

By: Harper-Brown

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. Section 2306.111(d-1), Government Code, is  
17 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 SECTION 3.02. Section 2306.67022, Government Code, is  
12 amended to read as follows:

13 Sec. 2306.67022. QUALIFIED ALLOCATION PLAN; MANUAL. At  
14 least biennially, the [The] board [~~annually~~] shall adopt a  
15 qualified allocation plan and a corresponding manual to provide  
16 information regarding the administration of and eligibility for the  
17 low income housing tax credit program. The board may adopt the plan  
18 and manual annually, as considered appropriate by the board.

19 SECTION 3.03. Section 2306.6710(b), Government Code, is  
20 amended to read as follows:

21 (b) If an application satisfies the threshold criteria, the  
22 department shall score and rank the application using a point  
23 system that:

24 (1) prioritizes in descending order criteria  
25 regarding:

26 (A) financial feasibility of the development  
27 based on the supporting financial data required in the application



1 that will include a project underwriting pro forma from the  
2 permanent or construction lender;

3 (B) quantifiable community participation with  
4 respect to the development, evaluated on the basis of a resolution  
5 concerning the development that is voted on and adopted by the  
6 governing body of a municipality [~~written statements from any~~  
7 ~~neighborhood organizations on record with the state or county in~~  
8 ~~which the development is to be located and~~] whose boundaries  
9 contain the proposed development site or by the commissioners court  
10 of a county whose boundaries contain the proposed development site;

11 (C) the income levels of tenants of the  
12 development;

13 (D) the size and quality of the units;

14 (E) the commitment of development funding by  
15 local political subdivisions;

16 (F) [~~the level of community support for the~~  
17 ~~application, evaluated on the basis of written statements from the~~  
18 ~~state representative or the state senator that represents the~~  
19 ~~district containing the proposed development site,~~

20 [~~(G)~~] the rent levels of the units;

21 (G) [~~(H)~~] the cost of the development by square  
22 foot;

23 (H) [~~(I)~~] the services to be provided to tenants  
24 of the development; [~~and~~]

25 (I) [~~(J)~~] whether, at the time the complete  
26 application is submitted or at any time within the two-year period  
27 preceding the date of submission, the proposed development site is

1 located in an area declared to be a disaster under Section 418.014;

2 and

3 (J) quantifiable community participation with  
4 respect to the development, evaluated on the basis of written  
5 statements from any neighborhood organizations on record with the  
6 state or county in which the development is to be located and whose  
7 boundaries contain the proposed development site;

8 (2) uses criteria imposing penalties on applicants or  
9 affiliates who have requested extensions of department deadlines  
10 relating to developments supported by housing tax credit  
11 allocations made in the application round preceding the current  
12 round or a developer or principal of the applicant that has been  
13 removed by the lender, equity provider, or limited partners for its  
14 failure to perform its obligations under the loan documents or  
15 limited partnership agreement; and

16 (3) encourages applicants to provide free notary  
17 public service to the residents of the developments for which the  
18 allocation of housing tax credits is requested.

19 SECTION 3.04. Section 2306.6718(b), Government Code, is  
20 amended to read as follows:

21 (b) The department shall provide the elected officials with  
22 an opportunity to comment on the application during the application  
23 evaluation process [~~provided by Section 2306.6710~~] and shall  
24 consider those comments in evaluating applications [~~under that~~  
25 ~~section~~].

26 SECTION 3.05. Sections 2306.6724(a), (b), and (c),  
27 Government Code, are amended to read as follows:

1           (a) Regardless of whether the board will adopt the plan  
2 annually or biennially [~~Not later than September 30 of each year~~],  
3 the department, not later than September 30 of the year preceding  
4 the year in which the new plan is proposed for use, shall prepare  
5 and submit to the board for adoption any proposed [~~the~~] qualified  
6 allocation plan required by federal law for use by the department in  
7 setting criteria and priorities for the allocation of tax credits  
8 under the low income housing tax credit program.

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

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

17           SECTION 3.06. Subchapter DD, Chapter 2306, Government Code,  
18 is amended by adding Section 2306.6739 to read as follows:

19           Sec. 2306.6739. HOUSING TAX CREDITS FINANCED USING FEDERAL  
20 EMERGENCY FUNDS. (a) To the extent the department receives federal  
21 emergency funds that must be awarded by the department in the same  
22 manner as and that are subject to the same limitations as awards of  
23 housing tax credits, any reference in this chapter to the  
24 administration of the housing tax credit program applies equally to  
25 the administration of the federal funds, subject to Subsection (b).

26           (b) Notwithstanding any other law, the department may  
27 establish a separate application procedure for the federal

1 emergency funds that does not follow the uniform application cycle  
2 required by Section 2306.1111 or the deadlines established by  
3 Section 2306.6724, and any reference in this chapter to an  
4 application period occurring in relation to those federal emergency  
5 funds refers to the period beginning on the date the department  
6 begins accepting applications for the federal funds and continuing  
7 until all of the available federal funds are awarded.

8 ARTICLE 4. MANUFACTURED HOUSING

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

11 (e) The division director may allow an authorized employee  
12 of the division to dismiss a complaint if an investigation  
13 demonstrates that:

14 (1) a violation did not occur; or

15 (2) the subject of the complaint is outside the  
16 division's jurisdiction under this subchapter.

17 (f) An employee who dismisses a complaint under Subsection  
18 (e) shall report the dismissal to the division director and the  
19 board. The report must include a sufficient explanation of the  
20 reason the complaint was dismissed.

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

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

26 (1) negotiated rulemaking procedures under Chapter  
27 2008 for the adoption of division rules; and

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

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

9           (c) The division shall:

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

12           (2) provide training as needed to implement the  
13 procedures for negotiated rulemaking or alternative dispute  
14 resolution; and

15           (3) collect data concerning the effectiveness of those  
16 procedures.

17           SECTION 4.03. Section 1201.003, Occupations Code, is  
18 amended by amending Subdivision (17) and adding Subdivision (17-a)  
19 to read as follows:

20           (17) "License holder" or "licensee" means a person who  
21 holds a department-issued license as a manufacturer, retailer,  
22 broker, ~~rebuilder,~~ salesperson, or installer.

23           (17-a) "Management official" means an individual with  
24 authority over employees involved in the sale of manufactured homes  
25 at a retail location.

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

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

6 (1) if the department acts as a design approval  
7 primary inspection agency, a schedule of fees for the review of  
8 HUD-code manufactured home blueprints and supporting information,  
9 to be paid by the manufacturer seeking approval of the blueprints  
10 and supporting information;

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

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

18 (4) a fee for the inspection of the rebuilding of a  
19 salvaged manufactured home, to be paid by the retailer ~~[rebuilder]~~;

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

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

25 (b) In addition to the fees imposed under Subsections  
26 (a)(2), (3), and (4), a manufacturer or [7] a person making an  
27 alteration, ~~[or a rebuilder,~~] as appropriate, shall be charged for

1 the actual cost of travel of a department representative to and  
2 from:

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

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

7 SECTION 4.05. Section 1201.056, Occupations Code, is  
8 amended to read as follows:

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

- 11 (1) manufacturers;  
12 (2) retailers;  
13 (3) brokers;  
14 (4) salespersons; and  
15 (5) ~~[rebuilders; and~~  
16 ~~[(6)]~~ installers.

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

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

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

24 (f-1) A retailer may not be licensed to operate more than  
25 ~~[at a principal location and]~~ one location ~~[or more branch~~  
26 ~~locations]~~ under a single license~~[, provided, however, that a~~  
27 ~~separate application must be made for each branch, and each branch~~

1 ~~must be separately bonded~~].

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

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

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

10 (2) all trade names, and the names of all other  
11 business organizations, under which the applicant does business  
12 subject to this chapter, the name of each such business  
13 organization registered with the secretary of state, and the  
14 address of such business organization;

15 (3) the dates on which the applicant became the owner  
16 and operator of the business; and

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

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

19 (1) proof of the security required by this subchapter;

20 [~~and~~]

21 (2) payment of the fee required for issuance of the  
22 license; and

23 (3) the information and the cost required under  
24 Section 1201.1031.

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

27 Sec. 1201.1031. CRIMINAL HISTORY RECORD INFORMATION



1 REQUIREMENT FOR LICENSE. (a) The department shall require that an  
2 applicant for a license or renewal of an unexpired license submit a  
3 complete and legible set of fingerprints, on a form prescribed by  
4 the board, to the department or to the Department of Public Safety  
5 for the purpose of obtaining criminal history record information  
6 from the Department of Public Safety and the Federal Bureau of  
7 Investigation. The applicant is required to submit a set of  
8 fingerprints only once under this section unless a replacement set  
9 is otherwise needed to complete the criminal history check required  
10 by this section.

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

14 (c) The department shall conduct a criminal history check of  
15 each applicant for a license or renewal of a license using  
16 information:

17 (1) provided by the individual under this section; and

18 (2) made available to the department by the Department  
19 of Public Safety, the Federal Bureau of Investigation, and any  
20 other criminal justice agency under Chapter 411, Government Code.

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

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

26 SECTION 4.09. Section 1201.104, Occupations Code, is  
27 amended by amending Subsections (a), (g), and (h) and adding

1 Subsections (a-1), (a-2), (a-3), and (a-4) to read as follows:

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

11 (a-1) If the applicant is not an individual, the applicant  
12 must have at least one related person who satisfies the  
13 requirements of Subsection (a) [~~meets this requirement~~]. If that  
14 applicant is applying for a retailer's license, the related person  
15 must be a management official who satisfies the requirements of  
16 Subsections (a) and (a-2) at each retail location operated by the  
17 applicant.

18 (a-2) An applicant for a retailer's license must complete  
19 four hours of specialized instruction relevant to the sale,  
20 exchange, and lease-purchase of manufactured homes. The  
21 instruction under this subsection is in addition to the instruction  
22 required under Subsection (a).

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

27 (a-4) An applicant for a joint installer-retailer license

1 must comply with Subsections (a-2) and (a-3), for a total of eight  
2 hours of specialized instruction. The instruction under this  
3 subsection is in addition to the instruction required under  
4 Subsection (a).

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

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

8 or

9 (2) to renew or reinstate a license.

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

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

17 (a) An applicant for a license or a license holder shall  
18 file a bond or other security under Section 1201.105 for the  
19 issuance or renewal of a license in the following amount:

20 (1) \$100,000 for a manufacturer;

21 (2) \$50,000 for a retailer [~~retailer's principal~~  
22 ~~location~~];

23 [~~\$50,000 for each retailer's branch location,~~

24 [~~(4) \$50,000 for a rebuilder,~~

25 [~~(5)~~] \$50,000 for a broker; or

26 (4) [~~(6)~~] \$25,000 for an installer.

27 SECTION 4.11. Section 1201.110, Occupations Code, is

1 amended to read as follows:

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

5           (1) the second anniversary of the date the  
6 manufacturer, retailer, broker, or installer [~~, or, or-rebuilder~~]  
7 ceases doing business; or

8           (2) the date the director determines that a claim does  
9 not exist against the security.

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

12           (a) The department shall renew a license if, before the  
13 expiration date of the license, the department receives the renewal  
14 application and payment of the required fee as well as the cost  
15 required under Section 1201.1031 [~~before the expiration date of the~~  
16 ~~license~~].

17           SECTION 4.13. Section 1201.303, Occupations Code, is  
18 amended by amending Subsection (b) and adding Subsections (c), (d),  
19 (e), (f), and (g) to read as follows:

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

26           (c) On or after January 1, 2015, the director by rule shall  
27 establish a third-party installation inspection program to

1 supplement the inspections of the department if the department is  
2 not able to inspect at least 75 percent of manufactured homes  
3 installed in each of the calendar years 2012, 2013, and 2014.

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

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

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

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

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

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

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

18 (7) require a third-party inspection to occur not  
19 later than the 14th day after the date of installation of the  
20 manufactured home;

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

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

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

3                   (A) remedy the violations noted;

4                   (B) have the home reinspected at the installer's  
5 expense; and

6                   (C) certify to the department that all violations  
7 have been corrected;

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

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

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

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

18           (15) establish procedures to revoke the registration  
19 of inspectors who fail to comply with rules adopted under this  
20 section; and

21           (16) require the department to notify the relevant  
22 state agency if the department revokes an inspector registration  
23 based on a violation that is relevant to a license issued to the  
24 applicable person by another state agency.

25           (e) Not later than January 1, 2015, the department shall  
26 submit to the Legislative Budget Board, the Governor's Office of  
27 Budget, Planning, and Policy, and the standing committee of each

1 house of the legislature having primary jurisdiction over housing a  
2 report concerning whether the department inspected at least 75  
3 percent of manufactured homes installed in each of the calendar  
4 years 2012, 2013, and 2014.

5 (f) Not later than December 1, 2015, the director shall  
6 adopt rules as necessary to implement Subsections (c) and (d) if the  
7 department did not inspect at least 75 percent of manufactured  
8 homes installed in each of the calendar years 2012, 2013, and 2014.  
9 Not later than January 1, 2016, the department shall begin  
10 registering third-party inspectors under Subsections (c) and (d) if  
11 the department inspections did not occur as described by this  
12 subsection.

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

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

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

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

26 (d) A person may not sell, convey, or otherwise transfer to  
27 a consumer in this state a manufactured home that is salvaged. A

1 salvaged manufactured home may be sold only to a licensed retailer  
2 [~~or licensed rebuilder~~].

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

5 Sec. 1201.6041. DIRECT CONSUMER COMPENSATION. (a) Instead  
6 of requiring a consumer to apply for compensation from the trust  
7 fund under Subchapter I, the director may order a manufacturer,  
8 retailer, broker, or installer, as applicable, to pay a refund  
9 directly to a consumer who sustains actual damages resulting from  
10 an unsatisfied claim against a licensed manufacturer, retailer,  
11 broker, or installer if the unsatisfied claim results from a  
12 violation of:

- 13 (1) this chapter;  
14 (2) a rule adopted by the director;  
15 (3) the National Manufactured Housing Construction  
16 and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.);  
17 (4) a rule or regulation of the United States  
18 Department of Housing and Urban Development; or  
19 (5) Subchapter E, Chapter 17, Business & Commerce  
20 Code.

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

23 (c) The director shall prepare information for notifying  
24 consumers of the director's option to order a direct refund under  
25 this section, shall post the information on the department's  
26 Internet website, and shall make printed copies available on  
27 request.



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

3 (a) The [~~If the director has reasonable cause to believe~~  
4 ~~that a person licensed under this chapter has violated or is about~~  
5 ~~to violate any provision of this chapter or rules adopted by the~~  
6 ~~department under this chapter, the~~] director may issue without  
7 notice and hearing an order to cease and desist from continuing a  
8 particular action or an order to take affirmative action, or both,  
9 to enforce compliance with this chapter if the director has  
10 reasonable cause to believe that a person has violated or is about  
11 to violate any provision of this chapter or a rule adopted under  
12 this chapter.

13 (b) The director may issue an order to any person [~~licensee~~]  
14 to cease and desist from violating any law, rule, or written  
15 agreement or to take corrective action with respect to any such  
16 violations if the violations in any way are related to the sale,  
17 financing, or installation of a manufactured home or the providing  
18 of goods or services in connection with the sale, financing, or  
19 installation of a manufactured home unless the matter that is the  
20 basis of such violation is expressly subject to inspection and  
21 regulation by another state agency; provided, however, that if any  
22 matter involves a law that is subject to any other administration or  
23 interpretation by another agency, the director shall consult with  
24 the person in charge of the day-to-day administration of that  
25 agency before issuing an order.

26 (f) If a person licensed under this chapter fails to pay an  
27 administrative penalty that has become final or fails to comply

1 with an order of the director that has become final, in addition to  
2 any other remedy provided by law, the director, after not less than  
3 10 days' notice to the person, may without a prior hearing suspend  
4 the person's license. The suspension shall continue until the  
5 person has complied with the cease and desist order or paid the  
6 administrative penalty. During the period of suspension, the  
7 person may not perform any act requiring a license under this  
8 chapter, and all compensation received by the person during the  
9 period of suspension is subject to forfeiture to the person from  
10 whom it was received.

11 SECTION 4.18. Section 1302.061, Occupations Code, is  
12 amended to read as follows:

13 Sec. 1302.061. MANUFACTURED HOMES. This chapter does not  
14 apply to a person or entity licensed as a manufacturer, retailer,  
15 [~~rebuilder,~~] or installer under Chapter 1201 and engaged  
16 exclusively in air conditioning and refrigeration contracting for  
17 manufactured homes if the installation of air conditioning  
18 components at the site where the home will be occupied is performed  
19 by a person licensed under this chapter.

20 ARTICLE 5. REPEALER

21 SECTION 5.01. Section 2306.6710(f), Government Code, is  
22 repealed.

23 ARTICLE 6. TRANSITION PROVISIONS

24 SECTION 6.01. (a) Not later than March 1, 2012, the Texas  
25 Department of Housing and Community Affairs shall develop the plan  
26 required under Section 2306.531, Government Code, as added by this  
27 Act.

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

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

9           SECTION 6.02. The change in law made by this Act to Sections  
10 2306.043, 2306.044, 2306.045, 2306.046, and 2306.049, Government  
11 Code, applies only to a violation committed on or after the  
12 effective date of this Act. A violation committed before the  
13 effective date of this Act is governed by the law in effect when the  
14 violation was committed, and the former law is continued in effect  
15 for that purpose.

16           SECTION 6.03. The change in law made by this Act to Section  
17 2306.6022, Government Code, applies only to a complaint filed on or  
18 after the effective date of this Act. A complaint filed before the  
19 effective date of this Act is governed by the law in effect at the  
20 time the complaint was filed, and the former law is continued in  
21 effect for that purpose.

22           SECTION 6.04. The changes in law made by this Act to  
23 Sections 2306.6710 and 2306.6718, Government Code, apply only to an  
24 application for low income housing tax credits that is submitted to  
25 the Texas Department of Housing and Community Affairs during an  
26 application cycle that begins on or after the effective date of this  
27 Act. An application that is submitted during an application cycle

1 that began before the effective date of this Act is governed by the  
2 law in effect at the time the application cycle began, and the  
3 former law is continued in effect for that purpose.

4 SECTION 6.05. Notwithstanding Sections 1201.101(f-1) and  
5 1201.106(a), Occupations Code, as amended by this Act, a retailer  
6 licensed to operate one or more branch locations on or before the  
7 effective date of this Act is not required to comply with the  
8 changes in law made by those sections until March 1, 2012.

9 SECTION 6.06. (a) The change in law made by this Act in  
10 amending Sections 1201.103 and 1201.104, Occupations Code, applies  
11 only to an application for a license filed with the executive  
12 director of the manufactured housing division of the Texas  
13 Department of Housing and Community Affairs on or after the  
14 effective date of this Act. An application for a license filed  
15 before that date is governed by the law in effect on the date the  
16 application was filed, and the former law is continued in effect for  
17 that purpose.

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

27 (c) The change in law made by this Act in amending Section

1 1201.116, Occupations Code, applies only to an application for a  
2 license renewal filed with the executive director of the  
3 manufactured housing division of the Texas Department of Housing  
4 and Community Affairs on or after the effective date of this Act.  
5 An application for a license renewal filed before that date is  
6 governed by the law in effect on the date the application was filed,  
7 and the former law is continued in effect for that purpose.

8 ARTICLE 7. EFFECTIVE DATE

9 SECTION 7.01. This Act takes effect September 1, 2011.