

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1510
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Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas laws regulating manufactured housing date back more than 30 years. During the intervening years, the manufactured housing industry has experienced significant change and there is a need to clarify the statute to provide more consumer protections and to increase the efficiency and productivity of the manufactured housing division of the Texas Department of Housing and Community Affairs (TDHCA).

Chapter 1201 (Manufactured Housing), Occupations Code, pertains to manufactured housing. C.S.H.B. 1510 requires that notice of a lien be sent to the chief appraiser, rather than the tax assessor collector. This bill clarifies when a community owner can declare abandonment on a manufactured home and sets up guidelines for TDHCA regarding the process of releasing a lien.

C.S.H.B. 1510 amends current law relating to the regulation of manufactured housing.

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 Sections 1201.2055(d), (e), and (g), Occupations Code, as follows:

(d) Requires the Texas Department of Housing and Community Affairs (TDHCA), if an owner elects to treat a manufactured home as real property, to issue to the owner a certified copy of the statement of ownership and location that on its face reflects that the owner has elected to treat the manufactured home as real property at the location listed on the statement. Requires an owner, not later than the 60th day after the date TDHCA issues a certified copy of the statement of ownership and location to the owner, to:

(1) file the certified copy in the real property records of the county in which the home is located; and

(2) notify TDHCA and the chief appraiser of the applicable appraisal district, rather than tax assessor-collector, that the certified copy has been filed.

(e) Provides that a real property election for a manufactured home is not considered to be perfected, rather than real property, until a certified copy of the statement of ownership and location has been filed and TDHCA and the chief appraiser of the applicable appraisal district have been notified of the filing as provided by Subsection (d). Makes a conforming change.

(g) Provides that after a real property election is perfected under Subsection (e):

(1) the home is considered to be real property for all purposes; and

(2) no additional issuance of a statement of ownership and location is required with respect to the manufactured home, unless:

(A) the home is moved from the location specified on the statement of ownership and location;

(B) the real property election is changed; or

(C) the use of the property is changed as described by Section 1201.216 (Change in Use). Deletes existing text providing that after TDHCA and the tax assessor-collector note in their records that a real property election has been perfected, the home is considered to be real property for all purposes.

SECTION 2. Amends Section 1201.207(c), Occupations Code, as follows:

(c) Provides that, except with respect to any change in use, servicing of a loan on a manufactured home, release of a lien on a manufactured home by an authorized lienholder, or change in ownership of a lien on a manufactured home, but subject to Section 1201.2075 (Conversion From Personal Property to Real Property), if TDHCA has issued a statement of ownership and location for a manufactured home, TDHCA is authorized to issue a subsequent statement of ownership and location for the home only if all parties reflected in TDHCA's records as having an interest in the manufactured home give their written consent or release their interest, either in writing or by operation of law, or TDHCA has followed the procedures provided by Section 1201.206(k) (relating to authorizing TDHCA to issue a statement of ownership and location) to document ownership and lien status. Prohibits TDHCA, once TDHCA issues a statement of ownership and location, from altering the record of the ownership or lien status, other than to change the record to accurately reflect the proper owner's or lienholder's identity or to release a lien if an authorized lienholder files with TDHCA a request for that release, of a manufactured home for any activity occurring before the issuance of the statement of ownership and location without either the written permission of the owner of record for the manufactured home, their legal representative, or a court order.

SECTION 3. Amends Section 1201.2076(a), Occupations Code, as follows:

(a) Prohibits TDHCA from issuing a statement of ownership and location for a manufactured home that is being converted from real property to personal property until TDHCA has inspected the home and determined that it is habitable, rather than is habitable and has notified the appropriate tax assessor-collector of the conversion, and:

(1) each lien, including a tax lien, on the home is released by the lienholder; or

(2) each lienholder, including a taxing unit, gives written consent, to be placed on file with TDHCA.

SECTION 4. Amends Section 1201.217(a), Occupations Code, as follows:

(a) Authorizes the owner of real property on which a manufactured home owned by another is located to declare the home abandoned as provided by this section if:

(1) the home has been continuously unoccupied for at least four months; and

(2) any indebtedness secured by the home or related to a lease agreement between the owner of the real property and the owner of the home is considered delinquent. Makes a conforming and nonsubstantive change.

SECTION 5. Amends Section 1201.219, Occupations Code, by adding Subsection (b-1), and amending Subsections (c) and (d), as follows:

(b-1) Authorizes a lien perfected with TDHCA, notwithstanding any other law, to be released only by filing a request for the release with TDHCA on the form provided by

TDHCA or by following TDHCA procedures for electronic lien release on TDHCA's Internet website. Provides that this subsection does not apply to the release of a tax lien perfected with TDHCA.

(c) Provides that, notwithstanding any other provision of this section or any other law, the filing of a lien security agreement 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 TDHCA is prohibited from considering that lien for the purpose of title issuance.

(d) Provides that a tax lien, rather than except as provided by Subsection (a) a lien, on a manufactured home not held in a retailer's inventory is perfected only by filing with TDHCA the notice of the tax lien on a form provided by TDHCA in accordance with the requirements of Chapter 32 (Tax Liens and Personal Liability), Tax Code. Requires that the form require the disclosure of the original dollar amount of the tax lien and the name and address of the person in whose name the manufactured home is listed on the tax roll. Requires TDHCA to disclose on its Internet website the date of each tax lien filing, the original amount of the tax lien claimed by each filing, and the fact that the amount shown does not include additional sums, including interest, penalties, and attorney's fees. Provides that the statement required by Section 1201.205(7) (relating to the statement regarding tax liens) is notice to all persons that the tax lien exists. Provides that a tax lien recorded with TDHCA has priority over another lien or claim against the manufactured home. Requires tax liens to be filed by the tax collector for any taxing unit having the power to tax the manufactured home. Provides that a single filing by a tax collector is a filing for all the taxing units for which the tax collector is empowered to collect. Authorizes a tax lien perfected with TDHCA to be released only by filing with TDHCA a tax certificate or tax paid receipt in accordance with Section 32.015 (Tax Lien on Manufactured Home), Tax Code, by filing a request for the release with TDHCA on the form provided by TDHCA, or by following TDHCA procedures for electronic tax lien release on TDHCA's Internet website.

SECTION 6. Amends Section 1201.220, Occupations Code, as follows:

Sec. 1201.220. New heading: **REPORT TO CHIEF APPRAISER.** Deletes existing Subsection (a) designation. Requires TDHCA to make available in electronic format or in hard-copy format on request, to each chief appraiser of an appraisal district in this state a monthly report that, for each manufactured home reported as having been installed during the preceding month in the county for which the district was established, rather than requiring TDHCA to provide to each county tax assessor-collector in this state a monthly report that for each manufactured home reported 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:

- (1) the name of the owner of the home;
- (2) the name of the manufacturer of the home, if available;
- (3) the model designation of the home, if available;
- (4) the identification number of each section or module of the home;
- (5) the address or location where the home was reported as installed; and
- (6) the reported date of the installation of the home.

Deletes existing Subsection (b) requiring the executive director of the manufactured housing division of TDHCA to provide a copy of the report to the

chief appraiser of the appraisal district established for the county in which the home is reported as installed.

SECTION 7. Amends Section 1201.452(b), Occupations Code, to require a person, if a home does not have the appropriate seal, or label, to apply to TDHCA for a seal and pay the fee, rather than apply to TDHCA for a seal, pay the fee, and submit to TDHCA a copy of any written disclosure required under Section 1201.455(a) (relating to prohibiting a person from selling, exchanging, or leasing a used manufactured home).

SECTION 8. Repealer: Section 1201.2055(f) (relating to records of real property elections), Occupations Code; and

Repealer: Section 1201.206(d) (relating to application for issuance of a new statement of ownership), Occupations Code.

SECTION 9. Effective date: September 1, 2011.