

By: Hegar

S.B. No. 1015

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Residential
Construction Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 27, Property Code, is amended by adding
Section 27.0021 to read as follows:

Sec. 27.0021. TIME FOR CERTAIN OFFERS AND ELECTIONS BY
BUILDER. In a dispute subject to Subtitle D, Title 16, if a party to
the dispute is authorized under Section 426.005(g) to file an
action before a recommendation is issued by a third-party
inspection or before a ruling on an appeal of a third-party
inspector's recommendation is issued, a builder may make a written
offer of settlement to the claimant under Sections 27.004(b) and
(c) or an election to purchase the residence under Section 27.0042
not later than the 15th day after the earliest date on which the
action may be filed under Section 426.005(g).

SECTION 2. Section 27.004, Property Code, is amended by
adding Subsection (1-1) to read as follows:

(1-1) An inspection of repairs by a third-party inspector
under Subsection (1), other than minor cosmetic repairs described
by Subsection (1), must be completed in the time provided by Section
428.0041.

SECTION 3. Chapter 401, Property Code, is amended by adding
Section 401.0011 to read as follows:

1 Sec. 401.0011. PURPOSE; TEXAS RESIDENTIAL CONSTRUCTION
2 COMMISSION. (a) The Texas Residential Construction Commission
3 oversees builders registered with the commission to ensure that
4 builders are responsible and accountable to the homeowners with
5 whom they contract.

6 (b) The commission's mission includes:

7 (1) educating builders and homeowners about all
8 aspects of the residential construction industry affecting the
9 building or remodeling of homes; and

10 (2) facilitating resolution of disputes between
11 builders and homeowners regarding construction defects through the
12 state-sponsored inspection and dispute resolution process.

13 SECTION 4. Section 401.006, Property Code, is amended to
14 read as follows:

15 Sec. 401.006. SUNSET PROVISION. The Texas Residential
16 Construction Commission is subject to Chapter 325, Government Code
17 (Texas Sunset Act). Unless continued in existence as provided by
18 that chapter, the commission is abolished and this title expires
19 September 1, 2013 ~~[2009]~~.

20 SECTION 5. Sections 401.007(a), (b), and (c), Property
21 Code, are amended to read as follows:

22 (a) The ~~[If the]~~ commission ~~[has reasonable cause to believe~~
23 ~~that a person is violating a statute to which this chapter applies,~~
24 ~~the commission, in addition to any other authorized action,]~~ may
25 issue an emergency order, including an emergency order to cease and
26 desist, to any person regardless of whether the person is a builder
27 registered under this title ~~[from the violation or an order to take~~

1 ~~affirmative action, or both~~], to enforce a statute to which this
2 chapter applies if the commission determines that an emergency
3 exists requiring immediate action to protect the public health and
4 safety or if the commission has reasonable cause to believe that a
5 person is violating a statute to which this chapter applies. The
6 commission may issue the emergency order without notice and hearing
7 or with any notice and hearing the commission considers practicable
8 under the circumstances ~~[compliance]~~. A person may appeal the
9 order directly to district court in accordance with Chapter 2001,
10 Government Code.

11 (b) The ~~[Before issuing an order under this section, the]~~
12 commission shall set the time and place and give notice for a
13 hearing to affirm, modify, or set aside an emergency order that was
14 issued without a hearing ~~[of a hearing before a hearings officer]~~.
15 The hearing is governed by Chapter 2001, Government Code. Based on
16 the findings of fact, conclusions of law, and recommendations of
17 the hearings officer, the commission by order may find whether a
18 violation has occurred.

19 (c) The commission, after providing notice and an
20 opportunity to appear for a hearing, may impose against a person who
21 violates an emergency ~~[a cease and desist]~~ order an administrative
22 penalty in an amount not to exceed \$1,000 for each day of violation.
23 In addition to any other remedy provided by law, the attorney
24 general or the commission may institute in district court a suit for
25 injunctive relief and to collect an administrative penalty. A bond
26 is not required of the commission with respect to injunctive relief
27 granted under this section. In the action, the court may enter as

proper an order awarding a preliminary or final injunction.

SECTION 6. Section 406.001(a), Property Code, is amended to read as follows:

(a) The Texas Residential Construction Commission consists of 11 [~~nine~~] members appointed by the governor with the advice and consent of the senate as follows:

(1) four members must be builders who each hold a certificate of registration under Chapter 416;

(2) four [~~three~~] members must be representatives of the general public;

(3) one member must be a licensed professional engineer who practices in the area of residential construction; [~~and~~]

(4) one member must be [~~either~~] a licensed architect who practices in the area of residential construction; and

(5) one member must be [~~or~~] a building inspector who meets the requirements set forth in Chapter 427 and practices in the area of residential construction.

SECTION 7. Section 406.002(a), Property Code, is amended to read as follows:

(a) Commission members serve staggered six-year terms, with three or four members' terms expiring February 1 of each odd-numbered year. The terms of three of the builder representatives must expire in different odd-numbered years. The terms [~~term~~] of three [~~one~~] of the representatives of the general public must expire in different [~~each~~] odd-numbered years [~~year~~].

SECTION 8. Chapter 408, Property Code, is amended by adding

Sections 408.006 and 408.007 to read as follows:

Sec. 408.006. USE OF TECHNOLOGY. The commission shall implement a policy requiring the commission to use appropriate technological solutions to improve the commission's ability to perform its functions. The policy must ensure that the public is able to interact with the commission on the Internet.

Sec. 408.007. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) The commission's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those

1 procedures, as implemented by the commission.

2 SECTION 9. Sections 416.012(c) and (e), Property Code, are
3 amended to read as follows:

4 (c) A builder who is registered with the commission [~~before~~
5 ~~September 1, 2007, and all other builders who register for the first~~
6 ~~time on or after September 1, 2007, and satisfy the requirements of~~
7 ~~Subsection (b),~~] must complete three [~~five~~] hours of continuing
8 education every two [~~five~~] years, one hour of which must address
9 ethics.

10 (e) A registered builder may not receive more than one [~~two~~]
11 continuing education credit hour [~~hours~~] during each two-year
12 [~~five-year~~] period for engaging in self-directed study.

13 SECTION 10. Section 418.001, Property Code, is amended to
14 read as follows:

15 Sec. 418.001. GROUNDS FOR DISCIPLINARY ACTION. A person,
16 including a builder or a person who is designated as a builder's
17 agent under Section 416.006, or a person who owns or controls a
18 majority ownership interest in the builder is subject to
19 disciplinary action under this chapter for:

20 (1) fraud or deceit in obtaining a registration or
21 certification under this subtitle;

22 (2) misappropriation or misapplication of trust funds
23 in the practice of residential construction, including a violation
24 of Chapter 32, Penal Code, or Chapter 162, if found by a final
25 nonappealable court judgment;

26 (3) naming false consideration in a contract to sell a
27 new home or in a construction contract;

1 (4) discriminating on the basis of race, color,
2 religion, sex, national origin, or ancestry;

3 (5) publishing a false or misleading advertisement;

4 (6) failure to honor, within a reasonable time, a
5 check issued to the commission, or any other instrument of payment,
6 including a credit or debit card or electronic funds transfer,
7 after the commission has sent by certified mail a request for
8 payment to the person's last known business address, according to
9 commission records;

10 (7) failure to pay an administrative penalty assessed
11 by the commission under Chapter 419 or a fee due under Chapter 426;

12 (8) failure to pay a final nonappealable court
13 judgment arising from a construction defect or other transaction
14 between the person and a homeowner;

15 (9) failure to register a home as required by Section
16 426.003;

17 (10) failure to remit the fee for registration of a
18 home under Section 426.003;

19 (11) failure to reimburse a homeowner the amount
20 ordered by the commission as provided by Section 428.004(d);

21 (12) engaging in statutory or common-law fraud or
22 misappropriation of funds, as determined by the commission after a
23 hearing under Section 418.003;

24 (13) a [~~repeated~~] failure to participate in the
25 state-sponsored inspection and dispute resolution process if
26 required by this title;

27 (14) failure to register as a builder as required

under Chapter 416;

(15) using or attempting to use a certificate of registration that has expired or that has been revoked;

(16) falsely representing that the person holds a certificate of registration issued under Chapter 416;

(17) acting as a builder using a name other than the name or names disclosed to the commission;

(18) aiding, abetting, or conspiring with a person who does not hold a certificate of registration to evade the provisions of this title or rules adopted under this title, if found by a final nonappealable court judgment;

(19) allowing the person's certificate of registration to be used by another person;

(20) acting as an agent, partner, or associate of a person who does not hold a certificate of registration with the intent to evade the provisions of this title or rules adopted under this title;

(21) a failure to reasonably perform on an accepted offer to repair or a ~~repeated~~ failure to make an offer to repair based on:

(A) the recommendation of a third-party inspector under Section 428.004; or

(B) the final holding of an appeal under Chapter 429;

(22) a ~~repeated~~ failure to respond to a commission request for information;

(23) a failure to obtain a building permit required by

1 a political subdivision before constructing a new home or an
2 improvement to an existing home;

3 (24) abandoning, without justification, any home
4 improvement contract or new home construction project engaged in or
5 undertaken by the person, if found to have done so by a final,
6 nonappealable court judgment;

7 (25) a ~~[repeated]~~ failure to comply with the
8 requirements of Subtitle F; or

9 (26) otherwise violating this title or a commission
10 rule adopted under this title.

11 SECTION 11. Section 418.002(a), Property Code, is amended
12 to read as follows:

13 (a) On a determination that a ground for disciplinary action
14 under Section 418.001 exists, the commission may:

15 (1) revoke or suspend a registration or certification
16 ~~[in the event of repeated prior violations that have resulted in~~
17 ~~disciplinary action];~~

18 (2) probate the suspension of a registration or
19 certification;

20 (3) formally or informally reprimand a registered or
21 certified person; or

22 (4) impose an administrative penalty under Chapter
23 419.

24 SECTION 12. Subtitle C, Title 16, Property Code, is amended
25 by adding Chapter 421 to read as follows:

26 CHAPTER 421. HOMEOWNER RECOVERY FUND

27 Sec. 421.001. DEFINITION. In this chapter, "fund" means the

1 homeowner recovery fund.

2 Sec. 421.002. RECOVERY FUND. The commission shall maintain
3 a homeowner recovery fund to reimburse aggrieved persons who suffer
4 actual damages from a builder's act in violation of this title or a
5 rule adopted under this title. An aggrieved person may recover from
6 the fund based on the act of any person who is a builder at the time
7 the act occurs, regardless of whether the person holds a
8 certificate of registration issued under Chapter 416 at the time
9 the act occurs.

10 Sec. 421.003. CLAIM FOR PAYMENT FROM FUND. An aggrieved
11 person who obtains a court judgment against a builder for a
12 violation of this title, after final judgment is entered, execution
13 returned nulla bona, and a judgment lien perfected, is entitled to
14 payment from the fund in an amount equal to the amount of actual
15 damages from the violation awarded in the judgment.

16 SECTION 13. Sections 426.003(a) and (b), Property Code, are
17 amended to read as follows:

18 (a) A builder shall register a new home with the commission
19 on or before the 15th day of the month following the month in which
20 the transfer of title from the builder to the homeowner occurs. The
21 registration must:

22 (1) include the information required by the commission
23 by rule;

24 (2) state that the registration concerns a new home;
25 and

26 (3) be accompanied by the fee required by Subsection
27 (c).

(b) A builder who enters a transaction governed by this title, other than the transfer of title of a new home from the builder to the seller, shall register the home involved in the transaction with the commission. The registration must:

(1) include the information required by the commission by rule;

(2) state that the registration concerns a remodel or other transaction governed by this title other than a transfer of title of a new home;

(3) be accompanied by the fee required by Subsection (c); and

(4) ~~[(3)]~~ be delivered to the commission not later than the 15th day after the earlier of:

(A) the date of the substantial completion of the home or other residential construction project;

(B) the date the ~~[new]~~ home is occupied; or

(C) the date of issuance of a certificate of occupancy or a certificate of completion.

SECTION 14. Section 426.005, Property Code, is amended by amending Subsection (b) and adding Subsections (g), (h), and (i) to read as follows:

(b) Except as provided by Subsections (g) and (h), an ~~[An]~~ action described by Subsection (a) must be filed:

(1) on or before the expiration of any applicable statute of limitations or by the 45th day after the date the third-party inspector issues the inspector's recommendation, whichever is later; or

1 (2) if the recommendation is appealed, on or before
2 the expiration of any applicable statute of limitations or by the
3 45th day after the date the commission issues its ruling on the
4 appeal, whichever is later.

5 (g) An action described by Subsection (a) may be initiated
6 by the homeowner or builder:

7 (1) for a dispute involving workmanship and materials,
8 on or after the 91st day after the date the request for
9 state-sponsored inspection and dispute resolution is submitted,
10 except as provided by Subdivision (3);

11 (2) for a dispute involving a structural matter, on or
12 after the 106th day after the date the request for state-sponsored
13 inspection and dispute resolution is submitted, except as provided
14 by Subdivision (3); or

15 (3) if the third-party inspector's recommendation is
16 appealed and a ruling on the appeal is not issued in the time
17 prescribed by Section 429.001, on or after the day after the date
18 the panel is required to issue the ruling under that section.

19 (h) An action filed under Subsection (g) must be filed on or
20 before the later of:

21 (1) the expiration of the applicable statute of
22 limitations; or

23 (2) the 45th day after the first date on which
24 Subsection (g) authorizes the filing of the action.

25 (i) Once a final, unappealable recommendation or a ruling on
26 an appeal of a recommendation is issued under this subtitle, a
27 homeowner or builder may file an action described by Subsection

1 (a). A homeowner is not required to delay the filing of an action to
2 allow the builder an opportunity to make an offer of settlement or
3 repair under Sections 27.004(b) and (c) or an election to purchase
4 the residence under Section 27.0042. The filing of an action by the
5 homeowner does not affect a builder's right to make an offer of
6 settlement or repair in the time provided by Section 27.004(b) or an
7 election to purchase the residence in the time provided by Section
8 27.0042.

9 SECTION 15. Chapter 428, Property Code, is amended by
10 adding Section 428.0011 to read as follows:

11 Sec. 428.0011. PROCESSING AND PRIORITIZING OF REQUESTS.

12 (a) The commission shall adopt rules for processing requests under
13 this chapter that include guidelines for prioritizing the handling
14 of the requests and allocating agency staff and other resources in
15 the most efficient manner to address the requests.

16 (b) In adopting rules under this section, the commission
17 shall consider:

18 (1) appropriate ways to expedite the state-sponsored
19 inspection and dispute resolution process under emergency
20 circumstances, including cases involving issues of habitability;

21 (2) appropriate handling of complex case material and
22 whether different handling is appropriate for requests involving a
23 structural defect and requests involving workmanship and
24 materials; and

25 (3) the most efficient ways to use agency staff.

26 SECTION 16. Section 428.002(a), Property Code, is amended
27 to read as follows:

1 (a) At [~~In addition to the right of inspection provided by~~
2 ~~Section 428.001(c), at~~] any time before the conclusion of the
3 state-sponsored inspection and dispute resolution process and on
4 the builder's written request, the builder shall be given
5 reasonable opportunity to inspect the home that is the subject of
6 the request or have the home inspected to determine the nature and
7 cause of the construction defect and the nature and extent of
8 repairs necessary to remedy the construction defect.

9 SECTION 17. Section 428.003(a), Property Code, is amended
10 to read as follows:

11 (a) On or before the 10th [~~30th~~] day after the date the
12 commission receives a request, the commission shall appoint the
13 next available third-party inspector from the applicable lists of
14 third-party inspectors maintained by the commission under
15 Subsection (c). If, in accordance with guidelines adopted under
16 Section 428.0011, the executive director determines the
17 circumstances involved in a request constitute an emergency, the
18 executive director may assign a state inspector or other commission
19 employee that the executive director determines is qualified to
20 conduct the inspection and issue a recommendation in accordance
21 with the requirements for inspections and recommendations by a
22 third-party inspector.

23 SECTION 18. Section 428.004, Property Code, is amended by
24 amending Subsections (b) and (c) and adding Subsections (g) and (h)
25 to read as follows:

26 (b) If the dispute involves a structural matter in the home,
27 the commission shall appoint an approved engineer to be the

third-party inspector. The third-party inspector shall inspect the home not later than the 30th day after the date the request is submitted and issue a recommendation not later than the 45th ~~[60th]~~ day after the date the third-party inspector receives the assignment from the commission, unless additional time is requested by the third-party inspector or a party to the dispute. The commission shall adopt rules governing the extension of time under this subsection.

(c) The third-party inspector's recommendation must ~~+~~
~~[(1) address only the construction defect, based on the applicable warranty and building and performance standards; and~~
~~[(2)]~~ designate a method or manner of repair, if any.
The recommendation may identify any construction defects discovered by the third-party inspector that are not included in the request for state-sponsored inspection and dispute resolution that involve a violation of a statutory warranty or building and performance standard or other building code applicable to the construction.

(g) The commission shall remove a final report, including a request form or other case material relating to the final report, from the commission's Internet website if:

(1) the builder has made repairs substantially equivalent to those required by the findings of the final report confirming the defect; and

(2) the commission has confirmed with the homeowner and a third-party inspector who has inspected the repairs that the builder has made those repairs.

1 (h) A final report removed by the commission under
2 Subsection (g) is not public information subject to disclosure
3 under Chapter 552, Government Code.

4 SECTION 19. Chapter 428, Property Code, is amended by
5 adding Section 428.0041 to read as follows:

6 Sec. 428.0041. INSPECTION OF CERTAIN REPAIRS. An
7 inspection of repairs by a third-party inspector under Section
8 27.004(1), other than minor cosmetic repairs described by that
9 section, must be completed not later than:

10 (1) the 30th day after the date the repairs are
11 completed for a dispute involving workmanship and materials; or

12 (2) the 45th day after the date the repairs are
13 completed for a dispute that involves a structural matter.

14 SECTION 20. Chapter 428, Property Code, is amended by
15 adding Section 428.006 to read as follows:

16 Sec. 428.006. BUILDER REPORTING REQUIRED. (a) A builder
17 involved in the state-sponsored inspection and dispute resolution
18 process shall file with the commission, on a form prescribed by the
19 commission, information relating to any activity related to the
20 dispute, including a settlement, repair effort, mediation,
21 arbitration, or litigation, that occurs after a third-party
22 inspector's report issued under this chapter becomes final and
23 nonappealable.

24 (b) A builder shall file a form not later than the 21st day
25 after the report becomes final and nonappealable.

26 (c) In addition to any other information the commission
27 determines is appropriate to request, the form prescribed under

this section must request the following information:

(1) the name of the builder;

(2) the name and address of the homeowner and the property involved in the state-sponsored inspection and dispute resolution process;

(3) the state-sponsored inspection and dispute resolution number assigned by the commission;

(4) whether any repairs or other types of compensation were offered by the builder to the homeowner for any construction defects affirmed by the final, nonappealable report;

(5) if repairs were offered by the builder:

(A) whether any alleged defects affirmed by the report were excluded from the offer of repair; and

(B) whether the homeowner accepted any or all of the repairs offered;

(6) if repairs were offered and accepted:

(A) whether the repairs were made; and

(B) whether the repairs resulted in the satisfaction of all issues between the parties as a result of the residential construction project;

(7) if repairs were made, whether the builder engaged the services of the third-party inspector assigned to the state-sponsored inspection and dispute resolution process to inspect the repairs;

(8) if repairs were not offered or an offer for repair was not accepted, whether either of the parties pursued any further legal proceedings related to the dispute between the parties;

1 (9) if either party has pursued further legal
2 proceedings, whether the parties are in mediation or involved in
3 arbitration or a civil lawsuit; and

4 (10) if the parties are involved in an arbitration
5 proceeding, whether the arbitration is required as a provision of a
6 contract between the parties.

7 (d) If the parties have not resolved their dispute at the
8 time the builder files the initial form under Subsection (b), the
9 builder must update the status of the information requested or
10 provided on the form at least once in each 21-day period until the
11 occurrence and reporting of one of the following events:

12 (1) repairs offered by the builder are accepted,
13 performed, reinspected in accordance with Sections 27.004(1) and
14 428.0041, and accepted by the homeowner as resolving all issues in
15 the dispute;

16 (2) any legal proceedings described by Subsection
17 (c)(9) are final;

18 (3) the builder repurchases the home under Section
19 27.0042; or

20 (4) any other resolution of the dispute between the
21 parties is finalized.

22 (e) A builder's failure to comply with this section or to
23 complete the required form honestly is grounds for denial of the
24 builder's registration renewal application under Chapter 416.

25 SECTION 21. Subtitle D, Title 16, Property Code, is amended
26 by adding Chapter 428A to read as follows:

CHAPTER 428A. OFFICE OF OMBUDSMAN

Sec. 428A.001. OFFICE OF OMBUDSMAN. The office of the ombudsman is established at the commission to assist the commission, builders, and homeowners following the completion of the state-sponsored inspection and dispute resolution process.

Sec. 428A.002. QUALIFICATIONS. The commission shall hire a licensed attorney to act as ombudsman.

Sec. 428A.003. POWERS AND DUTIES. (a) The ombudsman shall:

(1) facilitate defect repairs after the completion of the state-sponsored inspection and dispute resolution process;

(2) oversee staff to conduct a mediation process between builders and homeowners after the state-sponsored inspection and dispute resolution process concludes; and

(3) comment on rules and other policy changes being considered by the commission.

(b) The ombudsman shall report directly to the commission.

SECTION 22. Chapter 430, Property Code, is amended by adding Section 430.012 to read as follows:

Sec. 430.012. HOMEOWNER INFORMATION PAMPHLET. (a) The commission shall produce a homeowner information pamphlet to provide homeowners with basic information about the commission and the state-sponsored inspection and dispute resolution process.

(b) The pamphlet must include information describing:

(1) the commission's jurisdiction;

(2) the state-sponsored inspection and dispute resolution process;

(3) statutory warranties;

1 (4) building and performance standards; and
2 (5) how the items listed in Subdivisions (1) through
3 (4) apply to a new or newly remodeled home.

4 (c) The commission shall make the pamphlet available
5 through the commission's Internet website and in a hard-copy
6 format.

7 (d) An escrow officer, as defined by Section 2501.003,
8 Insurance Code, or an attorney performing closing services in which
9 title insurance is not obtained, at a closing in which title to a
10 new home is transferred shall provide the pamphlet produced by the
11 commission under Subsection (a) to the person purchasing the new
12 home.

13 (e) The commission shall provide the pamphlet to a homeowner
14 after registration of the home under Section 426.003(b).

15 SECTION 23. Section 446.004, Property Code, is amended to
16 read as follows:

17 Sec. 446.004. FEE INSPECTOR. A fee inspector must be either
18 a licensed engineer, a registered architect, a professional
19 inspector licensed by the Texas Real Estate Commission, a plumbing
20 inspector employed by a municipality and licensed by the Texas
21 State Board of Plumbing Examiners, a building inspector employed by
22 a political subdivision, or a third-party inspector qualified under
23 Section 427.001(b). A builder may use the same or a different fee
24 inspector for inspections required under this chapter.

25 SECTION 24. The following provisions of the Property Code
26 are repealed:

27 (1) Section 416.011;

- (2) Section 416.012(b);
- (3) Section 418.002(d); and
- (4) Section 428.001(c).

SECTION 25. The Sunset Advisory Commission's report to the 83rd Legislature shall evaluate:

(1) the Texas Residential Construction Commission's overall performance; and

(2) the ability of the Texas Residential Construction Commission to implement the changes in law made by this Act and management actions recommended by the 81st Legislature.

SECTION 26. (a) Section 401.007, Property Code, as amended by this Act, applies only to an order regarding an emergency or a violation of a statute to which Chapter 401, Property Code, applies that occurs on or after the effective date of this Act. An order regarding an emergency or a violation of a statute that occurred before the effective date of this Act is governed by the law in effect at the time the emergency or violation occurred, and that law is continued in effect for that purpose.

(b) Promptly after this Act takes effect, the governor shall appoint the two additional members to the Texas Residential Construction Commission as required by Section 406.001, Property Code, as amended by this Act. In appointing those members, the governor shall appoint one person to a term expiring February 1, 2011, and one to a term expiring February 1, 2013.

(c) Sections 416.012(c) and (e), Property Code, as amended by this Act, apply only to a renewal of a builder registration on or after September 1, 2011. The renewal of a builder registration

1 before September 1, 2011, is governed by the law in effect
2 immediately before the effective date of this Act, and that law is
3 continued in effect for that purpose.

4 (d) Sections 418.001 and 418.002, Property Code, as amended
5 by this Act, apply only to a ground for disciplinary action that
6 occurs on or after the effective date of this Act. A ground for
7 disciplinary action that occurs before the effective date of this
8 Act is governed by the law in effect at the time the ground for
9 disciplinary action occurred and the law is continued in effect for
10 that purpose.

11 (e) Section 426.003, Property Code, as amended by this Act,
12 applies only to a registration of a home that occurs on or after the
13 effective date of this Act. A registration of a home that occurs
14 before the effective date of this Act is governed by the law in
15 effect immediately before the effective date of this Act, and that
16 law is continued in effect for that purpose.

17 (f) Sections 426.005, 428.003, and 428.004, Property Code,
18 as amended by this Act, apply only to a request for state-sponsored
19 inspection and dispute resolution filed on or after the effective
20 date of this Act. A request filed before the effective date of this
21 Act is governed by the law in effect immediately before the
22 effective date of this Act, and that law is continued in effect for
23 that purpose.

24 (g) Not later than December 1, 2009, the Texas Residential
25 Construction Commission shall adopt rules under Sections 428.0011
26 and 428.006, Property Code, as added by this Act.

27 (h) Sections 27.004(1-1) and 428.0041, Property Code, as

1 added by this Act, apply only to inspection of a repair completed by
2 a builder on or after the effective date of this Act. Inspection of
3 a repair completed by a builder before the effective date of this
4 Act is governed by the law in effect immediately before the
5 effective date of this Act, and that law is continued in effect for
6 that purpose.

7 (i) Not later than December 1, 2009, the Texas Residential
8 Construction Commission shall hire an ombudsman as provided by
9 Chapter 428A, Property Code, as added by this Act.

10 SECTION 27. This Act takes effect September 1, 2009.