

1-1 By: Bernal, et al. (Senate Sponsor - Flores) H.B. No. 238  
1-2 (In the Senate - Received from the House May 1, 2023;  
1-3 May 1, 2023, read first time and referred to Committee on Water,  
1-4 Agriculture & Rural Affairs; May 19, 2023, reported favorably by  
1-5 the following vote: Yeas 9, Nays 0; May 19, 2023, sent to printer.)

1-6 COMMITTEE VOTE

|      | Yea              | Nay | Absent | PNV |
|------|------------------|-----|--------|-----|
| 1-7  |                  |     |        |     |
| 1-8  | <u>Perry</u>     | X   |        |     |
| 1-9  | <u>Hancock</u>   | X   |        |     |
| 1-10 | <u>Blanco</u>    | X   |        |     |
| 1-11 | <u>Flores</u>    | X   |        |     |
| 1-12 | <u>Gutierrez</u> | X   |        |     |
| 1-13 | <u>Johnson</u>   | X   |        |     |
| 1-14 | <u>Kolkhorst</u> | X   |        |     |
| 1-15 | <u>Sparks</u>    | X   |        |     |
| 1-16 | <u>Springer</u>  | X   |        |     |

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to the regulation of migrant labor housing facilities;  
1-20 changing the amount of a civil penalty.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Subchapter LL, Chapter 2306, Government Code, is  
1-23 amended by amending Section 2306.933 and adding Sections 2306.934,  
1-24 2306.935, 2306.936, 2306.937, 2306.938, 2306.939, and 2306.940 to  
1-25 read as follows:

1-26 Sec. 2306.933. CIVIL PENALTY. (a) A person who violates  
1-27 this subchapter or a rule adopted under this subchapter is subject  
1-28 to a civil penalty of not less than \$50 for each person occupying  
1-29 the migrant labor housing facility in violation of this subchapter  
1-30 [~~\$200~~] for each day that the violation occurs.

1-31 (b) ~~An [The county attorney for the county in which the~~  
1-32 ~~violation occurred, or the attorney general, at the request of the~~  
1-33 ~~department, shall bring an] action [in the name of the state] to~~  
1-34 collect a civil ~~[the]~~ penalty under this section may be brought by:

1-35 (1) the department through the contested case hearing  
1-36 process described by Section 2306.930(b);

1-37 (2) the county attorney for the county in which the  
1-38 violation occurred, or the attorney general, at the request of the  
1-39 department; or

1-40 (3) a migrant agricultural worker if:

1-41 (A) a complaint regarding the violation for which  
1-42 the civil penalty is sought has been submitted under Section  
1-43 2306.934; and

1-44 (B) at the time the complaint described by  
1-45 Paragraph (A) is submitted, the worker:

1-46 (i) lives in the migrant labor housing  
1-47 facility that is the subject of the complaint; and

1-48 (ii) is not temporarily in the United  
1-49 States under an H2-A visa authorized by 8 U.S.C. Section  
1-50 1101(a)(15)(H)(ii)(a).

1-51 (c) An action to collect a civil penalty under this section  
1-52 may not be brought while:

1-53 (1) a contested case hearing, brought by the  
1-54 department under Section 2306.930(b) and relating to the same  
1-55 migrant labor housing facility, is pending;

1-56 (2) an action for injunctive relief relating to the  
1-57 same violation is pending under Section 2306.932;

1-58 (3) an action brought by a county attorney or the  
1-59 attorney general and relating to the same migrant labor housing  
1-60 facility is pending; or

1-61 (4) the operator of the migrant labor housing facility

2-1 that is the subject of the action is:  
2-2 (A) waiting for the facility to be inspected  
2-3 under Section 2306.935(c) to confirm remediation of the violation  
2-4 that is the subject of the action; or  
2-5 (B) providing housing at a facility under Section  
2-6 2306.936(d) to which the migrant agricultural workers who occupied  
2-7 the facility that is the subject of the action have been relocated.  
2-8 (d) A civil penalty under this section begins accruing on  
2-9 the earlier of:  
2-10 (1) for a violation with a remediation period  
2-11 described by Section 2306.935, the day that:  
2-12 (A) the department determines based on  
2-13 information submitted under Section 2306.935(b) that the operator  
2-14 has failed to remedy the violation; or  
2-15 (B) an inspection described by Section  
2-16 2306.935(c) establishes that the migrant housing facility operator  
2-17 has failed to remedy the violation; or  
2-18 (2) for a violation with a remediation period  
2-19 described by Section 2306.936, the 31st day following the date that  
2-20 notification of the complaint is received from the department,  
2-21 unless the operator has relocated under Section 2306.936(d) the  
2-22 migrant agricultural workers who occupied the facility that is the  
2-23 subject of the complaint.  
2-24 (e) The department by rule shall adopt a penalty schedule  
2-25 that increases the amount of the penalty assessed against a person  
2-26 who repeatedly violates this subchapter or rules adopted under this  
2-27 subchapter.  
2-28 (f) A penalty collected under Subsection (b)(1) or (2) shall  
2-29 be deposited to the credit of the general revenue fund and may be  
2-30 appropriated only to the department for the enforcement of this  
2-31 subchapter.  
2-32 Sec. 2306.934. COMPLAINT; NOTICE; DISMISSAL. (a) In this  
2-33 section, "designated representative" means an individual or  
2-34 organization to whom a migrant agricultural worker has given  
2-35 written authorization to exercise the worker's right to file a  
2-36 complaint under this section.  
2-37 (a-1) The department by rule shall establish a process for:  
2-38 (1) the submission to the department of a complaint  
2-39 regarding a migrant labor housing facility;  
2-40 (2) determining whether a complaint is unfounded or  
2-41 does not violate the standards adopted by the department; and  
2-42 (3) the investigation, resolution, or dismissal of a  
2-43 complaint submitted under Subdivision (1), including confirmation  
2-44 of remediation through the methods described by Sections 2306.935  
2-45 and 2306.936.  
2-46 (a-2) The process established under Subsection (a-1)(1)  
2-47 must allow the submission of complaints:  
2-48 (1) only by:  
2-49 (A) an occupant of the migrant labor housing  
2-50 facility that is the subject of the complaint;  
2-51 (B) a prospective occupant of the migrant labor  
2-52 housing facility that is the subject of the complaint;  
2-53 (C) the designated representative of a person  
2-54 described by Paragraph (A) or (B); or  
2-55 (D) an individual, including the owner or tenant  
2-56 of an adjacent property, that has observed a clear violation of this  
2-57 subchapter; and  
2-58 (2) through the department's Internet website, in  
2-59 person at any department office, or by telephone or written notice  
2-60 to the department.  
2-61 (b) Not later than the fifth day after the date on which the  
2-62 department receives a complaint, the department shall notify the  
2-63 operator of the migrant labor housing facility that is the subject  
2-64 of the complaint. Notice under this subsection must include:  
2-65 (1) the date that the complaint was received;  
2-66 (2) the subject matter of the complaint;  
2-67 (3) the name of each person contacted in relation to  
2-68 the complaint, if any; and  
2-69 (4) the timeline for remedying a complaint that is not

3-1 otherwise dismissed by the department.

3-2 (c) If the department is unable to make contact with an  
 3-3 operator of a migrant labor housing facility for the purpose of  
 3-4 -serving a notification of a complaint, the department shall serve  
 3-5 the notification of the complaint via registered or certified mail,  
 3-6 return receipt requested.

3-7 (d) If the department determines that a complaint is  
 3-8 unfounded or does not violate the standards adopted by rule, the  
 3-9 department may dismiss the complaint and shall include a statement  
 3-10 of the reason for the dismissal in the record of the complaint. The  
 3-11 department shall provide timely notice of any dismissal of the  
 3-12 complaint, including the explanation for the dismissal, to the  
 3-13 operator of the migrant labor housing facility that is the subject  
 3-14 of the complaint.

3-15 (e) A designated representative may not be required to  
 3-16 reveal the name of any migrant agricultural worker on whose behalf  
 3-17 the representative submitted a complaint under this section if the  
 3-18 department reviews the written authorization establishing the  
 3-19 representation and verifies that the representative is authorized  
 3-20 to submit the complaint.

3-21 Sec. 2306.935. REMEDIATION OF COMPLAINT IN GENERAL. (a)  
 3-22 Subject to Section 2306.936, not later than the seventh day after  
 3-23 the date that notice is received under Section 2306.934, the  
 3-24 operator of a migrant labor housing facility shall remedy the  
 3-25 complaint.

3-26 (b) The department by rule shall establish a procedure by  
 3-27 which the operator of a migrant labor housing facility may submit  
 3-28 proof of remediation of a complaint through visual evidence and a  
 3-29 sworn affidavit.

3-30 (c) For an operator of a migrant labor housing facility who  
 3-31 receives notice under Section 2306.934(c) or who does not submit  
 3-32 proof of remediation in the manner provided by Subsection (b), the  
 3-33 department shall have the facility inspected as soon as possible  
 3-34 following the seventh day after the date that notice is received  
 3-35 under Section 2306.934, to ensure remediation of the complaint.

3-36 Sec. 2306.936. REMEDIATION OF COMPLAINT REGARDING CERTAIN  
 3-37 VIOLATIONS. (a) This section applies only to a complaint that  
 3-38 alleges a violation that the department determines poses an  
 3-39 imminent hazard or threat to the health and safety of the occupants  
 3-40 of the facility, including violations of rules adopted by the  
 3-41 department concerning sanitation.

3-42 (b) Subject to Subsection (d), not later than the 30th day  
 3-43 after the date that notice is received under Section 2306.934, the  
 3-44 operator of a migrant labor housing facility that is the subject of  
 3-45 a complaint described by Subsection (a) shall remedy the complaint.

3-46 (c) The department may refer a complaint described by  
 3-47 Subsection (a) to a local authority for immediate inspection of the  
 3-48 migrant labor housing facility.

3-49 (d) The department by rule shall establish a procedure for  
 3-50 requiring the owner of a migrant labor housing facility to relocate  
 3-51 or provide for the relocation to another housing facility of the  
 3-52 occupants of a facility that is the subject of a complaint under  
 3-53 Subsection (a) if the remediation of that complaint is projected to  
 3-54 take longer than a period of 30 days. A housing facility to which a  
 3-55 person is relocated under this subsection:

3-56 (1) must meet the occupancy standards adopted under  
 3-57 this subchapter;

3-58 (2) must be located in the same vicinity as the vacated  
 3-59 facility; and

3-60 (3) may not require a rent payment from a displaced  
 3-61 migrant agricultural worker that exceeds the rent charged for the  
 3-62 vacated facility.

3-63 (e) Subsection (d) does not apply to a migrant agricultural  
 3-64 worker who is temporarily in the United States under an H2-A visa  
 3-65 authorized under 8 U.S.C. Section 1101(a)(15)(H)(ii)(a).

3-66 Sec. 2306.937. RETALIATION PROHIBITED. A person who owns,  
 3-67 establishes, maintains, operates, or otherwise provides a migrant  
 3-68 labor housing facility, a person who employs a migrant agricultural  
 3-69 worker who occupies a migrant labor housing facility, or a farm

4-1 labor contractor may not retaliate against a person for filing a  
4-2 complaint or providing information in good faith relating to a  
4-3 possible violation of this subchapter.

4-4 Sec. 2306.938. ATTORNEY'S FEES. The court in a suit brought  
4-5 under this subchapter may award reasonable attorney's fees to the  
4-6 prevailing party.

4-7 Sec. 2306.939. INTERAGENCY COOPERATION. (a) The  
4-8 department shall identify other state agencies that may interact  
4-9 with occupants of migrant housing facilities to assist the  
4-10 department in identifying and locating unlicensed migrant labor  
4-11 housing facilities.

4-12 (b) Information provided to the department under this  
4-13 section:

4-14 (1) may be used only for the purposes of identifying  
4-15 and locating unlicensed migrant labor housing facilities;

4-16 (2) must be free of identification information  
4-17 relating to individual migrant agricultural workers; and

4-18 (3) is confidential and not subject to disclosure  
4-19 under Chapter 552.

4-20 Sec. 2306.940. OUTREACH AND EDUCATION. (a) The department  
4-21 shall provide:

4-22 (1) to migrant agricultural workers in different  
4-23 regions of the state, educational materials or programs that are  
4-24 presented in English, Spanish, and other languages as appropriate  
4-25 and that inform the workers of their rights and remedies under this  
4-26 subchapter; and

4-27 (2) to persons who own, establish, maintain, operate,  
4-28 procure, make arrangements for, or otherwise provide migrant labor  
4-29 housing facilities, educational materials or programs that are  
4-30 presented in English, Spanish, and other languages as appropriate  
4-31 and that inform the persons of their obligations under this  
4-32 subchapter.

4-33 (b) To better provide the services described by Subsection  
4-34 (a), the department shall:

4-35 (1) ensure that, in each region of the state where  
4-36 migrant labor housing facilities are most common, there are persons  
4-37 capable of providing the information described by Subsection (a) in  
4-38 English, Spanish, and other languages as appropriate; and

4-39 (2) conduct research, including by surveying migrant  
4-40 agricultural workers, concerning:

4-41 (A) what types of migrant labor housing  
4-42 facilities are most common in different regions of the state; and

4-43 (B) what regions of the state most need  
4-44 additional or improved migrant labor housing facilities.

4-45 SECTION 2. Not later than March 1, 2024, the Texas  
4-46 Department of Housing and Community Affairs shall adopt the rules  
4-47 necessary to implement Subchapter LL, Chapter 2306, Government  
4-48 Code, as amended by this Act.

4-49 SECTION 3. The change in law made by this Act in amending  
4-50 Section 2306.933, Government Code, and adding Sections 2306.934,  
4-51 2306.935, 2306.936, 2306.938, and 2306.939, Government Code,  
4-52 applies only to a violation that occurs on or after the effective  
4-53 date of this Act. A violation that occurs before the effective date  
4-54 of this Act is governed by the law in effect on the date the  
4-55 violation occurred, and the former law is continued in effect for  
4-56 that purpose. For purposes of this section, a violation occurs  
4-57 before the effective date of this Act if any element of the  
4-58 violation occurs before that date.

4-59 SECTION 4. This Act takes effect September 1, 2023.

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