that the exam remained appropriately rigorous but not so difficult that only a limited amount of people could pass.

**OPPONENTS  
SAY:**

CSHB 2019 unnecessarily would codify TDHCA's practice of publishing information related to manufactured home records on its website. This information already is made available by other sources to people who need it.

**NOTES:**

The committee substitute differs from the filed bill in a number of ways, including that CSHB 2019 would remove provisions related to the Manufactured Homeowners' Recovery Trust Fund and in its place establish the Manufactured Homeowner Consumer Claims Program.

CSHB 2019 was reported favorably as substituted by the House

Committee on Licensing and Administrative Procedures on April 3, sent to Calendars on April 11, recommitted to committee, and again reported favorably on April 13.