

BILL ANALYSIS

Senate Research Center
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DIGEST AND PURPOSE

Legislation passed during the 77th Texas Legislature dramatically affected the manufactured housing industry. H.B. 1869, 77th Legislature, redefined manufactured housing as real property, with limited exceptions, and required the sale of a manufactured home to be conducted as a real estate transaction when the home is to be placed on land owned by the consumer. H.B. 1869 also provided consumer protection language. As proposed, S.B. 521 restores consumer choice related to financing options while maintaining acquisition requirements and further clarifying when manufactured housing is to be defined as real property. This bill also establishes provisions requiring seller training. S.B. 521 further establishes requirements for subjecting manufactured home to ad valorem taxation and the escrow of taxes on manufactured housing. This bill reduces legalese in disclosure documents.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 7A, Texas Manufactured Housing Standards Act (Article 5221f, V.T.C.S.), as follows:

Sec. 7A. New heading: CERTIFICATION AND EDUCATION PROGRAMS. (a) Redesignates Subsection (b) as Subsection (a). Requires the Manufactured Housing Board (board) within the Texas Department of Housing and Community Affairs (TDHCA) to recognize, prepare, and administer continuing education programs for its license holders, rather than only one of those three activities. Deletes text referring to TDHCA's authorization regarding certification programs.

(b) Prohibits the actions of a licensed employee from being attributed to the employer, for the purposes of this section and Act relating to licensees of this department, in certain cases. Provides that any licensee directly involved in the sale of manufactured housing must complete eight hours per calendar year of certification and continuing education.

(d) Redesignates Subsection (c) as Subsection (d). Authorizes the board to contract with a nonprofit, tax-exempt organization listed in Section 501(c)(3), Internal Revenue Code of 1986, upon application to prepare or administer a certification or continuing education program under this section. Deletes additional text referring to 26 U.S.C. Section 501 (c)(3).

(e) Redesignates Subsection (d) as Subsection (e). Requires TDHCA to issue appropriate certificates to persons who complete a certification program and participate in a continuing education program, rather than one or the other, under this section.

SECTION 2. Amends Section 19(1), Texas Manufactured Housing Standards Act (Article 5221f, V.T.C.S.), to authorize, rather than require, cancellation of the manufacturer's certificate

or original document of title if a manufactured home is permanently attached to, rather than affixed to or an improvement of, real estate or real property as defined by Chapter 2306.004(26). Deletes exemption text referring to a title issued under Section 2.001(e) or (f), Property Code. Makes a conforming change. Includes the requirement that a copy of a notice of attachment be submitted with the manufacturer's certificate or the original document of title surrendered for cancellation. Prohibits TDHCA from cancelling a manufacturer's certificate or an original document if a lien has been registered or recorded on the manufactured home. Authorizes, rather than requires, a person or a title insurance company, authorized to do business in this state, that surrenders the manufacturer's certificate or original document of title to file a notice of attachment, rather than improvement, in the county in which the home is located. Makes conforming changes.

SECTION 3. Amends Sections 19A(a), (b), and (c), Texas Manufactured Housing Standards Act (Article 5221f, V.T.C.S.), as follows:

Sec. 19A. (a) Provides that a manufactured home permanently attached to real property is classified and taxed as real property if the consumer has elected to file a notice of attachment with TDHCA, as well as if the property to which it is attached is titled in the name of the consumer under a deed or contract for sale.

(b) Requires a closing of a transaction for the acquisition of real property, as well as manufactured home considered to be real property under this section, to occur at a federally insured financial institution, title company, or attorney's office. Requires the contract of sale of real property to be filed in the real property records of the county in which the home is attached, rather than installed.

(c) Deletes text including applicable state standards in the requirements a new manufactured home must meet to validate the manufacturer's warranty.

SECTION 4. Amends Section 21, Texas Manufactured Housing Standards Act (Article 5221f, V.T.C.S.), to include in the statement provided to the consumer in a certain format that municipalities, not a portion thereof, or subdivisions may restrict the placement of manufactured homes.

Deletes text referring to limited access to water lines and the possibility of having to drill a well. Provides that a consumer should inquire about the cost to join a water system, as well as the rates thereof, if water is available through, not provided by, certain entities.

Requires, instead of authorizes, a consumer to install an on-site sewer facility if the lot is not serviced by a municipal sewer or utility district. Specifies that a consumer should check with a licensed private installer to determine the requirements and costs of such an installation.

Includes text providing that a manufactured home will be appraised and subject to ad valorem taxes as other single-family residential structures. Requires the taxes to be escrowed with the monthly payment. Provides that the consumer will be notified of all provisions pertaining to federal Truth in Lending disclosures, upon closing. Deletes text referring to the taxation of real property and an attached manufactured home and to the Homestead Exemption.

Includes a section on insurance providing that a lender may require insurance and instructing the consumer in that process.

Deletes text referring to the transfer of title of and closing on a manufactured home and related required information disclosures.

SECTION 5. Amends Section 2.001, Property Code, as follows:

Sec. 2.001. MANUFACTURED HOUSING. (a) Defines a manufactured home as personal, rather than real property, except as defined by Subsection (b). Defines conditions under which a manufactured home is real property. Deletes the conditions

under which definition of a manufactured home as personal property.

(b) Assigns meanings to “consumer,” “document of title,” “first retail sale,” “manufactured home,” and “mobile home.”

(c) Provides that this section does not affect or change the classification of a manufactured home as personal or real property if it was permanently affixed to real property before January 1, 2002.

(e) Requires TDHCA to issue, rather than prohibits TDHCA from issuing, a document of title for a new, untitled manufactured home at its first retail sale, or for a titled manufactured home being resold and permanently installed on real property in the name of the consumer, except as provided by Subsection (b). Requires the consumer to provide the retailer a legible copy of the real property deed in a real property transaction, rather than before installation. Includes a federally insured financial institution conducting a closing of a real property transaction in the list of possible entities required to file a notice of installation, in the public land records for the county in which the real property is located, not later than the 30th working day after the date the installation is completed. Makes conforming changes. Deletes text referring to the reselling of a manufactured home to be permanently installed on real property.

(f) Redesignates Subsection (g) as Subsection (f). Requires a notice of installation filed under this section to be in accordance with TDHCA rules. Deletes text referring to specifics regarding a notice of installation.

(h) Redesignates Subsection (i) as Subsection (h).

SECTION 6. Amends Section 347.254, Finance Code, to require, rather than authorize, a creditor to require a consumer to pay ad valorem taxes on the manufactured home through the creditor.

SECTION 7. Amends Section 32.014(a), Tax Code, to include in the qualifications requiring a manufactured home to be appraised and taxed as an improvement to the real property that the owner has been issued a certificate of attachment by TDHCA.

SECTION 8. Effective date: upon passage or September 1, 2003.