

BILL ANALYSIS

Senate Research Center

H.B. 1460
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Manufactured Housing Act was originally created by the legislature in the mid-1970s and codified into the Occupations Code in 2003. During this time, the industry has experienced significant change along with amendments to both the Texas code and the preemptive Federal Manufactured Housing Standards Act.

H.B. 1460 proposes several changes to Chapter 1201 (Manufactured Housing), Occupations Code. The proposed amendments will provide greater consumer protections through increased enforcement authority granted to the Manufactured Housing Division of the Texas Department of Housing and Community Affairs (TDHCA). In particular, this bill provides more stringent procedures required to transfer ownership and clarifying responsibilities of businesses licensed by TDHCA. The bill also further clarifies how property taxes are to be recorded and may be collected with respect to manufactured homes that are designated as personal property. This bill provides many nonsubstantive changes made to clarify regulatory agency and licensee practices concerning licensing, installations, consumer disclosures, and disciplinary procedures.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Manufactured Housing Board within the Texas Department of Housing and Community Affairs in SECTION 9 (Section 1201.104, Occupations Code), SECTION 13 (Section 1201.1125, Occupations Code), SECTION 16 (Section 1201.118, Occupations Code), SECTION 29 (Section 1201.2055, Occupations Code), SECTION 43 (Section 1201.251, Occupations Code), and SECTION 62 (Section 1201.405, Occupations Code) of this bill.

Rulemaking authority previously granted to the Manufactured Housing Board within the Texas Department of Housing and Community Affairs is modified in SECTION 4 (Section 1201.054, Occupations Code) and SECTION 20 (Section 1201.1521, Occupations Code).

Rulemaking authority previously granted to the executive director of the manufactured housing division of the Texas Department of Housing and Community Affairs is transferred to the Manufactured Housing Board within the Texas Department of Housing and Community Affairs in SECTION 3 (Section 1201.053, Occupations Code) and SECTION 26 (Section 1201.203, Occupations Code).

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1201.003, Occupations Code, by amending Subdivisions (5), (13), (20), and (23-a) and adding Subdivisions (1-a), (17-a), (18-a), and (25) to define "affiliate," "new manufactured home," "related person," and "used manufactured home" and to redefine "business use," "lease-purchase," "salesperson," and "statement of ownership and location."

SECTION 2. Amends Section 1201.008, Occupations Code, by adding Subsection (e), as follows:

(e) Authorizes the owner of a manufactured home to move the home from that lot, if it is located on a specific lot in a municipality, and place another manufactured home on the lot, provided that the replacement is a newer manufactured home and at least as large in living space as the home that was initially located on the lot, notwithstanding a zoning

law or any other law, unless prohibited by an ordinance or charter of a home-rule or general law municipality.

SECTION 3. Amends Section 1201.053(a), Occupations Code, to require the Manufactured Housing Board within the Texas Department of Housing and Community Affairs (board), rather than the executive director of the manufactured housing division of the Texas Department of Housing and Community Affairs (executive director), to adopt rules, rather than to issue orders, and otherwise act as necessary to comply with certain standards and implement specific procedures.

SECTION 4. Amends Sections 1201.054(b) and (d), Occupations Code, as follows:

(b) Requires the board to hold a hearing, if requested by any member of the public, on any rule that the board proposes to adopt, other than a rule proposed for adoption under emergency rulemaking. Requires the board to provide notice of a hearing under this subsection not later than the 10th day before the date the hearing is scheduled to be held. Provides that only the requirements of Chapter 2001 (Administrative Procedure), Government Code, apply if a rule is adopted under emergency rulemaking. Deletes existing text requiring a proposed rule to be published in the Texas Register before the 30th day preceding the date of a public hearing set to consider the testimony of interested persons. Deletes existing text requiring notice of the time and place of the public hearing to be published in the Texas Register before the 30th day preceding the date of the hearing.

(d) Prohibits a rule relating to an installation standard from taking effect later than 60 days after the date of publication of notice unless the board determines that an earlier effective date is required to meet an emergency and the installation standard is adopted under the emergency rulemaking provisions of Chapter 2001, Government Code.

SECTION 5. Amends Section 1201.058, Occupations Code, as follows:

Sec. 1201.058. New heading: FEES. (a) Creates this subsection from existing text. Requires the board to establish in reasonable amounts fees to cover any purpose under this chapter (Manufactured Housing). Deletes existing text requiring the board to establish the fees imposed under Sections 1201.055-1201.057 in amounts that are reasonable and necessary to cover the cost of administering this chapter.

(b) Requires \$10 of the fee for each purchase, exchange, or lease-purchase of a manufactured home to be deposited to the credit of the trust fund and used for the protection programs described by Subchapter I (Manufactured Homeowners' Recovery Trust Fund).

(c) Provides that a fee imposed by this chapter or a rule under this chapter is earned on the date the applicable payment is received by the Texas Department of Housing and Community Affairs operating through its manufactured housing division (TDHCA) and not subject to refund.

(d) Authorizes the executive director, in limited and appropriate circumstances and in accordance with rules adopted by the board, to approve the refund of fees, notwithstanding Subsection (c).

SECTION 6. Amends Sections 1201.101(d), (f), and (g), Occupations Code, as follows:

(d) Prohibits a person from acting as an installer, rather than performing an installation function on manufactured housing, in this state unless the person holds an installer's license.

(f) Prohibits a licensed salesperson from participating in a sale of a manufactured home unless the sale is through the retailer or the broker who sponsored the salesperson's application as required by Section 1201.103(d).

(g) Provides that this subsection does not apply to a person who is not required to hold a license as described by Section 1201.102 or an advertisement concerning real property on which there is a manufactured home that has been converted to real property in accordance with Section 1201.2055, rather than a manufactured home that has been permanently attached. Deletes existing text providing that this subsection does not apply to a person to whom a statement of ownership and location has been issued showing the person to be the owner of the home if the person does not offer to sell, exchange, or lease-purchase two or more manufactured homes in a 12-month period.

SECTION 7. Amends Sections 1201.102(a), (b), and (c), Occupations Code, as follows:

(a) Authorizes a licensed installer to employ an unlicensed person to assist the installer in performing installation functions if the licensed installer supervises the unlicensed person and maintains a list of all unlicensed persons employed. Authorizes the executive director to issue an order to prohibit a person who is not licensed as an installer from performing installation functions without the supervision of a licensed installer.

(b) Authorizes a license holder to engage a person who is not licensed under this chapter but holds another license issued by this state to provide goods and services in accordance with that license, including the installation or connection of air conditioning, plumbing, or electrical systems.

(c) Provides that a person who holds a retailer's license or a broker's license or who is a related person of that license holder is not required to apply for a salesperson's license. Deletes existing text providing that an employee who acts as an agent of a license holder is covered by the holder's license and is not required to hold an individual license. Deletes existing text, prohibiting an independent contractor or business entity from operating under the license of another business entity except as an agent or subcontractor of a licensed installer who is responsible for an installation function performed by the agent or subcontractor, except as provided by Section 1201.510. Deletes existing text providing that, in the case of a sole proprietorship, partnership, or corporation that holds a retailer's or broker's license, an owner, partner, or officer of that entity is not required to apply for a salesperson's license if that owner, partner, or officer is properly listed in the retailer's or broker's license application.

SECTION 8. Amends Section 1201.103, Occupations Code, by amending Subsections (a) and (d) and adding Subsection (c-1), as follows:

(a) Requires certain license applicants to file a license application with the executive director containing, among other things, the legal name, address, and telephone number of the applicant and each person who is anticipated to be a related person at the time the license is issued, each trade name and the name of each business organization by which the applicant does business under this chapter and the address of each business organization, and each location to which the license will apply. Deletes existing text requiring the application to contain the name of the business registered with the secretary of state if incorporated.

(c-1) Requires the applicant to maintain, at the applicant's principal office or another location designated by the applicant within this state, all records required of the applicant under this chapter.

(d) Requires an applicant for a salesperson's license to file an application with the executive director that is sponsored by a licensed retailer or broker, rather than a licensed, bonded retailer.

SECTION 9. Amends Section 1201.104, Occupations Code, as follows:

Sec. 1201.104. QUALIFICATIONS FOR LICENSE. (a) Requires a person, as a requirement, rather than a prerequisite, for a manufacturer's, retailer's, broker's, installer's, or rebuilder's license, who was not licensed or registered with TDHCA or a predecessor agency on September 1, 1987, within the year preceding the date of the application for

the person's initial license under this chapter, to attend and successfully complete 20 hours of instruction in the law, including instruction in consumer protection regulations, except as provided by Subsection (e). Requires the applicant to employ at least one related person who meets the requirement described by this subsection if the applicant is not an individual.

(b) Requires each individual who is a related person of the applicant to attend and successfully complete 20 hours of instruction in the law described by Subsection (a). Requires the individual to complete the next course of instruction offered after the date on which the individual becomes a related person. Provides that the individual is automatically barred from acting as a related person until the individual successfully completes the course of instruction required by Subsection (a).

(c) Requires an applicant for a salesperson's license to successfully complete the next course of instruction offered after the date the person is licensed. Provides that a salesperson who fails to successfully complete the course of instruction described by Subsection (a) will automatically have the person's license suspended until the person successfully completes the course of instruction.

(d) Creates this subsection from existing Subsection (b).

(e) Requires the board to adopt rules regarding the content of the course of instruction and the requirements for board approval of the course of instruction, including a rule requiring the course to be presented live and a rule prohibiting any electronic transmission of the course.

(f) Provides that Subsection (a) does not apply to a license holder, rather than a license holder or registration holder, who applies for a license for an additional business location or to renew or reinstate a license. Deletes existing Subsection (c) providing alternatives to the course of instruction. Deletes existing Subsection (d) requiring a manufacturer to reimburse TDHCA for the actual cost of a program presented under Subsection (c)(1). Deletes existing text providing that Subsection (a) does not apply to a license holder or registration holder who applies for a salesperson's license.

(g) Requires successful passage of an examination to be a prerequisite for the successful completion of an initial course of instruction required under this section, but prohibits successful passage of an examination from being a prerequisite for continuing education courses. Deletes existing text prohibiting an examination from being made a prerequisite of licensing.

SECTION 10. Amends Section 1201.105, Occupations Code, as follows:

Sec. 1201.105. **SECURITY REQUIRED.** (a) Provides that the bond or other security is payable to the trust fund except for any amount that is due directly to the retailer under this chapter.

(b) Requires any other security filed to be maintained in or by a federally insured depository institution, rather than a banking institution, located in this state.

(c) Authorizes the board to direct the executive director to discontinue the acceptance of bonds issued by a surety if TDHCA is unable to obtain timely reimbursements from the surety or TDHCA determines that a surety has experienced a deterioration in its financial condition.

SECTION 11. Amends Section 1201.106, Occupations Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires a license holder or applicant for a license to file a bond or other security for the issuance or renewal of a license in a certain amount.

(a-1) Authorizes the executive director to increase the fee amounts under Subsection (a) with respect to the issuance of an initial, renewal, or subsequent license based on an application described by Section 1201.118.

SECTION 12. Amends Section 1201.108, Occupations Code, as follows:

Sec. 1201.108. SECURITY: CHANGE IN OWNERSHIP OR LOCATION. (a) Provides that a new bond is not required for a change in location or ownership of a license holder or a business entity under which the license holder conducts business, rather than ownership of a corporation that is a license holder.

(b) Requires a license holder to notify TDHCA not later than 10 days before the date of a change described in Subsection (a).

(c) Requires the license holder to provide TDHCA, rather than authorizing the executive director to require, a proper endorsement of the original bond to avoid an interruption in the application of the bond to the license.

SECTION 13. Amends Subchapter C, Chapter 1201, Occupations Code, by adding Section 1201.1125, as follows:

Sec. 1201.1125. PROBATIONARY INSTALLER'S OR SALESPERSON'S LICENSE. (a) Provides that an applicant for an initial installer's license receives the license only on a probationary basis until TDHCA inspects a sufficient number of installations performed by the installer and fails to find an identified material violation of this chapter or the rules adopted under this chapter. Requires the board, with the advice of the advisory committee established under Section 1201.251, to adopt rules to determine the number of successful installations required for termination of the probationary period under this subsection.

(b) Requires the board to adopt rules under which the executive director may elect to issue a renewal installer's license or an initial or renewal salesperson's license on a probationary basis.

(c) Authorizes the executive director to issue a probationary license on the terms and for the period deemed reasonable in accordance with rules adopted under Subsection (b) if it is determined that a salesperson or installer should receive the probationary license under that subsection.

(d) Authorizes a person who is issued a probationary license under Subsection (b) to appeal by written notice to the executive director the terms of the license or the period for which the license is issued not later than 30 days after the date of issuance. Requires the executive director to arrange a hearing to be conducted by the State Office of Administrative Hearings (SOAH) if the license holder appeals under this subsection. Provides that the hearing and any related administrative proceedings are considered to be a contested case subject to Chapter 2001, Government Code.

(e) Provides that the probationary license remains in effect for the period and in accordance with the terms specified in the license if the license holder does not appeal as permitted by Subsection (d).

SECTION 14. Amends Section 1201.113, Occupations Code, as follows:

Sec. 1201.113. New heading: CONTINUING EDUCATION PROGRAMS. (a) Requires TDHCA to approve or administer continuing education programs for license holders under this chapter. Requires a continuing education program to be at least six hours in length and include the current TDHCA rules under this chapter and other matters deemed relevant. Deletes existing text requiring the board to recognize, prepare, or

administer a certification and continuing education program for salespersons regulated under this chapter.

(b) Requires a license holder, as a prerequisite for license renewal, to attend a continuing education course approved or administered by TDHCA under this section. Deletes existing text requiring a person who holds a salesperson's license to participate in certification and continuing education programs as provided by Subsection (c).

Deletes existing Subsection (c) authorizing the board to contract with certain private, nonprofit organizations and educational institutions in order to prepare or administer a certification or continuing education program under this section. Deletes existing Subsection (d) requiring an organization or institution to submit an application to be considered for a contract and authorizing the board to charge an application fee in an amount necessary to pay the costs of processing the application. Deletes existing Subsection (e) providing the amount of and type of certification necessary for a salesperson to be licensed. Deletes existing Subsection (f) requiring TDHCA to issue an appropriate certificate to a person who completes a certification program and participates in a continuing education program under this section. Deletes existing Subsection (g) requiring the board to suspend the license of a salesperson who does not complete the required programs under this section and requiring the board to reinstate the license upon completion of the programs.

SECTION 15. Amends Section 1201.114, Occupations Code, as follows:

Sec. 1201.114. LICENSE EXPIRATION. Provides that a license issued under this chapter, other than a probationary license, is valid for two years. Deletes existing text providing that a manufacturer's, retailer's, broker's, or installer's license is valid for one year and a salesperson's license is valid for two years. Deletes existing Subsection (b) authorizing the board by rule to adopt a system under which licenses expire on specific dates during the year and provides a process to determine the amount of fees owed during the year in which the license expiration date is changed.

SECTION 16. Amends Subchapter C, Chapter 1201, Occupations Code, by adding Section 1201.118, as follows:

Sec. 1201.118. ADDITIONAL PROCEDURES FOR CERTAIN LICENSE APPLICATIONS. Requires the board to adopt rules providing for the additional review and scrutiny of an initial, renewal, or subsequent license that involves an application or a related person who has previously been found to have committed certain violations under this chapter or engaged in activity subject to this chapter without holding the required license, caused the trust fund to incur unreimbursed payments or claims, or failed to fulfill the terms of a final order, including the payment of any assessed administrative penalties.

SECTION 17. Amends Section 1201.1505, Occupations Code, as follows:

Sec. 1201.1505. DEPOSIT ON SPECIALLY ORDERED MANUFACTURED HOMES. Authorizes a retailer to require a deposit, rather than an earnest money deposit, on a specially ordered manufactured home. Deletes existing text authorizing a retailer to require a deposit only if certain conditions are met.

SECTION 18. Amends the heading to Section 1201.151, Occupations Code, to read as follows:

Sec. 1201.151. REFUNDS.

SECTION 19. Amends Section 1201.151, Occupations Code, by amending Subsection (a) and adding Subsection (e), as follows

(a) Requires a retailer, rather than a retailer, salesperson, or agent of the retailer, to refund a consumer's deposit not later than 15 days after the date that a written request for the refund is received from the consumer.

(e) Requires the retailer, not later than 15 days after the date a consumer exercises the consumer's right of rescission as provided by Section 1201.1521, to refund to the consumer all money and other consideration received from the consumer without offset or deduction if the retailer and the consumer entered into a binding written agreement under which the consumer submitted to the retailer a deposit that was a down payment for the home.

SECTION 20. Amends Section 1201.1521, Occupations Code, as follows:

Sec. 1201.1521. RESCISSION OF CONTRACT FOR SALE, EXCHANGE, OR LEASE-PURCHASE OF HOME. (a) Creates this subsection from existing text. Provides that the right of rescission applies only to a transaction between a retailer and a consumer.

(b) Authorizes a consumer, subject to rules adopted by the board, to modify or waive for a bona fide personal financial emergency the consumer's right to rescind the contract without penalty or charge. Requires the rules adopted by the board, to the extent practicable, to be modeled on the federal rules for the modification or waiver of a right of rescission under Title 12, Code of Federal Regulations, Part 226 (Truth in Lending).

SECTION 21. Amends Section 1201.158, Occupations Code, as follows:

Sec. 1201.158. SALESPERSON. Authorizes a licensed salesperson to work only for the person's sponsoring retailer or broker. Deletes existing text authorizing a licensed salesperson to work for more than one retailer or broker or at more than one sales location.

SECTION 22. Amends Section 1201.159, Occupations Code, by amending Subsection (a) and adding Subsections (c) and (d), as follows:

(a) Requires a broker to ensure that the seller gives the buyer the applicable disclosures and warranties that the buyer would have received if the buyer has purchased the manufactured home through the licensed retailer unless the seller is a consumer in a transaction as provided by Section 1201.456.

(c) Requires a broker in a transaction under this chapter to provide to a person who engages the broker's services a written disclosure of any interest that the broker represents in the transaction.

(d) Authorizes a broker to assist a person who is offering or otherwise engaging in the sale, exchange, or lease-purchase of a manufactured home only if that person holds a license required by this chapter.

SECTION 23. Amends Section 1201.161, Occupations Code, by amending Subsections (a) and (d) and adding Subsection (e), as follows:

(a) Provides that a licensed retailer or installer is not required to obtain a permit, certificate, or license or pay a fee to transport manufactured housing to the place of installation except as required by the Texas Department of Transportation (TxDOT) under Subchapter E (Manufactured and Industrialized Housing), Chapter 623, Transportation Code, rather than except as required by TDHCA or TxDOT.

(d) Authorizes the copies of permits and the lists and information required under this section to be provided electronically.

(e) Requires TDHCA to pay the reasonable cost of providing the materials requires, rather than the copies of the list and information, under Subsection (b) or (c) unless the materials are provided electronically.

SECTION 24. Amends Sections 1201.162(a) and (e), Occupations Code, as follows:

(a) Requires the retailer, rather than the retailer or agent, to provide to the consumer a written disclosure in a form prescribed by rules adopted by the board before the completion of a credit application or not later than one day before entering into an agreement for a sale, exchange, or lease-purchase that will not be financed. Requires the disclosure form to be printed in at least 12-point type, address certain matters of concern related to manufactured home ownership, and conspicuously disclose the consumer's right of rescission. Deletes existing text providing a statement required to be provided to the consumer before the completion of a credit application.

(e) Provides that 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. Provides that the consumer's execution of a signed receipt of a copy of the notice required by Subsection (a) constitutes conclusive proof that the notice was delivered. Provides that the right of rescission immediately ceases on the date the lien is filed with TDHCA if the consumer grants a person other than the retailer a lien.

SECTION 25. Amends Section 1201.164, Occupations Code, as follows:

Sec. 1201.164. New heading: ADVANCE COPY OF CONTRACT AND DISCLOSURE STATEMENTS; OFFER BY RETAILER. (a) Requires a retailer to deliver to a consumer at least 24 hours before the contract is fully executed the contract, with all required information included, signed by the retailer, in a transaction that is to be financed and that will not be subject to the federal Real Estate Settlement Procedures Act of 1974 (Pub. L. No. 93-533), rather than in a chattel mortgage transaction involving an installment contract. Makes a conforming change.

(b) Authorizes the consumer, before the execution of the contract, to modify or waive the consumer's right to rescind the contract or the waiting period provided by Subsection (a) if the consumer determines that the acquisition of the manufactured home is needed for a bona fide personal financial emergency. Requires the consumer, if the consumer has a bona fide personal financial emergency that requires the immediate acquisition of the manufactured home, to give the retailer a dated written statement that describes the personal financial emergency, specifically modifies or waives the waiting period or the right of rescission, as applicable, and bears the signature of each consumer who is entitled to the waiting period or right of rescission. Requires the retailer, on receipt of the written statement described by this subsection, to immediately provide to the consumer all of the disclosures required by this subchapter and engage in the transaction without reference to the required waiting period or the right of rescission.

(c) Authorizes the use of a form printed for the purposes of Subsection (b) only with respect to a manufactured home that is to be located in an area that has been declared by the governor to be a disaster area as provided by Section 418.014 (Declaration of State of Disaster), Government Code, and until the first anniversary of the date the governor declared the area to be a disaster area.

SECTION 26. Amends Section 1201.203, Occupations Code, as follows:

Sec. 1201.203. FORMS; RULES. (a) Requires the board, rather than the executive director, to adopt rules and forms relating to the manufacturer's certificate, the statement of ownership and location, the application for a statement of ownership and location, and the issuance of an initial or revised statement of ownership and location, rather than the

issuance of a statement of ownership and location at the first retail sale and for a subsequent sale or transfer of a manufactured home.

(b) Requires the board, rather than the executive director, to adopt rules for the documenting of the ownership and location of a manufactured home that has been previously owned in this state or another state. Requires the rules to protect the holder of a lien recorded with TDHCA, rather than recorded on a statement of ownership and location, a certificate, or other document of title.

SECTION 27. Amends Section 1201.204, Occupations Code, as follows:

Sec. 1201.204. MANUFACTURER'S CERTIFICATE. (a) Makes a reference to a form prescribed by the board, rather than the executive director.

(b) Provides that a security interest in inventory evidenced by a properly recorded inventory lien, rather than the manufacturer's certificate, automatically converts to a security interest in proceeds and cash proceeds.

(c) Requires, rather than authorizes, the retailer to submit the manufacturer's certificate for a manufactured home to TDHCA after the first retail sale of the home. Requires TDHCA, on or before the issuance of the requested statement of ownership and location, to send written notice to that effect to each party currently reflected in TDHCA's records as having a recorded lien on the inventory of that retailer if an application for an initial statement of ownership and location is made without the required manufacturer's certificate and the retailer does not produce the certificate as required by this subsection.

SECTION 28. Amends Section 1201.205, Occupations Code, as follows:

Sec. 1201.205. New heading: STATEMENT OF OWNERSHIP AND LOCATION FORM. Requires a statement of ownership and location to be issued on a board-approved form and requires the form to provide certain information and statements.

SECTION 29. Amends Section 1201.2055, Occupations Code, by amending Subsection (b) and adding Subsections (i) and (j), as follows:

(b) Requires a statement of election under Subsection (a) to be executed before a notary on the board-approved form. Deletes existing text requiring a statement of election to be made by affidavit.

(i) Provides that, notwithstanding Subsection (d), if a mortgage loan made in connection with a transaction under this chapter is to be secured by real property that includes the manufactured home, the mortgage loan is funded, and a deed of trust covering the real property and all improvements on the real property is recorded, but the licensed title company or attorney who closed the loan failed to complete the conversion of the manufactured home to real property in accordance with this chapter, the holder or servicer of the mortgage loan at any time may apply for a statement of ownership and location, including making an election in the application with respect to real property status, and may obtain from TDHCA a certified copy of the statement of ownership and location if, not later than 60 days before the date of an application for a statement of ownership and location electing real property status, the record owner of the home, as reflected in TDHCA's records, has been provided written notice by certified mail at specific locations.

(j) Requires the board by rule to require evidence that the mortgage loan holder or servicer applying for a real property election has complied with the requirements of this section.

SECTION 30. Amends Section 1201.206, Occupations Code, by amending Subsections (b), (c), (d), and (f) and adding Subsections (g) through (i), as follows:

(b) Requires the retailer to ensure that the application for the issuance of a statement of ownership and location is properly completed and submitted. Requires the retailer to surrender to TDHCA the manufacturer's certificate in accordance with Section 1201.204 and the manufacturer's statement of origin at the same time that the retailer submits the application for the first statement of ownership and location.

(c) Requires the retailer to provide to TDHCA the completed application for the issuance of a statement of ownership and location not later than 60, rather than 30, days after the date of the retail sale. Authorizes the consumer to apply for the issuance of a statement of ownership and location if for any reason the retailer does not timely comply with this subsection.

(d) Makes conforming changes.

(f) Makes a conforming change.

(g) Requires a seller, if the seller accepts a used manufactured home as part of the consideration for the sale of another manufactured home, to provide to TDHCA a completed application for the issuance of a new statement of ownership and location reflecting the change of ownership of the used manufactured home from the previous owner of the used manufactured home to the seller at the same time that the seller files the completed application for the issuance of a statement of ownership and location for the manufactured home that was sold by the seller in that transaction. Requires the seller, if the seller is a retail, to indicate whether the home has been added to the inventory of the retailer on the application for the used manufactured home.

(h) Requires the seller, at the time the seller files an application for the issuance of a statement of ownership and location for a used manufactured home that has not been added to a retailer's inventory, to file with TDHCA a written statement from the tax assessor-collector that there are no personal property taxes on the manufactured home that have accrued within the 18-month period preceding the date of the transaction in which the seller acquired the used manufactured home.

(i) Authorizes TDHCA to assess an additional fee of not less than \$100 against the seller if a person who sells a manufactured home to a consumer for residential use fails to file with TDHCA the application for the issuance of a statement of ownership and location and the appropriate filing fee within the applicable period. Authorizes TDHCA to enforce the collection of the additional fee from the seller through a judicial proceeding. Requires TDHCA to place on the application for the statement of ownership and location a specific statement regarding a late fee that may be assessed.

SECTION 31. Amends Subchapter E, Chapter 1201, Occupations Code, by adding Section 1201.2061, as follows:

Sec. 1201.2061. NOTICE OF INSTALLATION. (a) Requires a notice of installation to be filed with TDHCA on the board's prescribed form. Requires the notice, if the installation involves a secondary relocation of the home, to be accompanied with a copy of the original notice of installation or certification that a copy of the original notice of installation has been provided to the chief appraiser of the county in which the home is installed.

(b) Authorizes the notice required by Subsection (a) to be delivered by certified mail or by electronic transmission of the document in a commonly readable format.

(c) Authorizes TDHCA to adopt a discounted fee for filing the notice of installation if the method to report the installation of a relocated home is the method specified by Subsection (a)(2).

(d) Requires TDHCA, on request, to provide a tax assessor-collector with one copy of any reported notice of installation, in addition to providing each tax assessor-collector with the monthly report required by Section 1201.220.

SECTION 32. Amends Subchapter E, Chapter 1201, Occupations Code, by adding Section 1201.2062, as follows:

Sec. 1201.2062. **DIFFICULTY IN DOCUMENTING CHAIN OF TITLE.** Authorizes TDHCA, notwithstanding any provision in this chapter, to issue a statement of ownership and location to the person claiming ownership if that person submits an application for the statement and provides a support affidavit describing the chain of title and the status of any liens and any reasonable supporting proof that the executive director may require, if a person acquires a manufactured home and the owner of record and an intervening owner of a lien on the home cannot be located to assist in documenting the chain of title.

SECTION 33. Amends Section 1201.207, Occupations Code, as follows:

Sec. 1201.207. **ISSUANCE OF STATEMENT OF OWNERSHIP AND LOCATION.**
(a) Creates an exception provided for in Subsection (a-1) to the requirement that TDHCA processes completed applications within a specific time frame.

(a-1) Requires TDHCA, as soon as practicable after June 30 of each year, to discontinue its issuance of statements of ownership and location until all tax liens filed with TDHCA before June 30 in relation to manufactured homes are processed and recorded or rejected, except for applications relating to new manufactured homes and applications accompanied by tax certificates.

(b) Requires TDHCA to maintain a record of the statement of ownership and location in its electronic records, rather than placing the original statement in its files, and requires TDHCA to mail a copy, rather than a certified copy, to the record owner of the home and to each lienholder if TDHCA issues a statement of ownership and location for a manufactured home.

(c) Authorizes TDHCA to issue subsequent statement of ownership and location for the home if all parties reflected in TDHCA's records as having an interest in the home give their written consent or release their interest by TDHCA's procedures provided by Section 1201.2062 to document ownership and lien status. Prohibits TDHCA from altering the record of the ownership or lien status of a manufactured home for activity that occurred before the issuance of the statement of ownership and location unless TDHCA obtains written permission from the home owner, obtains a court order, or determines that an exception is necessary in accordance with rules adopted by the board.

(d) Provides that, notwithstanding any other provision of this chapter, if the consumer purchases a new manufactured home from a retailer in the ordinary course of business, regardless of whether a statement of ownership and location has been issued for the manufactured home, the consumer is a bona fide purchaser for value without the need to provide any notice and is entitled to ownership of the manufactured home free of all liens and entitled to a statement of ownership and location to that effect on payment by the consumer of the purchase price to the retailer. Entitles the owner of an existing lien to recover the value of the lien from the retailer if the lien on the home is perfected with TDHCA.

SECTION 34. Amends Section 1201.2075, Occupations Code, as follows:

Sec. 1201.2075. **CONVERSION FROM PERSONAL PROPERTY TO REAL PROPERTY.** (a) Creates an exception as provided by Section 1201.2062 to the prohibition of TDHCA from issuing a statement of ownership and location for a manufactured home that is being converted from personal property to real property for a certain amount of time.

(b) Authorizes TDHCA to issue a statement of ownership and location before the release of any liens or the consent of any lienholders as required by this section if TDHCA releases a certified copy of the statement to a licensed title insurance company that has issued a commitment to issue a title insurance policy covering all prior liens on the home in connection with a loan that the title company has closed or a federally insured financial institution or licensed attorney who has obtained from a licensed title insurance company a title insurance policy covering all prior liens on the home.

SECTION 35. Amends Section 1201.2076, Occupations Code, as follows:

Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL PROPERTY. (a) Creates an exception as provided by Subsection (b) or Section 1201.2062 to the prohibition of TDHCA from issuing a statement of ownership and location for a manufactured home that is being converted from real property to personal property for a certain amount of time.

(b) Authorizes TDHCA to rely on a commitment for title insurance, a title insurance policy, or an attorney's title opinion to determine that a lien on real property has been released as required by Subsection (a).

SECTION 36. Amends Section 1201.208, Occupations Code, as follows:

Sec. 1201.208. PAYMENT OF TAXES REQUIRED FOR ISSUANCE OF STATEMENT OF OWNERSHIP AND LOCATION. (a) Requires a license holder who sells, exchanges, or lease-purchases a new manufactured home to a consumer to pay the required sales and use tax on the home. Deletes existing text prohibiting TDHCA from issuing a statement of ownership and location for a new manufactured home installed for occupancy in this state unless the state sales and use tax has been paid.

(b) Requires the payment to be made from the trust fund for an amount not more than the maximum amount available in bond or other security required by Section 1201.106 for the person's license if a license holder sells, exchanges, or lease-purchases a home without paying the required sales and use tax. Authorizes the trust fund to file with the license holder's surety a claim for reimbursement in the amount deducted from the trust fund under this section. Deletes existing text authorizing proof of payment to be shown in any manner prescribed by TDHCA.

SECTION 37. Amends Section 1201.210, Occupations Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Provides that if an appeal is not timely made, the revocation or suspension described in the notice becomes final.

(d) Requires TDHCA to prohibit any activity with respect to the statement of ownership and location other than the recordation of liens, including tax liens, until a revocation or suspension has become final.

SECTION 38. Amends Section 1201.214(b) , Occupations Code, to make a nonsubstantive change.

SECTION 39. Amends Section 1201.216(a), Occupations Code, to make conforming and nonsubstantive changes.

SECTION 40. Amends Section 1201.217, Occupations Code, by amending Subsections (b) and (c) and adding Subsection (f), as follows:

(b) Requires the owner of real property on which a manufactured home is located, to send a notice of intent to declare the home abandoned to the record owner of the home, all lienholders at the addresses listed on the home's statement of ownership and location on file with TDHCA, and the tax assessor-collector for each taxing unit that imposes ad

valorem taxes on the real property on which the home is located. Requires the notice to include the physical address at which the home is currently located. Requires a reasonable effort to be made to locate the person for whom the notice is intended if that person does not reside and is no longer receiving mail at that address.

(c) Requires the real property owner to disclose to the owner or lienholder seeking to remove the home the location of the home and requires the owner to grant that person reasonable access to the home. Provides that a person who removes the home is responsible to the real property owner for any damage to the real property resulting from the removal of the home.

(f) Provides that this section does not apply if the person who owns or previously owned an interest in the manufactured home, or that person's affiliate or related person, owns the real property on which the home is located or claims that the home is abandoned.

SECTION 41. Amends Sections 1201.219(a), (b), and (c), Occupations Code, as follows:

(a) Provides that a lien on manufactured homes in inventory is perfected only by filing the lien with TDHCA on the required form. Deletes existing text providing that a lien on manufactured homes in inventory is perfected by filing a security agreement with TDHCA in a form that contains the information the executive director requires.

(b) Provides that, except as provided by Subsection (a), a lien on a manufactured home is perfected only by filing with TDHCA the notice of lien on the required form, rather than the form provided by TDHCA. Requires the form to require the disclosure of the original dollar amount of the lien as well as the name and address of the person in whose name the manufactured home is listed on the tax roll. Requires TDHCA on its Internet website to disclose the date of each lien filing and the original amount of the lien claimed in each filing and requires TDHCA to provide a notice that the amount shown does not include additional amounts such as interest, penalties, and attorney's fees. Provides that the statement required by Section 1201.205(7), rather than the recordation of a lien with TDHCA, is notice to all persons that the lien exists. Requires the tax assessor-collector for any taxing unit with the power to tax the manufactured home to file any appropriate tax lien on the home. Provides that a single filing by a tax assessor-collector is a filing for each taxing unit for which the tax assessor is empowered to collect.

(c) Provides that, notwithstanding any other provision of this or any other law, rather than subchapter, the filing of a lien, rather than a security agreement by a secured party perfecting a lien, on the inventory of a retailer does not prevent a buyer in the ordinary course of business, as defined by Section 1.201 (General Definitions), Business & Commerce Code, from acquiring good and marketable title free of that lien, and prohibits TDHCA from considering that lien for the purpose of title issuance. Makes conforming changes.

SECTION 42. Amends Section 1201.220, Occupations Code, as follows:

Sec. 1201.220. REPORT TO COUNTY TAX ASSESSOR-COLLECTOR. (a) Requires TDHCA to provide to each county tax assessor-collector in this state a monthly report that, for each manufactured home reported in the notice of installation to TDHCA as having been installed in the county during the preceding month and for each manufactured home previously installed in the county for which a transfer of ownership was recorded by the issuance of a statement of ownership and location during the preceding month, lists certain information. Provides that certain information includes the name of the manufacturer of the home, if available, the model designation of the home, if available, the address or location where the home was reported as installed, and the reported date of the installation of the home.

(b) Makes a conforming change.

SECTION 43. Amends Section 1201.251, Occupation [sic] Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Requires the board, rather than the executive director, to adopt standards and requirements for the installation and construction of certain manufactured housing and the construction of certain HUD-code manufactured homes.

(d) Authorizes the board to adopt rules that provide for the approval of foundation systems and devices by licensed engineers to ensure that the standards and requirements adopted under this section are recommended by qualified persons. Requires a generic installation standard adopted by rule to first be reviewed by an advisory committee established by the board. Requires the advisory committee to include one or more engineers in addition to representatives of manufacturers, installers, and manufacturers of stabilization systems or devices. Requires the advisory committee to submit a report to the board providing each comment and concern regarding any proposed rule. Provides that the members of the committee are not personally liable for providing the advice to the board.

SECTION 44. Amends Section 1201.253, Occupations Code, to delete existing text requiring the executive director to publish notice and conduct a public hearing in accordance with Sections 1201.054 and 1201.060.

SECTION 45. Amends Section 1201.255, Occupations Code, as follows:

Sec. 1201.255. INSTALLATION OF MANUFACTURED HOUSING. (a) Creates this subsection from existing text. Requires manufactured housing that is installed to be installed in compliance with the standards and rules adopted and orders issued under this chapter, rather than by the executive director. Prohibits an uninstalled manufactured home from being occupied for any purpose.

(b) Prohibits an installer from installing a manufactured home at a location that has evidence of ponding, run-off under heavy rains, or bare uncompacted soil unless the installer obtains the owner's signature on a specific form adopted by the board and the owner accepts that risk in writing.

SECTION 46. Amends Section 1201.301(b), Occupations Code, to authorize a state inspector to travel inside or outside of the state to inspect the facility of a license holder, rather than the manufacturing facility.

SECTION 47. Amends the heading to Section 1201.302, Occupations Code, to read as follows:

Sec. 1201.302. INSPECTION BY STATE AGENCIES AND LOCAL GOVERNMENTAL UNITS.

SECTION 48. Amends Section 1201.302(a), Occupations Code, to delete existing text authorizing the executive director to by contract provide for a federal agency to perform an inspection or inspection program under this chapter or under rules adopted by the executive director. Makes a conforming change.

SECTION 49. Amends Subchapter G, Chapter 1201, Occupations Code, by adding Section 1201.306, as follows:

Sec. 1201.306. ENGINEER APPROVAL OF INSPECTION COMPONENTS. Authorizes TDHCA, in the inspection of the installation of a manufactured home under this chapter, to use or permit the use of a device or procedure that has been reviewed and approved by a licensed engineer if the use complies with any instructions, conditions, or other requirements specified by that engineer.

SECTION 50. Amends Sections 1201.351(a) and (b), Occupations Code, as follows:

(a) Requires the manufacturer of a new HUD-code manufactured home to warrant, among other things, that the home and all appliances and equipment included in the home are free from defects in materials or workmanship, other than cosmetic defects.

(b) Provides that the manufacturer's warranty is in effect until at least the first anniversary of the date of initial installation of the home at the consumer's homesite or the date of closing of the consumer's acquisition of a new home that has already been installed, as applicable.

SECTION 51. Amends Section 1201.352, Occupations Code, as follows:

Sec. 1201.352. New heading: RETAILER'S WARRANTY ON NEW HOME. (a) Requires the retailer of a new HUD-code manufactured home to warrant to the consumer in writing that, among other things, installation of the home at the initial homesite was or will be, as applicable, completed in accordance with all TDHCA standards, rules, order, and requirements. Makes a conforming change.

(a-1) Authorizes the retailer to expressly disclaim or limit any warranty regarding cosmetic defects.

(b) Provides that the retailer's warranty on a new HUD-code manufactured home is in effect until the first anniversary of the date of the initial installation of the home at the consumer's homesite or closing of the consumer's acquisition of the home if the home has already been installed.

(c) Makes a conforming change.

(d) Requires the retailer to deliver to the consumer a copy of the warranty given to the retailer by the licensed installer not later than 30 days after the date of installation of the home.

SECTION 52. Amends Section 1201.353, Occupations Code, as follows:

Sec. 1201.353. NOTICE OF NEED FOR WARRANTY SERVICE. (a) Requires the consumer to give written notice to the manufacturer, retailer, or installer, as applicable, of a need for warranty service or repairs.

(b) Provides that written notice to TDHCA is considered to be notice to the manufacturer, retailer, or installer beginning on the third business day after the date TDHCA forwards to the applicable license holder the notice by regular mail or by electronic mail as a scanned copy of the notice.

SECTION 53. Amends Section 1201.354, Occupations Code, to make a conforming change.

SECTION 54. Amends Section 1201.355, Occupations Code, by amending Subsections (a) and (b) and adding Subsection (d), as follows:

(a) and (b) Makes conforming changes.

(d) Authorizes TDHCA, notwithstanding any other provision of this section (Consumer Complaint Home Inspection), to perform a home inspection at any time if TDHCA determines that there is a reasonable possibility that a condition of the manufactured home may present an imminent threat to public health or safety. Requires TDHCA to obtain an inspection search warrant if required by other law.

SECTION 55. Amends Section 1201.356, Occupations Code, by amending Subsections (a), (b), and (c) and adding Subsections (f), (g), and (h), as follows:

(a)-(c) Makes conforming changes.

(f) Provides that the installer and retailer are responsible for the warranty of installation on new HUD-code manufactured homes. Requires the executive director to issue to the installer an order requiring corrective action if TDHCA determines that a complaint is covered by the installation warranty. Provides that, if the installer fails to perform the

corrective action, the installer is subject to the provisions of Section 1201.357 and requires the executive director to issue the same order for corrective action to the retailer with an additional period, not to exceed 10 days, allowed for performing the corrective action, unless additional time for compliance is needed, as established by a showing of good cause by the retailer.

(g) Authorizes the retailer to seek reimbursement from the installer if the retailer is required to perform the corrective action under Subsection (f) because of the installer's failure to comply with the executive director's order.

(h) Authorizes the period for performing the required warranty work to be shortened by the executive director as much as reasonably possible if the warranty work is necessary to address an imminent threat to public health or safety, notwithstanding Subsection (f).

SECTION 56. Amends Section 1201.357, Occupations Code, as follows:

Sec. 1201.357. **FAILURE TO PROVIDE WARRANTY SERVICE.** (a) Makes conforming changes.

(b) Requires the executive director to hold an informal meeting, rather than a hearing, if the manufacturer, retailer, or installer fails to provide warranty service in accordance with TDHCA order. Authorizes the consumer to express the consumer's views at the informal meeting. Authorizes the executive director to take certain actions following the meeting. Makes conforming changes.

(c) Provides that the manufacturer, retailer, or installer has no liability to the consumer with regard to the warranty if the consumer refuses to comply with TDHCA's new order. Makes conforming changes.

SECTION 57. Amends Section 1201.358, Occupations Code, as follows:

Sec. 1201.358. **New heading: FAILURE TO SHOW GOOD CAUSE; ADDITIONAL ORDERS ISSUED BY DIRECTOR.** (a) Makes conforming changes.

(b) Deletes existing text providing that if after the hearing under Section 1201.357(b), the executive director determines that the order under Section 1201.356 was correct in the determination of the warranty obligation of the manufacturer or retailer, failure or refusal by the manufacturer or retailer to comply with the order is a sufficient cause for suspension or revocation of the manufacturer's or retailer's license. Makes conforming changes.

(c) Makes conforming changes.

(d) Deletes existing text authorizing a manufacturer or retailer to recover attorney's fees from the trust fund. Makes a conforming change.

SECTION 58. Amends Section 1201.361, Occupations Code, as follows:

Sec. 1201.361. **INSTALLER'S WARRANTY.** (a) Requires the installer to give a written warranty containing certain information for each installation, rather than all secondary installations not covered by the retailer's warranty described by Section 1201.352 and for the installation of all used manufactured home. Requires the retailer who is responsible for the installation of a new HUD-code manufactured home to give the manufactured home owner the warranty for the installation. Provides that the retailer and installer are jointly and severally liable for performance of the warranty if the retailer subcontracts the installation to a licensed installer.

(b) Provides that, unless the warranty provides for a longer period, the installer has no obligation or liability under a warranty for a new manufactured home for any defect described in a written notice received from the consumer more than

one year, rather than two years, after the date of acquisition of a home that has already been installed, as applicable, or the date of the installation.

SECTION 59. Amends Subchapter H, Chapter 1201, Occupations Code, by adding Section 1201.362, as follows:

Sec. 1201.362. **ADDITIONAL CORRECTIVE ACTION AUTHORITY.** Authorizes the executive director to take certain steps to have a defect corrected if during any inspection TDHCA identifies an aspect of an installation that does not conform to the applicable requirements, notwithstanding the limitations and terms of a warranty.

SECTION 60. Amends Section 1201.402(a), Occupations Code, to delete existing text providing that the executive director is the trustee of the trust fund.

SECTION 61. Amends Section 1201.404(b), Occupations Code, to make conforming changes.

SECTION 62. Amends Section 1201.405, Occupations Code, by adding Subsections (f) and (g), as follows:

(f) Provides that the trust fund is not liable and prohibits the executive director from paying attorney's fees or actual damages.

(g) Authorizes the board by rule to place reasonable limits on the costs that may be approved for payment from the trust fund, including payments made under Section 1201.358, and authorizes the board to require consumers making claims that may be subject to reimbursement from the trust fund to provide reasonable estimates establishing those costs. Authorizes the rules adopted by the board to specify procedures and requirements the board considers necessary and advisable for the administration of the trust fund.

SECTION 63. Amends Section 1201.406, Occupations Code, as follows:

Sec. 1201.406. **PROCEDURE FOR RECOVERY FROM TRUST FUND.** (a) Requires a consumer to file a written, sworn complaint in the form required by the executive director to recover from the trust fund.

(b) Requires TDHCA, on receipt of a verified complaint, to notify each appropriate license holder and the issuer of any surety bond related to the license, investigate the claim, issue a preliminary determination on the claim, and give the consumer, license holder, and any surety related to the license the opportunity to resolve the matter by agreement or dispute the preliminary determination.

(c) Provides that if the matter is not resolved as provided by Subsection (b)(4) before the 30th day after the date the preliminary determination is issued, the preliminary determination automatically becomes final and requires the executive director to make demand on the surety or deduct any payable amount of the claim from the license holder's security.

SECTION 64. Amends Section 1201.407, Occupations Code, as follows:

Sec. 1201.407. **DISAGREEMENT OF PARTIES; INFORMAL DISPUTE RESOLUTION PROCESS.** (a) Requires TDHCA to conduct an informal dispute resolution process, including a home inspection if appropriate, to resolve the dispute if a preliminary determination is disputed, rather than if the license holders or a license holder and a consumer disagree as to responsibility for a complaint.

(b) Requires TDHCA to make any changes in the determination the executive director considers to be appropriate and issue another written preliminary determination as the responsibility and liability of the manufacturer, retailer, broker, and installer for a preliminary determination that had been disputed to become final and valid, rather than for a claim determined to be valid.

(c) Requires TDHCA, before making a final determination, to provide a license holder a period of 10 days, rather than an opportunity, to comment on the preliminary determination.

(d) Requires the executive director to issue a final determination after considering the comments made in relation to the preliminary determination.

(e) Authorizes the final determination to be appealed to the board by giving written notice to the executive director not later than 10 days after the date of its issuance, and requires the executive director to submit the matter to the board for consideration at the next meeting for which the matter can be publicly posted in the manner as required by Chapter 551 (Open Meetings), Government Code.

(f) Redesignated from existing Subsection (e). Deletes existing text requiring TDHCA to notify a license holder's surety and give the surety an opportunity to participate in the informal dispute resolution process under certain conditions.

SECTION 65. Amends Sections 1201.409(a) and (b), Occupations Code, as follows:

(a) Deletes existing text requiring the trust fund to be reimbursed by the surety on a bond or from other security filed under Subchapter C (Licensing) for the amount of a claim that resulted from an act or omission of the license holder who filed the bond or other security.

(b) Makes a nonsubstantive change.

SECTION 66. Amends Section 1201.410, Occupations Code, as follows:

Sec. 1201.410. New heading: CONSUMER INFORMATION. Requires the executive director to prepare information for, rather than a pamphlet informing, consumers of their rights to recover from the trust fund. Requires the executive director to make the information available to consumers on TDHCA's Internet website and in hard-copy format to any member of the public who submits a request for the information. Deletes existing text authorizing the executive director to contract with a private party for the printing and distribution of the pamphlet.

SECTION 67. Amends Section 1201.451(b), Occupations Code, to require the seller to forward necessary documents to the purchaser or transferee not later than 60, rather than 30, days after the effective date of the transfer of ownership. Authorizes the purchaser or transferee to apply directly for the issuance of a statement of ownership and location if the seller or transferor fails to forward the necessary, executed documents.

SECTION 68. Amends Section 1201.453, Occupations Code, to provide that manufactured housing is habitable only if, among other things, all exterior doors and windows are in place and operate properly.

SECTION 69. Amends Section 1201.457(b), Occupations Code, to prohibit a person from knowingly allowing another person to occupy or use the home as a dwelling unless the executive director issues a new statement of ownership and location indicating that the home is no longer reserved for business use or salvage. Deletes existing text prohibiting the purchaser of a used manufactured home for business use or the purchaser of a salvaged manufactured home from selling, exchanging, or lease-purchasing the home for use as a dwelling.

SECTION 70. Amends Section 1201.459, Occupations Code, as follows:

Sec. 1201.459. COMPLIANCE NOT REQUIRED FOR SALE FOR COLLECTION OF DELINQUENT TAXES. (a) Provides that a tax assessor-collector, rather than a tax collector, is not required to comply with this subchapter (Used or Salvaged Manufactured Homes) or another provision of this chapter relating to the sale of a used manufactured home in order to collect delinquent taxes.

(b) Authorizes a tax appraiser or a tax assessor-collector, rather than just a tax collector, to apply to TDHCA for a seal, pay the applicable fee, and recover that fee as part of the cost of the sale of the home if the home does not have a serial number, seal, or label.

(b-1) Provides that the tax appraiser or the tax assessor-collector assumes full responsibility for affixing to the home a seal issued under Subsection (b).

(c) Makes conforming changes.

SECTION 71. Amends Section 1201.461, Occupations Code, by adding Subsections (g) and (h), as follows:

(g) Authorizes a political subdivision of this state that identifies a manufactured home within its jurisdiction as a salvaged manufactured home to impose with respect to that home an inspection, a requirement for corrective action, or other requirements that would apply if the home were not a salvaged manufactured home.

(h) Prohibits a license holder from participating in the sale, exchange, lease-purchase, or installation for use as a dwelling of a manufactured home that is salvaged and that has not been repaired as required by this chapter and the rules adopted under this chapter. Provides that the sale, exchange, lease-purchase, or installation of a salvaged manufactured home for use as a dwelling constitutes an imminent threat to public health or safety. Provides that it is an offense and is subject to certain penalties for a license holder to participate in the sale, exchange, lease-purchase, or installation in violation of this section (Salvaged Manufactured Home).

SECTION 72. Amends Section 1201.503, Occupations Code, to prohibit a manufacturer, retailer, broker, or installer from altering a home to which a label has been attached and before installation of the home before the sale to a consumer without obtaining prior written approval from a licensed engineer and delivering that written approval to TDHCA.

SECTION 73. Amends Section 1201.506(a), Occupations Code, to require a retailer or broker to comply with all applicable provisions of the Finance Code.

SECTION 74. Amends Section 1201.509, Occupations Code, to prohibit a retailer, rather than a retailer, salesperson, or agent of the retailer, from refusing to refund a consumer's deposit except as provided by Section 1201.151.

SECTION 75. Amends Subchapter K, Occupations Code, by adding Section 1201.513, as follows:

Sec. 1201.513. DISPOSITION OF CERTAIN USED MANUFACTURED HOMES; OCCUPANCY OF HOMES PRIOR TO CLOSING. (a) Prohibits a retailer from selling or otherwise transferring a used manufactured home acquired in exchange for another manufactured home before completing the transaction involving the other manufactured home.

(b) Prohibits a retailer from knowingly permitting a consumer to occupy a manufactured home that is the subject of a sale, exchange, or lease-purchase before the closing of any required financing unless the consumer is first given a form adopted by the board disclosing that if for any reason the financing does not close, the consumer may be required to vacate the home.

SECTION 76. Amends Section 1201.551, Occupations Code, as follows:

Sec. 1201.551. DENIAL OF LICENSE; DISCIPLINARY ACTION. (a) Authorizes the executive director to deny, permanently revoke, or suspend a license if it is determined that the applicant or license holder, among other things, repeatedly failed to file with TDHCA completed applications for statements of ownership and location in the time and

manner required by this chapter, rather than the determination that the applicant or license holder failed to timely provide to a consumer an application for a statement of ownership and location and any information necessary to complete the application, and that the license holder or applicant has had any other license issued by this state revoked or suspended by this state or a political subdivision or agency of this state.

(b) Authorizes the executive director, rather than TDHCA, to 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 from the trust fund for which a demand for reimbursement is made, rather than the license holder or the license holder's surety participate in the information dispute resolution process described by Section 1201.407.

SECTION 77. Amends Section 1201.552, Occupations Code, as follows:

Sec. 1201.552. HEARING CONCERNING LICENSE. Authorizes the executive director to issue an order to revoke, suspend, or deny a new or renewal license. Requires the executive director, if not later than 30 days after the date the order is issued the person against whom that order is issued requests a hearing by giving written notice to the executive director, to set a hearing to be conducted by SOAH. Provides that if the appeal is not timely made, the order becomes final. Provides that the hearing and any related administrative proceeding is a contested case under Chapter 2001 (Administrative Procedure), Government Code. Requires the board to issue an order after receiving a proposal for decision related to the case. Deletes existing text requiring the executive director to conduct a hearing involving the denial, renewal, revocation, or suspension, of a license in accordance with Chapter 2001, Government Code.

SECTION 78. Amends Section 1201.553, Occupations Code, to provide that judicial review of an order, decision, or determination of the board or the executive director is instituted by filing a petition with a district court in Travis County as provided by Chapter 2001, Government Code.

SECTION 79. Amends Section 1201.605, Occupations Code, as follows:

Sec. 1201.605. ADMINISTRATIVE PENALTY. (a) Authorizes the executive director to assess against a person who fails to comply with, rather than obtain or maintain a license as required by, this chapter or the rules adopted under this chapter, or a final order adopted or issued as provided by this chapter, an administrative penalty in an amount not to exceed \$10,000 for each violation of this chapter and other specific fees.

(b) Authorizes the executive director to assess against a license holder, rather than a retailer, who fails to provide information to a consumer an administrative penalty in a certain amount based on the number of violations committed.

(c) Requires the executive director to consider certain factors regarding the violation in determining the amount of an administrative penalty assessed under this section.

(d) Requires the executive director, if not later than 30 days after the date the person receives notice of an administrative penalty the person against whom the penalty is issued requests a hearing by giving written notice to the executive director, to set a hearing to be conducted by SOAH. Provides that if appeal is not timely made, the administrative penalty becomes final. Provides that the hearing and any related administrative proceeding is a contested case under Chapter 2001, Government Code. Requires the board to issue an order after receiving a proposal for decision related to the case.

SECTION 80. Amends Subchapter M, Chapter 1201, Occupations Code, by adding Sections 1201.607 through 1201.611, as follows:

Sec. 1201.607. ISSUANCE OF ORDERS AND REQUESTS FOR HEARINGS. Provides that an order issued by the executive director under this chapter automatically

becomes a final order if the order is not appealed before 30 days after the date the order is issued. Provides that if the person to whom the order is issued files a written request for a hearing with the executive director, the order is considered to have been appealed and is a contested case under Chapter 2001, Government Code. Requires the executive director to set any appealed order for a hearing before SOAH. Requires the board to issue a final order after receiving and reviewing the proposal for decision related to the case.

Sec. 1201.608. INSPECTION OF LICENSE HOLDER RECORDS. (a) Authorizes TDHCA to inspect a license holder's records during normal business hours without advance notice if the executive director determines that an inspection is necessary for certain reasons.

(b) Authorizes the executive director to request or issue a subpoena for the license holder's records.

(c) Authorizes TDHCA to carry out an undercover investigation in accordance with board-adopted rules if the executive director determines that it is appropriate to detect and address suspected violations of this chapter.

(d) Provides that, while an investigation is pending, information obtained by TDHCA in connection with that investigation is confidential unless disclosure of the information is specifically permitted or required by other law.

Sec. 1201.609. CRIMINAL PENALTY FOR PERFORMING ACTION WITHOUT PROPER LICENSE. (a) Provides that a person who is not required to hold a license under this chapter commits an offense if the person performs an act that requires a license under this chapter.

(b) Provides that an offense under this section is a Class B misdemeanor and provides that a subsequent conviction for an offense under this section is punishable as a Class A misdemeanor.

Sec. 1201.610. CEASE AND DESIST. (a) Authorizes the executive director, in order to enforce compliance with this chapter, to issue to the license holder without notice and hearing an order to cease and desist from continuing a particular action or an order to take affirmative action, or both, if there is reasonable cause to believe that a person licensed under this chapter has or intends to violate a provision of this chapter or the rules adopted under this chapter.

(b) Authorizes the executive director to issue an order to a license holder to cease and desist from violating any law, rule, or written agreement or to take corrective action with respect to the violation if the license holder in any way is performing an action that relates to the sale, financing, or installation of a manufactured home or relates to providing goods or services in connection with the sale, financing, or installation of a manufactured home. Requires the executive director to consult with the person in charge of the day-to-day administration of that agency before issuing the order if the matter involves a law that is subject to administration or interpretation by a state agency other than TDHCA. Prohibits the executive director from issuing an order under this subsection with respect to a matter that is subject to inspection and regulation by a state agency other than TDHCA.

(c) Requires an order issued under Subsection (a) or (b) to contain a reasonably detailed statement of the facts on which the order is made. Requires the executive director to set and give notice of a hearing if a person against whom the order is issued requests a hearing. Provides that the hearing is governed by Chapter 2001, Government Code. Authorizes the board by order to find that a violation has or has not occurred based on the findings of fact, conclusions of law, and recommendations of the hearings officer.

(d) Provides that the order is considered final and not appealable if a hearing is not requested under Subsection (c) before 30 days after the date on which an order is issued.

(e) Authorizes the executive director, after giving notice, to impose a person who violates a cease and desist order an administrative penalty in an amount not to exceed \$1,000 for each day of the violation. Authorizes the executive director to institute in district court a suit for injunctive relief and for the collection of the administrative penalty. Provides that a bond is not required of the executive director with respect to injunctive relief granted under this subsection.

(f) Authorizes the executive director, without prior hearing and after the expiration of the 10-day period following the date the notice is provided to the person, to suspend the person's license if a person fails to pay an administrative penalty that has become final or fails to comply with an order of the executive director that has become final, in addition to any other remedy provided under law. Provides that the suspension continues until the person has complied with the cease and desist order or paid the administrative penalty. Provides that a person cannot perform certain acts or receive certain compensation during the period of suspension.

(g) Authorizes an order of suspension under Subsection (f) to be appealed. Provides that an appeal is a contested case governed by Chapter 2001, Government Code. Requires a hearing of an appeal of an order of suspension issued under Subsection (f) to be held not later than 15 days after the date of receipt of the notice of appeal. Requires the appellant to be provided notice of the time and place of the hearing not later than three days before the hearing is scheduled to occur.

(h) Authorizes an order revoking the license of a retailer, broker, installer, or salesperson to prohibit the person from being a related person of a license holder unless the person obtains the prior written consent of the executive director.

Sec. 1201.611. SANCTIONS AND PENALTIES. (a) Requires the board to adopt rules relating to the administrative sanctions.

(b) Requires the executive director to issue an order approving the determination and ordering the person to pay the recommended penalty if the person charged with a violation accepts the executive director's determination with respect to an administrative penalty.

(c) Requires the person charged to either pay the penalty in full or take certain alternative actions not later than 30 days after the date on which the executive director's determination becomes final.

(d) Entitles a person charged with a penalty who is financially unable to comply with Subsection (c) to judicial review if the person files with the court, as part of the person's petition for judicial review, a sworn statement that the person is unable to meet the requirements of that subsection.

(e) Authorizes TDHCA or the attorney general to bring an action for the collection of the penalty if the person charged does not pay the penalty and does not pursue judicial review.

(f) Provides that judicial review of the executive director's order assessing the penalty is subject to the substantial evidence rule.

(g) Requires the executive director, if, after judicial review, the penalty is reduced or not assessed, to remit to the person the appropriate amount, including accrued interest if the penalty has been paid, or requires the executive director to execute a release of any supersedeas bond that was posted. Requires the accrued interest on

amounts remitted by the executive director under this subsection to be paid at a rate equal to the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and require the accrued interest to be paid for the period beginning on the date that the assessed penalty is paid to the executive director and ending on the date the penalty is remitted.

(h) Requires a penalty collected under this section to be deposited in the trust fund.

(i) Provides that all proceedings conducted under this section and any review or appeal of those proceedings are subject to Chapter 2001, Government Code.

(j) Authorizes the attorney general, on behalf of the division director, to institute an action for injunctive relief to restrain a person from continuing a violation for a civil penalty of not more than \$1,000 for each violation and of not more than \$250,000 in the aggregate if it appears that the person is in violation of, or is threatening to violate, any provision of this chapter or a rule or order related to the administration and enforcement of the manufactured housing program. Requires a civil action filed under this subsection to be filed in a district court in Travis County. Authorizes the attorney general and the executive director to recover reasonable expenses incurred in obtaining injunctive relief under this subsection, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

SECTION 81. Amends Section 2306.0724, Government Code, by amending Subsection (d) and adding Subsection (e), as follows:

(d) Makes a reference to Subsection (e), rather than Section 2306.6023 (Sanctions and Penalties), related to the manner in which an administrative penalty is assessed.

(e) Requires TDHCA to consider certain factors in determining the amount of an administrative penalty assessed under this section (Fair Housing Sponsor Report).

SECTION 82. Amends Section 2306.186, Government Code, by amending Subsection (k) and adding Subsection (m), as follows:

(k) Makes a reference to Subsection (m), rather than Section 2306.6023, related to the manner in which an administrative penalty is assessed.

(m) Requires TDHCA to consider certain factors in determining the amount of an administrative penalty assessed under this section (Mandatory Deposits to Fund Necessary Repairs).

SECTION 83. Amends Section 2306.6022(b), Government Code, to require the manufactured housing division (division) to make available on its Internet website, rather than provide to the person filing the complaint and to each person who is a subject of the complaint a copy of, the division's policies and procedures relating to complaint investigation and resolution and provide a hard copy of that information to those persons on request by those persons.

SECTION 84. Amends Section 11.432, Tax Code, by amending Subsection (a) and adding Subsection (b-1), as follows:

(a) Requires that the application for exemption be accompanied by, among other things, a photostatic copy of the current title page for the manufactured home as that page is displayed on the TDHCA Internet website or the applicable computer records of TDHCA.

(b-1) Entitles the consumer to obtain the homestead exemptions provided by Section 11.13 (Residence Homestead) regardless of whether an owner has elected to treat the manufactured home as real property or personal property or the home is listed on the tax

rolls together with the real property to which it is attached or is listed separately from that property.

SECTION 85. Amends Section 31.072, Tax Code, by adding Subsection (i), to require the collector to enter into a contract under this section with a property owner who owns the manufactured home and requests the establishment of the escrow account if, notwithstanding Subsection (a), the escrow account will be used solely to provide for the payment of property taxes collected on the property owner's manufactured home.

SECTION 86. Amends Section 32.03, Tax Code, by amending Subsections (a-1), (a-2), and (b) and adding Subsections (b-1), (b-2), and (b-3), as follows:

(a-1) Authorizes a tax lien, with regard to a manufactured home, to be recorded at any time not later than the expiration of the six-month period following the end of the calendar year for which the tax was owed. Authorizes the tax lien to be enforced if it has been recorded in accordance with the laws in effect at the time of the recordation of the lien. Prohibits a properly recorded tax lien from being enforced against the owner of a new manufactured home who acquired the manufactured home from a retailer as a buyer in the ordinary course of business. Deletes existing text prohibiting a tax lien against a manufactured home from being enforced unless it has been recorded with TDHCA within a certain time frame.

(a-2) Prohibits a person from transferring a title of a manufactured home until all tax liens perfected on the home have been filed in a timely manner with TDHCA and until all personal property taxes on the manufactured home that accrued on each January 1 within 18 months of the date of the sale are extinguished or satisfied and released.

(b) Prohibits a taxing unit or an agent of the taxing unit from using a tax warrant or any other method to attempt to execute or foreclose on the manufactured home unless a tax lien has been filed in a timely manner with TDHCA.

(b-1) Entitles a taxpayer to designate in writing which tax year will be credited with a particular payment. Requires the taxing unit to issue a receipt for the payment of the taxes for the designated year once a taxpayer pays all the amounts owing for a given year.

(b-2) Authorizes the taxing unit to file a tax lien not later than 150 days after the date on which the tax becomes delinquent if a manufactured home was omitted from the tax roll at any time before the second anniversary of the date on which taxes are due, notwithstanding any other provision of law.

(b-3) Requires the taxing unit to provide the prospective buyer of the manufactured home with an estimated amount of taxes computed in a certain manner if personal property taxes on the home have not been levied by the taxing unit. Requires the tax collector to accept payment of the estimated personal property taxes and issue a certification to TDHCA that the estimated taxes are being held in escrow until the taxes are levied in order to enable transfer of the manufactured home. Requires the tax collector, once the taxes are levied, to apply the escrowed amounts to the levied taxes. Requires the tax collector, at the time he or she accepts payment of the taxes, to notify the taxpayer that the payment of the estimated taxes is an estimate that may increase once the appraisal rolls for the year are certified. Requires the tax collector to notify the new owner that the new owner of the manufactured home may be liable for the payment of any difference between the tax established by the certified appraisal roll and the estimate actually paid.

SECTION 87. Repealer: Sections 1201.054(c) (requiring an adopted rule to be published in the Texas Register), 1201.059 (Fees for Statements of Ownership and Location), 1201.112 (Temporary Installers License), 1201.163 (Chattel Mortgage Transaction: Consumer Protection Disclosures), 1201.214(c) (requiring an owner or lienholder who applies for the issuance of a statement of ownership and location to replace a lost or destroyed document of title to execute an affidavit), 1201.214(d) (requiring an owner or lienholder to surrender the original document of title if found), and 1201.408 (Agreement of Parties; Arbitration), Occupations Code, and Section 2306.6023 (Sanctions and Penalties), Government Code.

SECTION 88. Makes application of this Act prospective to an ad valorem tax year that begins on or after January 1, 2008. Provides that the changes in law made to those provisions do not affect a tax lien that attached to property for a tax year that began before January 1, 2008, and that previous law is continued in effect for purposes of the tax lien.

SECTION 89. Effective date: September 1, 2007.