

By: Harper-Brown

H.B. No. 2608

Substitute the following for H.B. No. 2608:

By: Alvarado

C.S.H.B. No. 2608

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Department of Housing and Community Affairs.

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

ARTICLE 1. GENERAL OPERATIONS AND ADMINISTRATION OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

SECTION 1.01. Section 2306.022, Government Code, is amended to read as follows:

Sec. 2306.022. APPLICATION OF SUNSET ACT. The Texas Department of Housing and Community Affairs is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2023 [~~2011~~].

SECTION 1.02. Section 2306.043(c), Government Code, is amended to read as follows:

(c) The notice must:

- (1) include a brief summary of the alleged violation;
- (2) state the amount of the recommended penalty; and
- (3) inform the person of the person's right to a hearing before the State Office of Administrative Hearings [~~board~~] on the occurrence of the violation, the amount of the penalty, or both.

SECTION 1.03. Section 2306.044(a), Government Code, is amended to read as follows:

1 (a) Not later than the 20th day after the date the person
2 receives the notice, the person in writing may:

3 (1) accept the determination and recommended penalty
4 of the director; or

5 (2) make a request for a hearing before the State
6 Office of Administrative Hearings [~~board~~] on the occurrence of the
7 violation, the amount of the penalty, or both.

8 SECTION 1.04. Section 2306.045, Government Code, is amended
9 to read as follows:

10 Sec. 2306.045. HEARING. (a) If the person requests a
11 hearing before the State Office of Administrative Hearings [~~board~~]
12 or fails to respond in a timely manner to the notice, the director
13 shall set a hearing and give written notice of the hearing to the
14 person.

15 (b) The State Office of Administrative Hearings [~~board~~]
16 shall:

17 (1) hold the hearing;

18 (2) [~~and~~] make findings of fact and conclusions of law
19 about the occurrence of the violation and the amount of a proposed
20 penalty; and

21 (3) issue a proposal for decision regarding the
22 penalty and provide notice of the proposal to the board.

23 (c) Any administrative proceedings relating to the
24 imposition of a penalty under Section 2306.041 is a contested case
25 under Chapter 2001.

26 SECTION 1.05. Section 2306.046(a), Government Code, is
27 amended to read as follows:

1 (a) The board shall issue an order after receiving a
2 proposal for decision from the State Office of Administrative
3 Hearings under Section 2306.045. [~~Based on the findings of fact and~~
4 ~~conclusions of law, the board by order may:~~

5 [~~(1) find that a violation occurred and impose a~~
6 ~~penalty, or~~

7 [~~(2) find that a violation did not occur.~~]

8 SECTION 1.06. Section 2306.049(a), Government Code, is
9 amended to read as follows:

10 (a) Judicial review of a board order imposing an
11 administrative penalty is under the substantial evidence rule [~~by~~
12 ~~trial de novo~~].

13 SECTION 1.07. Section 2306.6721, Government Code, is
14 transferred to Subchapter B, Chapter 2306, Government Code,
15 redesignated as Section 2306.0504, Government Code, and amended to
16 read as follows:

17 Sec. 2306.0504 [~~2306.6721~~]. DEBARMENT FROM PROGRAM
18 PARTICIPATION. (a) The board by rule shall adopt a policy
19 providing for the debarment of a person from participation in
20 programs administered by the department [~~the low income housing tax~~
21 ~~credit program as described by this section~~].

22 (b) The department may debar a person from participation in
23 a department [~~the~~] program on the basis of the person's past failure
24 to comply with any condition imposed by the department in the
25 administration of its programs [~~connection with the allocation of~~
26 ~~housing tax credits~~].

27 (c) The department shall debar a person from participation

1 in a department ~~[the]~~ program if the person:

2 (1) materially or repeatedly violates any condition
3 imposed by the department in connection with the administration of
4 a department program, including a material or repeated violation of
5 a land use restriction agreement regarding a development supported
6 with a [allocation of] housing tax credit allocation [credits]; or

7 (2) is debarred from participation in federal housing
8 programs by the United States Department of Housing and Urban
9 Development ~~[, or~~

10 ~~[(3) is in material noncompliance with or has~~
11 ~~repeatedly violated a land use restriction agreement regarding a~~
12 ~~development supported with a housing tax credit allocation].~~

13 (d) A person debarred by the department from participation
14 in a department ~~[the]~~ program may appeal the person's debarment to
15 the board.

16 ARTICLE 2. DISASTER MANAGEMENT PLANNING

17 SECTION 2.01. Section 418.106, Government Code, is amended
18 by adding Subsection (b-1) to read as follows:

19 (b-1) The plan must identify:

20 (1) any requirements or procedures that local agencies
21 and officials must satisfy or implement to:

22 (A) qualify for long-term federal disaster
23 recovery funding; and

24 (B) prepare for long-term disaster recovery; and

25 (2) any appropriate state or local resources available
26 to assist the local agencies and officials in satisfying or
27 implementing those requirements or procedures.

1 SECTION 2.02. Chapter 2306, Government Code, is amended by
2 adding Subchapter X-1 to read as follows:

3 SUBCHAPTER X-1. LONG-TERM DISASTER RECOVERY PLAN

4 Sec. 2306.531. LONG-TERM DISASTER RECOVERY PLAN. (a) The
5 department, in consultation with the Texas Department of Rural
6 Affairs and the office of the governor, shall develop a long-term
7 disaster recovery plan to administer money received for disaster
8 recovery from the federal government or any other source.

9 (b) In developing and administering the plan:

10 (1) the department:

11 (A) has primary responsibility over matters
12 related to housing; and

13 (B) shall consult with:

14 (i) existing disaster recovery entities
15 established by law or local, state, or federal agreements;

16 (ii) local government officials,
17 contractors, community advocates, businesses, nonprofit
18 organizations, and other stakeholders; and

19 (iii) the United States Department of
20 Housing and Urban Development to ensure that the plan complies with
21 federal law; and

22 (2) the Texas Department of Rural Affairs:

23 (A) has primary responsibility over matters
24 related to infrastructure; and

25 (B) shall consult with:

26 (i) existing disaster recovery entities
27 established by law or local, state, or federal agreements; and

1 (ii) local government officials,
2 contractors, community advocates, businesses, nonprofit
3 organizations, and other stakeholders.

4 (c) The plan developed under this section must establish or
5 identify:

6 (1) a method of distribution of disaster relief
7 funding to local areas, subject to modification by the governor
8 based on the nature of the disaster;

9 (2) guidelines for outreach to program applicants and
10 for eligible housing and infrastructure activities;

11 (3) eligibility criteria for program applicants;

12 (4) housing quality standards;

13 (5) priorities for serving local populations;

14 (6) procedures for establishing compliance with
15 federal requirements;

16 (7) procedures for coordination and communication
17 among federal, state, and local entities;

18 (8) pre-disaster and post-disaster training programs;

19 (9) a procedure for each department to compile,
20 update, and post on that department's Internet website in advance
21 of hurricane season all relevant forms and information for program
22 applicants;

23 (10) federal and state monitoring and reporting
24 requirements, including a list of the types of data that local
25 government officials may be required to collect, analyze, and
26 report;

27 (11) the state information technology systems and

1 processes that will be used to administer funds from the federal
2 government or any other source;

3 (12) a process for identifying elements of disaster
4 recovery where coordination between or among state agencies will be
5 required; and

6 (13) a process for implementing memoranda of
7 understanding in areas of disaster recovery where interagency
8 coordination will be required.

9 (d) The plan established under this section must be updated
10 biennially and approved by the governor.

11 (e) Biennially, the governor shall designate a state agency
12 to be the primary agency in charge of coordinating the distribution
13 of long-term disaster recovery funding.

14 ARTICLE 3. HOUSING TRUST FUND PROGRAM; LOW INCOME HOUSING TAX

15 CREDIT PROGRAM

16 SECTION 3.01. Sections 2306.111(d-1) and (d-2), Government
17 Code, are amended to read as follows:

18 (d-1) In allocating low income housing tax credit
19 commitments under Subchapter DD, the department shall, before
20 applying the regional allocation formula prescribed by Section
21 2306.1115, set aside for at-risk developments, as defined by
22 Section 2306.6702, not less than the minimum amount of housing tax
23 credits required under Section 2306.6714. Funds or credits are not
24 required to be allocated according to the regional allocation
25 formula under Subsection (d) if:

26 (1) the funds or credits are reserved for
27 contract-for-deed conversions or for set-asides mandated by state

1 or federal law and each contract-for-deed allocation or set-aside
2 allocation equals not more than 10 percent of the total allocation
3 of funds or credits for the applicable program;

4 (2) the funds or credits are allocated by the
5 department primarily to serve persons with disabilities; or

6 (3) the funds are housing trust funds administered by
7 the department under Sections 2306.201-2306.206 that are not
8 otherwise required to be set aside under state or federal law and do
9 not exceed \$3 million for each programmed activity during each
10 application cycle.

11 (d-2) In allocating low income housing tax credit
12 commitments under Subchapter DD, the department shall allocate five
13 percent of the housing tax credits in each application cycle to
14 developments that receive federal financial assistance through the
15 Texas Rural Development Office of the United States Department of
16 Agriculture. Any funds allocated to developments under this
17 subsection that involve rehabilitation must come from the funds set
18 aside for at-risk developments under Section 2306.6714 and any
19 additional funds set aside for those developments under Subsection
20 (d-1). This subsection does not apply to a development financed
21 wholly or partly under Section 538 of the Housing Act of 1949 (42
22 U.S.C. Section 1490p-2) unless the development involves the
23 rehabilitation of an existing property that has received and will
24 continue to receive as part of the financing of the development
25 federal financial assistance provided under Section 515 of the
26 Housing Act of 1949 (42 U.S.C. Section 1485).

27 SECTION 3.02. Section 2306.67022, Government Code, is

1 amended to read as follows:

2 Sec. 2306.67022. QUALIFIED ALLOCATION PLAN; MANUAL. At
3 least biennially, the [~~The~~] board [~~annually~~] shall adopt a
4 qualified allocation plan and a corresponding manual to provide
5 information regarding the administration of and eligibility for the
6 low income housing tax credit program. The board may adopt the plan
7 and manual annually, as considered appropriate by the board.

8 SECTION 3.03. Sections 2306.6724(a), (b), and (c),
9 Government Code, are amended to read as follows:

10 (a) Regardless of whether the board will adopt the plan
11 annually or biennially [~~Not later than September 30 of each year~~],
12 the department, not later than September 30 of the year preceding
13 the year in which the new plan is proposed for use, shall prepare
14 and submit to the board for adoption any proposed [~~the~~] qualified
15 allocation plan required by federal law for use by the department in
16 setting criteria and priorities for the allocation of tax credits
17 under the low income housing tax credit program.

18 (b) Regardless of whether the board has adopted the plan
19 annually or biennially, the [~~The~~] board shall [~~adopt and~~] submit to
20 the governor any proposed [~~the~~] qualified allocation plan not later
21 than November 15 of the year preceding the year in which the new
22 plan is proposed for use.

23 [~~(c)~~] The governor shall approve, reject, or modify and
24 approve the proposed qualified allocation plan not later than
25 December 1.

26 SECTION 3.04. Subchapter DD, Chapter 2306, Government Code,
27 is amended by adding Section 2306.6739 to read as follows:

1 Sec. 2306.6739. HOUSING TAX CREDITS FINANCED USING FEDERAL
2 EMERGENCY FUNDS. (a) To the extent the department receives federal
3 emergency funds that must be awarded by the department in the same
4 manner as and that are subject to the same limitations as awards of
5 housing tax credits, any reference in this chapter to the
6 administration of the housing tax credit program applies equally to
7 the administration of the federal funds, subject to Subsection (b).

8 (b) Notwithstanding any other law, the department may
9 establish a separate application procedure for the federal
10 emergency funds that does not follow the uniform application cycle
11 required by Section 2306.1111 or the deadlines established by
12 Section 2306.6724, and any reference in this chapter to an
13 application period occurring in relation to those federal emergency
14 funds refers to the period beginning on the date the department
15 begins accepting applications for the federal funds and continuing
16 until all of the available federal funds are awarded.

17 ARTICLE 4. MANUFACTURED HOUSING

18 SECTION 4.01. Section 2306.6022, Government Code, is
19 amended by adding Subsections (e) and (f) to read as follows:

20 (e) The division director may allow an authorized employee
21 of the division to dismiss a complaint if an investigation
22 demonstrates that:

23 (1) a violation did not occur; or
24 (2) the subject of the complaint is outside the
25 division's jurisdiction under this subchapter.

26 (f) An employee who dismisses a complaint under Subsection
27 (e) shall report the dismissal to the division director and the

1 board. The report must include a sufficient explanation of the
2 reason the complaint was dismissed.

3 SECTION 4.02. Subchapter AA, Chapter 2306, Government Code,
4 is amended by adding Section 2306.6023 to read as follows:

5 Sec. 2306.6023. NEGOTIATED RULEMAKING AND ALTERNATIVE
6 DISPUTE RESOLUTION. (a) The division shall develop and implement a
7 policy to encourage the use of:

8 (1) negotiated rulemaking procedures under Chapter
9 2008 for the adoption of division rules; and

10 (2) appropriate alternative dispute resolution
11 procedures under Chapter 2009 to assist in the resolution of
12 internal and external disputes under the division's jurisdiction.

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

18 (c) The division shall:

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

21 (2) provide training as needed to implement the
22 procedures for negotiated rulemaking or alternative dispute
23 resolution; and

24 (3) collect data concerning the effectiveness of those
25 procedures.

26 SECTION 4.03. Section 1201.003, Occupations Code, is
27 amended by amending Subdivision (17) and adding Subdivision (17-a)

1 to read as follows:

2 (17) "License holder" or "licensee" means a person who
3 holds a department-issued license as a manufacturer, retailer,
4 broker, [~~rebuilder,~~] salesperson, or installer.

5 (17-a) "Management official" means an individual with
6 authority over employees involved in the sale of manufactured homes
7 at a retail location.

8 SECTION 4.04. Sections 1201.055(a) and (b), Occupations
9 Code, are amended to read as follows:

10 (a) With guidance from the federal Housing and Community
11 Development Act of 1974 (42 U.S.C. Section 5301 et seq.) and from
12 the rules and regulations adopted under the National Manufactured
13 Housing Construction and Safety Standards Act of 1974 (42 U.S.C.
14 Section 5401 et seq.), the board shall establish fees as follows:

15 (1) if the department acts as a design approval
16 primary inspection agency, a schedule of fees for the review of
17 HUD-code manufactured home blueprints and supporting information,
18 to be paid by the manufacturer seeking approval of the blueprints
19 and supporting information;

20 (2) except as provided by Subsection (e), a fee for the
21 inspection of each HUD-code manufactured home manufactured or
22 assembled in this state, to be paid by the manufacturer of the home;

23 (3) a fee for the inspection of an alteration made to
24 the structure or plumbing, heating, or electrical system of a
25 HUD-code manufactured home, to be charged on an hourly basis and to
26 be paid by the person making the alteration;

27 (4) a fee for the inspection of the rebuilding of a

1 salvaged manufactured home, to be paid by the retailer [~~rebuilder~~];

2 (5) a fee for the inspection of a used manufactured
3 home to determine whether the home is habitable for the issuance of
4 a new statement of ownership and location; and

5 (6) a fee for the issuance of a seal for a used mobile
6 or HUD-code manufactured home.

7 (b) In addition to the fees imposed under Subsections
8 (a)(2), (3), and (4), a manufacturer or [~~7~~] a person making an
9 alteration, [~~or a rebuilder,~~] as appropriate, shall be charged for
10 the actual cost of travel of a department representative to and
11 from:

12 (1) the manufacturing facility, for an inspection
13 described by Subsection (a)(2); or

14 (2) the place of inspection, for an inspection
15 described by Subsection (a)(3) or (4).

16 SECTION 4.05. Section 1201.056, Occupations Code, is
17 amended to read as follows:

18 Sec. 1201.056. LICENSE FEES. (a) The board shall establish
19 fees for the issuance and renewal of licenses for:

- 20 (1) manufacturers;
21 (2) retailers;
22 (3) brokers;
23 (4) salespersons; and
24 (5) [~~rebuilters, and~~
25 [~~6~~] installers.

26 (b) The board by rule may establish a fee for reprinting a
27 license issued under this chapter.

1 SECTION 4.06. Sections 1201.101(e) and (f-1), Occupations
2 Code, are amended to read as follows:

3 (e) A person may not repair, rebuild, or otherwise alter a
4 salvaged manufactured home unless the person holds a [~~rebuilder's~~
5 ~~or~~] retailer's license.

6 (f-1) A retailer may not be licensed to operate more than
7 [~~at a principal location and~~] one location [~~or more branch~~
8 ~~locations~~] under a single license[~~; provided, however, that a~~
9 ~~separate application must be made for each branch, and each branch~~
10 ~~must be separately bonded~~].

11 SECTION 4.07. Sections 1201.103(a) and (b), Occupations
12 Code, are amended to read as follows:

13 (a) An applicant for a license as a manufacturer, retailer,
14 broker, [~~rebuilder,~~] or installer must file with the director a
15 license application containing:

16 (1) the legal name, address, and telephone number of
17 the applicant and each person who will be a related person at the
18 time the requested license is issued;

19 (2) all trade names, and the names of all other
20 business organizations, under which the applicant does business
21 subject to this chapter, the name of each such business
22 organization registered with the secretary of state, and the
23 address of such business organization;

24 (3) the dates on which the applicant became the owner
25 and operator of the business; and

26 (4) the location to which the license will apply.

27 (b) A license application must be accompanied by:

- 1 (1) proof of the security required by this subchapter;
2 ~~[and]~~
3 (2) payment of the fee required for issuance of the
4 license; and
5 (3) the information and the cost required under
6 Section 1201.1031.

7 SECTION 4.08. Subchapter C, Chapter 1201, Occupations Code,
8 is amended by adding Section 1201.1031 to read as follows:

9 Sec. 1201.1031. CRIMINAL HISTORY RECORD INFORMATION
10 REQUIREMENT FOR LICENSE. (a) The department shall require that an
11 applicant for a license or renewal of an unexpired license submit a
12 complete and legible set of fingerprints, on a form prescribed by
13 the board, to the department or to the Department of Public Safety
14 for the purpose of obtaining criminal history record information
15 from the Department of Public Safety and the Federal Bureau of
16 Investigation. The applicant is required to submit a set of
17 fingerprints only once under this section unless a replacement set
18 is otherwise needed to complete the criminal history check required
19 by this section.

20 (b) The department shall refuse to issue a license to or
21 renew the license of a person who does not comply with the
22 requirement of Subsection (a).

23 (c) The department shall conduct a criminal history check of
24 each applicant for a license or renewal of a license using
25 information:

- 26 (1) provided by the individual under this section; and
27 (2) made available to the department by the Department

1 of Public Safety, the Federal Bureau of Investigation, and any
2 other criminal justice agency under Chapter 411, Government Code.

3 (d) The department may enter into an agreement with the
4 Department of Public Safety to administer a criminal history check
5 required under this section.

6 (e) The applicant shall pay the cost of a criminal history
7 check under this section.

8 SECTION 4.09. Section 1201.104, Occupations Code, is
9 amended by amending Subsections (a), (g), and (h) and adding
10 Subsections (a-1), (a-2), (a-3), and (a-4) to read as follows:

11 (a) Except as provided by Subsection (g) [~~(e)~~], as a
12 requirement for a manufacturer's, retailer's, broker's,
13 installer's, [~~salvage-rebuilder's,~~] or salesperson's license, a
14 person who was not licensed or registered with the department or a
15 predecessor agency on September 1, 1987, must, not more than 12
16 months before applying for the person's first license under this
17 chapter, attend and successfully complete eight [~~20~~] hours of
18 instruction in the law, including instruction in consumer
19 protection regulations.

20 (a-1) If the applicant is not an individual, the applicant
21 must have at least one related person who satisfies the
22 requirements of Subsection (a) [~~meets this requirement~~]. If that
23 applicant is applying for a retailer's license, the related person
24 must be a management official who satisfies the requirements of
25 Subsections (a) and (a-2) at each retail location operated by the
26 applicant.

27 (a-2) An applicant for a retailer's license must complete

1 four hours of specialized instruction relevant to the sale,
2 exchange, and lease-purchase of manufactured homes. The
3 instruction under this subsection is in addition to the instruction
4 required under Subsection (a).

5 (a-3) An applicant for an installer's license must complete
6 four hours of specialized instruction relevant to the installation
7 of manufactured homes. The instruction under this subsection is in
8 addition to the instruction required under Subsection (a).

9 (a-4) An applicant for a joint installer-retailer license
10 must comply with Subsections (a-2) and (a-3), for a total of eight
11 hours of specialized instruction. The instruction under this
12 subsection is in addition to the instruction required under
13 Subsection (a).

14 (g) Subsections [Subsection] (a), (a-2), (a-3), and (a-4)
15 do ~~does~~ not apply to a license holder who applies:

16 (1) for a license for an additional business location;

17 or

18 (2) to renew or reinstate a license.

19 (h) An examination must be a requirement of successful
20 completion of any initial required course of instruction under this
21 section. The period needed to complete an examination under this
22 subsection may not be used to satisfy the minimum education
23 requirements under Subsection (a), (a-2), (a-3), or (a-4).

24 SECTION 4.10. Section 1201.106(a), Occupations Code, is
25 amended to read as follows:

26 (a) An applicant for a license or a license holder shall
27 file a bond or other security under Section 1201.105 for the

1 issuance or renewal of a license in the following amount:

- 2 (1) \$100,000 for a manufacturer;
- 3 (2) \$50,000 for a retailer [~~retailer's principal~~
4 ~~location~~];
- 5 (3) [~~\$50,000 for each retailer's branch location,~~
6 ~~[(4) \$50,000 for a rebuilder,~~
7 ~~[(5)] \$50,000 for a broker; or~~
8 (4) [~~(6)~~] \$25,000 for an installer.

9 SECTION 4.11. Section 1201.110, Occupations Code, is
10 amended to read as follows:

11 Sec. 1201.110. SECURITY: DURATION. The department shall
12 maintain on file a security other than a bond canceled as provided
13 by Section 1201.109(a) until the later of:

- 14 (1) the second anniversary of the date the
15 manufacturer, retailer, broker, or installer [~~, or rebuilder~~]
16 ceases doing business; or
- 17 (2) the date the director determines that a claim does
18 not exist against the security.

19 SECTION 4.12. Section 1201.116(a), Occupations Code, is
20 amended to read as follows:

21 (a) The department shall renew a license if, before the
22 expiration date of the license, the department receives the renewal
23 application and payment of the required fee as well as the cost
24 required under Section 1201.1031 [~~before the expiration date of the~~
25 ~~license~~].

26 SECTION 4.13. Section 1201.303, Occupations Code, is
27 amended by amending Subsection (b) and adding Subsections (c), (d),

1 (e), (f), and (g) to read as follows:

2 (b) The department shall establish an installation
3 inspection program in which at least 75 [~~25~~] percent of installed
4 manufactured homes are inspected on a sample basis for compliance
5 with the standards and rules adopted and orders issued by the
6 director. The program must place priority on inspecting
7 multisection homes and homes installed in Wind Zone II counties.

8 (c) On or after January 1, 2015, the director by rule shall
9 establish a third-party installation inspection program to
10 supplement the inspections of the department if the department is
11 not able to inspect at least 75 percent of manufactured homes
12 installed in each of the calendar years 2012, 2013, and 2014.

13 (d) The third-party installation inspection program
14 established under Subsection (c) must:

15 (1) establish qualifications for third-party
16 inspectors to participate in the program;

17 (2) require third-party inspectors to register with
18 the department before participating in the program;

19 (3) establish a biennial registration and renewal
20 process for third-party inspectors;

21 (4) require the list of registered third-party
22 inspectors to be posted on the department's Internet website;

23 (5) establish clear processes governing inspection
24 fees and payment to third-party inspectors;

25 (6) establish the maximum inspection fee that may be
26 charged to a consumer;

27 (7) require a third-party inspection to occur not

1 later than the 14th day after the date of installation of the
2 manufactured home;

3 (8) establish a process for a retailer or broker to
4 contract, as part of the sale of a new or used manufactured home,
5 with an independent third-party inspector to inspect the
6 installation of the home;

7 (9) establish a process for an installer to schedule
8 an inspection for each consumer-to-consumer sale where a home is
9 reinstalled;

10 (10) if a violation is noted in an inspection, require
11 the installer to:

12 (A) remedy the violations noted;

13 (B) have the home reinspected at the installer's
14 expense; and

15 (C) certify to the department that all violations
16 have been corrected;

17 (11) require an inspector to report inspection results
18 to the retailer, installer, and the department;

19 (12) require all persons receiving inspection results
20 under Subdivision (11) to maintain a record of the results at least
21 until the end of the installation warranty period;

22 (13) authorize the department to charge a filing fee
23 and an inspection fee for third-party inspections;

24 (14) authorize the department to continue to conduct
25 no-charge complaint inspections under Section 1201.355 on request,
26 but only after an initial installation inspection is completed;

27 (15) establish procedures to revoke the registration

1 of inspectors who fail to comply with rules adopted under this
2 section; and

3 (16) require the department to notify the relevant
4 state agency if the department revokes an inspector registration
5 based on a violation that is relevant to a license issued to the
6 applicable person by another state agency.

7 (e) Not later than January 1, 2015, the department shall
8 submit to the Legislative Budget Board, the Governor's Office of
9 Budget, Planning, and Policy, and the standing committee of each
10 house of the legislature having primary jurisdiction over housing a
11 report concerning whether the department inspected at least 75
12 percent of manufactured homes installed in each of the calendar
13 years 2012, 2013, and 2014.

14 (f) Not later than December 1, 2015, the director shall
15 adopt rules as necessary to implement Subsections (c) and (d) if the
16 department did not inspect at least 75 percent of manufactured
17 homes installed in each of the calendar years 2012, 2013, and 2014.
18 Not later than January 1, 2016, the department shall begin
19 registering third-party inspectors under Subsections (c) and (d) if
20 the department inspections did not occur as described by this
21 subsection.

22 (g) If the department is not required to establish a
23 third-party installation inspection program as provided by
24 Subsection (c), Subsections (c), (d), (e), and (f) and this
25 subsection expire September 1, 2016.

26 SECTION 4.14. Section 1201.357, Occupations Code, is
27 amended by adding Subsection (b-1) to read as follows:

1 (b-1) As authorized by Section 1201.6041, the director may
2 order a manufacturer, retailer, or installer, as applicable, to pay
3 a refund directly to a consumer as part of an agreed order described
4 by Subsection (b) instead of or in addition to instituting an
5 administrative action under this chapter.

6 SECTION 4.15. Section 1201.461(d), Occupations Code, is
7 amended to read as follows:

8 (d) A person may not sell, convey, or otherwise transfer to
9 a consumer in this state a manufactured home that is salvaged. A
10 salvaged manufactured home may be sold only to a licensed retailer
11 [~~or licensed rebuilder~~].

12 SECTION 4.16. Subchapter M, Chapter 1201, Occupations Code,
13 is amended by adding Section 1201.6041 to read as follows:

14 Sec. 1201.6041. DIRECT CONSUMER COMPENSATION. (a) Instead
15 of requiring a consumer to apply for compensation from the trust
16 fund under Subchapter I, the director may order a manufacturer,
17 retailer, broker, or installer, as applicable, to pay a refund
18 directly to a consumer who sustains actual damages resulting from
19 an unsatisfied claim against a licensed manufacturer, retailer,
20 broker, or installer if the unsatisfied claim results from a
21 violation of:

- 22 (1) this chapter;
23 (2) a rule adopted by the director;
24 (3) the National Manufactured Housing Construction
25 and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.);
26 (4) a rule or regulation of the United States
27 Department of Housing and Urban Development; or

1 (5) Subchapter E, Chapter 17, Business & Commerce
2 Code.

3 (b) For purposes of this section, the refund of a consumer's
4 actual damages is determined according to Section 1201.405.

5 (c) The director shall prepare information for notifying
6 consumers of the director's option to order a direct refund under
7 this section, shall post the information on the department's
8 Internet website, and shall make printed copies available on
9 request.

10 SECTION 4.17. Sections 1201.610(a), (b), and (f),
11 Occupations Code, are amended to read as follows:

12 (a) The [~~If the director has reasonable cause to believe~~
13 ~~that a person licensed under this chapter has violated or is about~~
14 ~~to violate any provision of this chapter or rules adopted by the~~
15 ~~department under this chapter, the]~~ director may issue without
16 notice and hearing an order to cease and desist from continuing a
17 particular action or an order to take affirmative action, or both,
18 to enforce compliance with this chapter if the director has
19 reasonable cause to believe that a person has violated or is about
20 to violate any provision of this chapter or a rule adopted under
21 this chapter.

22 (b) The director may issue an order to any person [~~licensee~~]
23 to cease and desist from violating any law, rule, or written
24 agreement or to take corrective action with respect to any such
25 violations if the violations in any way are related to the sale,
26 financing, or installation of a manufactured home or the providing
27 of goods or services in connection with the sale, financing, or

1 installation of a manufactured home unless the matter that is the
2 basis of such violation is expressly subject to inspection and
3 regulation by another state agency; provided, however, that if any
4 matter involves a law that is subject to any other administration or
5 interpretation by another agency, the director shall consult with
6 the person in charge of the day-to-day administration of that
7 agency before issuing an order.

8 (f) If a person licensed under this chapter fails to pay an
9 administrative penalty that has become final or fails to comply
10 with an order of the director that has become final, in addition to
11 any other remedy provided by law, the director, after not less than
12 10 days' notice to the person, may without a prior hearing suspend
13 the person's license. The suspension shall continue until the
14 person has complied with the cease and desist order or paid the
15 administrative penalty. During the period of suspension, the
16 person may not perform any act requiring a license under this
17 chapter, and all compensation received by the person during the
18 period of suspension is subject to forfeiture to the person from
19 whom it was received.

20 SECTION 4.18. Section 1302.061, Occupations Code, is
21 amended to read as follows:

22 Sec. 1302.061. MANUFACTURED HOMES. This chapter does not
23 apply to a person or entity licensed as a manufacturer, retailer,
24 [~~rebuilder~~] or installer under Chapter 1201 and engaged
25 exclusively in air conditioning and refrigeration contracting for
26 manufactured homes if the installation of air conditioning
27 components at the site where the home will be occupied is performed

1 by a person licensed under this chapter.

2 ARTICLE 5. TRANSITION PROVISIONS

3 SECTION 5.01. (a) Not later than March 1, 2012, the Texas
4 Department of Housing and Community Affairs shall develop the plan
5 required under Section 2306.531, Government Code, as added by this
6 Act.

7 (b) Not later than May 1, 2012, the Texas Department of
8 Housing and Community Affairs shall obtain the governor's approval
9 of the plan developed under Section 2306.531, Government Code, as
10 added by this Act.

11 (c) Not later than May 1, 2012, the governor shall designate
12 a state agency to be the primary agency in charge of coordinating
13 the distribution of long-term disaster recovery funding as required
14 under Section 2306.531, Government Code, as added by this Act.

15 SECTION 5.02. The change in law made by this Act to Sections
16 2306.043, 2306.044, 2306.045, 2306.046, and 2306.049, Government
17 Code, applies only to a violation committed on or after the
18 effective date of this Act. A violation committed before the
19 effective date of this Act is governed by the law in effect when the
20 violation was committed, and the former law is continued in effect
21 for that purpose.

22 SECTION 5.03. The change in law made by this Act to Section
23 2306.6022, Government Code, applies only to a complaint filed on or
24 after the effective date of this Act. A complaint filed before the
25 effective date of this Act is governed by the law in effect at the
26 time the complaint was filed, and the former law is continued in
27 effect for that purpose.

1 SECTION 5.04. Notwithstanding Sections 1201.101(f-1) and
2 1201.106(a), Occupations Code, as amended by this Act, a retailer
3 licensed to operate one or more branch locations on or before the
4 effective date of this Act is not required to comply with the
5 changes in law made by those sections until March 1, 2012.

6 SECTION 5.05. (a) The change in law made by this Act in
7 amending Sections 1201.103 and 1201.104, Occupations Code, applies
8 only to an application for a license filed with the executive
9 director of the manufactured housing division of the Texas
10 Department of Housing and Community Affairs on or after the
11 effective date of this Act. An application for a license filed
12 before that date is governed by the law in effect on the date the
13 application was filed, and the former law is continued in effect for
14 that purpose.

15 (b) The change in law made by this Act in adding Section
16 1201.1031, Occupations Code, applies only to an application for a
17 license or license renewal filed with the executive director of the
18 manufactured housing division of the Texas Department of Housing
19 and Community Affairs on or after the effective date of this Act.
20 An application for a license or license renewal filed before that
21 date is governed by the law in effect on the date the application
22 was filed, and the former law is continued in effect for that
23 purpose.

24 (c) The change in law made by this Act in amending Section
25 1201.116, Occupations Code, applies only to an application for a
26 license renewal filed with the executive director of the
27 manufactured housing division of the Texas Department of Housing

1 and Community Affairs on or after the effective date of this Act.
2 An application for a license renewal filed before that date is
3 governed by the law in effect on the date the application was filed,
4 and the former law is continued in effect for that purpose.

5 ARTICLE 6. EFFECTIVE DATE

6 SECTION 6.01. This Act takes effect September 1, 2011.