

## **BILL ANALYSIS**

Senate Research Center

H.B. 1193  
By: Telford (Harris)  
Administration  
4/21/1999  
Committee Report (Amended)

### **DIGEST**

Currently, the Texas Department of Housing and Community Affairs (department) regulates the manufactured housing industry. More Texans are purchasing manufactured homes than in previous years, cited to be attributable to the creation of additional service-sector jobs and a greater availability of financing, and some believe that changes to Texas law may be necessary to keep pace with industry trends. This bill sets forth guidelines for the licensing and regulation of manufactured housing by the department.

### **PURPOSE**

As proposed, H.B. 1193 sets forth guidelines for the licensing and regulation of manufactured housing.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 3(1), Article 5221f, V.T.C.S. (Texas Manufactured Housing Standards Act), to redefine “advertising” or “advertisement.”

SECTION 2. Amends Section 4, Article 5221f, V.T.C.S., to delete a provision regarding certain requirements and standards in effect on September 1, 1989. Deletes a provision regarding requirements and standards for the installation of manufactured homes. Makes conforming changes.

SECTION 3. Amends Section 6, Article 5221f, V.T.C.S., by amending Subsections (h) and (l) and adding Subsection (m), to provide that the sale, exchange, or lease-purchase (transfer) of manufactured homes for which salvage titles have been issued, rather than salvaged as defined in Section 8 of this Act, is unlawful. Provides that it is unlawful for a retailer to assist a consumer to prepare or provide false or misleading information on a document related to the purchase or financing of a manufactured home, and it is unlawful for a retailer or a salesperson to submit false or misleading information to a lending institution. Provides that it is unlawful for a retailer, salesperson, or agent of a retailer (vendor) to refuse to refund a consumer’s deposit, except in accordance with this subsection. Requires the deposit to be refunded within 15 days following the vendor’s receipt of a written request for the refund. Authorizes a consumer to recover up to three times the amount of the deposit plus attorney’s fees, if the vendor violates provisions of this subsection. Sets forth circumstances under which a deposit is authorized to be retained. Prohibits a retailer from retaining more than five percent of the estimated cash price of a specially ordered home and is required to refund any amount of the deposit which exceeds five percent. Provides that this subsection does not apply to a deposit in escrow in a real estate transaction or to a down payment as shown on an executed retail installment sales contract.

SECTION 4. Amends Article 5221f, V.T.C.S., by adding Section 6A, as follows:

Sec. 6A. LAND-HOME REGULATIONS. Provides that this section applies to transactions in which manufactured homes are sold as personal property and titled under SECTION 19 of this Act, but not to real estate transactions when the manufactured home is or will become real estate under Section 2.001, Property Code. Prohibits a retailer from selling, representing for sale, or offering for sale any real estate in conjunction with the sale of a manufactured home except as may be authorized by the Texas Department of Housing and Community Affairs (department) consistent with the provisions of the Real Estate License Act (Article 6573a, V.T.C.S.).

SECTION 5. Amends Section 7, Article 5221f, V.T.C.S., by amending Subsections (o) and (q) and adding Subsection (s), to provide that Subsection (o) does not apply to a license holder making a certain application. Authorizes the executive director of the department (director) to recognize and approve a training program for an applicant for a license that is conducted by a nonprofit educational institution or foundation, rather than approved for installers in the field and by a private institution or other person. Authorizes a person licensed as a broker or salesperson under Article 6573a, V.T.C.S. (The Real Estate License Act) to act as a manufactured housing broker or salesperson and is not required to be licensed or post certain securities under this Act, provided that negotiations for the transfer of a manufactured home are conducted on behalf of a person for whom the real estate license otherwise acts as a real estate broker or salesperson.

SECTION 6. Amends Sections 8(b) and (g), Article 5221f, V.T.C.S., to provide that Subsection (b) does not apply to transfer from one consumer to another consumer. Redefines a “salvaged” manufactured home. Requires a person possessing an original title to a used, rather than salvaged, manufactured home that is salvaged to surrender the title to the director. Requires a retailer to remove a device or insignia issued by the director to indicate compliance with the standards, rules, and regulations established by the United States Department of Housing and Urban Development, and is permanently affixed to each transportable section of each HUD-code manufactured home constructed after June 15, 1976, for sale to a consumer (label) and surrender the label along with the manufacturer’s certificate of origin to the director for issuance of the salvage title. Requires the director to issue a document of title, rather than a new original document, if the manufactured home is rebuilt. Deletes text regarding a property and casualty insurer.

SECTION 7. Amends Sections 9(e) and (g), Article 5221f, V.T.C.S., to require public and administrative hearings to be held in Travis County unless all parties agree to another location. Provides that all rules are effective 30 days following the date of publication. Deletes text regarding other rules provided by Chapter 2001, Government Code.

SECTION 8. Amends Sections 14(d), (i), and (j), Article 5221f, V.T.C.S., to require a retailer to provide a consumer a copy, or general description, of the manufacturer’s new home construction warranty and the retailer’s installation warranty prior to the signing of any binding retail installment sales contract or other purchase agreement. Requires the retailer to deliver certain documents at the time of the initial installation. Requires the Texas Department of Housing and Community Affairs (department) to perform an inspection within 30, rather than 15, days after receipt of a request for a home inspection, and requires the department to mail a written report to all parties involved within 10, rather than five, days after the inspection. Requires the installer to comply with the initial report and warranty service orders of the director. Authorizes the department to issue an amended report and warranty orders if all parties receive notification of and are given an opportunity to respond. Requires the amended report and warranty orders to supersede the initial report and warranty orders. Deletes a provision regarding warranty orders not being contested cases.

SECTION 9. Amends Section 18, Article 5221f, V.T.C.S., by amending Subsections (e) and (g) and adding Subsection (j), to prohibit a local government from requiring any permit, fee, bond, or insurance for the transportation and installation of certain manufactured housing except as approved by the department. Provides that Subsection (g) does not prohibit the collection of actual costs incurred by a local governmental unit or home-rule city that result from the transportation of a manufactured home. Makes a nonsubstantive change.

SECTION 10. Amends Section 19(g), Article 5221f, V.T.C.S., to authorize a person to apply to the department for a replacement title by presenting evidence that efforts to locate the previous owner or leinholder have been unsuccessful and an affidavit stating that the person is entitled to have a good and marketable title, if an original title is unavailable.

SECTION 11. Repealers: Sections 347.303 - 347.306, Finance Code (Deposit for Order of Manufactured Home, Deposit for Holding Manufactured Home for Purchase, Requirements for Retaining Deposit, and Effect of Exceeding Limits on Deposits).

SECTION 12. Effective date: September 1, 1999, except for SECTION 5 which takes effect January 1, 2000.

SECTION 13. Emergency clause.

Effective date: upon passage.

## **SUMMARY OF COMMITTEE CHANGES**

### SECTION 3.

Amends Section 6, Article 5221f, V.T.C.S., by adding Subsection (m), to provide that it is unlawful for a vendor to refuse to refund a consumer's deposit, except in accordance with this subsection. Sets forth guidelines for refunding and retaining portions of a refund. Provides that this subsection does not apply to a deposit in escrow in a real estate transaction or to a down payment as shown on an executed retail installment sales contract. Deletes proposed SECTION 3.

### SECTION 4.

Adds Section 6A, Article 5221f, V.T.C.S., to provide that this section applies to transactions in which manufactured homes are sold as personal property and titled under SECTION 19 of this Act, but not to real estate transactions when the manufactured home is or will become real estate under Section 2.001, Property Code. Prohibits a retailer from selling, representing for sale, or offering for sale any real estate in conjunction with the sale of a manufactured home except as may be authorized by the department consistent with the provisions of the Real Estate License Act (Article 6573a, V.T.C.S.).

### SECTION 5.

Amends Section 7, Article 5521f, V.T.C.S., to authorize the director to recognize and approve a training program for an applicant for a license that is conducted by a nonprofit educational institution or foundation, rather than a private institution or other person.

### SECTION 11.

Repeals Sections 347.303 - 347.306, Finance Code.

### SECTION 12.

Effective date: September 1, 1999, except for SECTION 5, which takes effect January 1, 2000.