

BILL ANALYSIS

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C.S.H.B. 1460
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Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Manufactured Housing Act was originally created by the legislature in the mid-1970s and codified into the Occupations Code in 2003. During this time, the industry has experienced significant change along with amendments to both the Texas code and the preemptive Federal Manufactured Housing Standards Act.

C.S.H.B. 1460 proposes several changes to Chapter 1201 (Manufactured Housing), Occupations Code. The proposed amendments will provide greater consumer protections through increased enforcement authority granted to the Manufactured Housing Division of the Texas Department of Housing and Community Affairs (TDHCA). In particular, this bill provides more stringent procedures required to transfer ownership and clarifying responsibilities of businesses licensed by TDHCA. The bill also further clarifies how property taxes are to be recorded and may be collected with respect to manufactured homes that are designated as personal property. This bill provides many nonsubstantive changes made to clarify regulatory agency and licensee practices concerning licensing, installations, consumer disclosures, and disciplinary procedures.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Manufactured Housing Board within the Texas Department of Housing and Community Affairs in SECTION 10 (Section 1201.104, Occupations Code), SECTION 15 (Section 1201.118, Occupations Code), SECTION 19 (Section 1201.1521, Occupations Code), SECTION 48 (Section 1201.405, Occupations Code), and SECTION 63 (Section 1201.611, Occupations Code) of this bill.

Rulemaking authority previously granted to the Manufactured Housing Board within the Texas Department of Housing and Community Affairs is modified in SECTION 4 (Section 1201.054, Occupations Code) and SECTION 34 (Section 1201.251, Occupations Code) of this bill.

Rulemaking authority previously granted to the executive director of the manufactured housing division within the Texas Department of Housing and Community Affairs is transferred to the Manufactured Housing Board within the Texas Department of Housing and Community Affairs in SECTION 3 (Section 1201.053, Occupations Code) and SECTION 25 (Section 1201.203, Occupations Code) of this bill.

Rulemaking authority previously granted to the Manufactured Housing Board within the Texas Department of Housing and Community Affairs is rescinded in SECTION 14 (Section 1201.114, Occupations Code) of this bill.

Rulemaking authority is expressly granted to the Texas Department of Housing and Community Affairs in SECTION 26 (Section 1201.2055, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1201.003, Occupations Code, as follows:

Sec. 1201.003. DEFINITIONS. Defines "affiliate," "control," "licensee," "new manufactured home," "related person," "rules," and "used manufactured home." Redefines "business use," "lease-purchase," "salesperson," and "statement of ownership and location." Makes no changes to definitions for "advertisement," "alteration," "attached," "board," "broker," "consumer," "department," "director," "HUD-code

manufactured home," "installation," "installer," "label," "license holder," "manufactured home," "manufacturer," "mobile home," "person," "retailer," "salvaged manufactured home," "seal," "standards code," and "trust fund."

SECTION 2. Amends Section 1201.008, Occupations Code, by adding Subsections (e) and (f), as follows:

(e) Authorizes the owner of a manufactured home to remove the home from its location in the event that the home occupies a lot in a municipality and place another manufactured home on the same property, provided that the replacement is a newer manufactured home and at least as large in living space as the prior manufactured home, notwithstanding a zoning law or any other law, unless prohibited by an ordinance or charter of a home-rule or general law municipality.

(f) Provides that an owner's ability to replace the home as a result of a fire or natural disaster cannot be restricted. Authorizes a general-rule or home-rule municipality by an ordinance or charter to limit the ability of the owner to replace his or her home to a single replacement, other than in the case of a fire or natural disaster.

SECTION 3. Amends Section 1201.053(a), Occupations Code, to require the Manufactured Housing Board within the Texas Department of Housing and Community Affairs (board), rather than the executive director of the manufactured housing division of the Texas Department of Housing and Community Affairs (director), to adopt rules, rather than to issue orders, and otherwise act as necessary to comply with certain standards and implement specific procedures.

SECTION 4. Amends Sections 1201.054, Occupations Code, as follows:

Sec. 1201.054. PROCEDURE FOR ADOPTING RULES. (a) Makes no changes to this subsection.

(b) Requires the board, if requested, to hold a hearing, after at least 10 days' notice, on any rule that it proposes to adopt, other than a rule proposed for adoption under emergency rulemaking, in which case only the requirements of Chapter 2001 (Administrative Procedure), Government Code, apply. Deletes existing text requiring a proposed rule to be published in the Texas Register before the 30th day preceding the date of a public hearing set to consider the testimony of interested persons. Deletes existing Subsection (b) requiring notice of the time and place of the public hearing to be published in the Texas Register before the 30th day preceding the date of the hearing. Deletes existing Subsection (c) requiring a rule as finally adopted to be published in the Texas Register and state the rule's effective date.

(c) Prohibits a rule relating to installation standards from taking effect earlier, rather than later, than the 60th day after the date of publication of notice unless the board has determined that an earlier effective date is required to meet an emergency and the standard was adopted under the emergency rulemaking provisions of Chapter 2001, Government Code.

SECTION 5. Amends Section 1201.055, Occupations Code, by adding Subsection (c-1), to authorize the Texas Department of Housing and Community Affairs operating through its manufactured housing division (TDHCA) to permit the use of any device or procedure that has been reviewed and approved by a licensed engineer provided that such use or procedure complies with any instructions, conditions, or other requirements specified by that engineer.

SECTION 6. Amends Section 1201.058, Occupations Code, as follows:

Sec. 1201.058. AMOUNT OF FEES. (a) Creates this subsection from existing text. Requires the board to establish reasonable fees for all matters under this chapter providing for fees. Authorizes TDHCA to charge a discounted fee for the electronic filing, if TDHCA's rules provide an option to do so.

(b) Requires \$10 of the fee for each purchase, exchange, or lease-purchase of a manufactured home to be deposited to the credit of the trust fund and used for the protection programs described by Subchapter I (Manufactured Homeowners' Recovery Trust Fund).

(c) Provides that all fees imposed by this chapter (Manufactured Housing) or the rules are deemed to be earned and not subject to refund after receipt by TDHCA.

(d) Authorizes the director, in limited and appropriate circumstances and in accordance with rules adopted by the board, to approve the refund of fees, notwithstanding Subsection (c). Deletes existing text requiring the board to establish the fees imposed under Sections 1201.055 through 1201.057 in amounts that are reasonable and necessary to cover the cost of administering this chapter.

SECTION 7. Amends Sections 1201.101(d), (f), and (g) and adding Subsection (f-1), Occupations Code, as follows:

(d) Prohibits a person from acting as an installer, rather than performing an installation function on manufactured housing, in this state unless the person holds an installer's license.

(f) Prohibits a licensed salesperson from participating in a sale of a manufactured home unless the sale is through the retailer or the broker who sponsored the salesperson's application as required by Section 1201.103(d).

(f-1) Authorizes a retailer to be licensed to operate at a principal location and one or more branch locations under a single license, but requires a separate application to be made for each branch and requires each branch to be separately bonded.

(g) Provides that this subsection does not apply to a person exempt from licensing who is not required to hold a license as described by Section 1201.102 or an advertisement concerning real property on which there is a manufactured home that has been converted to real property in accordance with Section 1201.2055, rather than a manufactured home that has been permanently attached. Deletes existing text providing that this subsection does not apply to a person to whom a statement of ownership and location has been issued showing the person to be the owner of the home if the person does not offer to sell, exchange, or lease-purchase two or more manufactured homes in a 12-month period.

SECTION 8. Amends Sections 1201.102(a), (b), and (c), Occupations Code, as follows:

(a) Authorizes a licensed installer to employ an unlicensed person to assist the installer in performing installation functions if the licensed installer maintains a list of all unlicensed persons employed. Authorizes the director to issue an order to prohibit a person who is not licensed as an installer from performing installation functions under the oversight of a licensed installer. Deletes existing text providing that an employee who acts as an agent of a license holder is covered by the holder's license and is not required to hold on individual license.

(b) Authorizes a licensee to engage another person who is not licensed under this chapter but possesses another license issued by this state to provide goods and services subject to that other license. Provides that, without limiting the generality of the foregoing, this includes engaging others to install, connect, or otherwise work on air conditioning, plumbing, and electrical systems. Deletes existing text prohibiting an independent contractor or business entity from operating under the license of another business entity except as an agent or subcontractor of a licensed installer who is responsible for an installation function performed by the agent or subcontractor, except as provided by Section 1201.510.

(c) Provides that an individual who holds a retailer's license or a broker's license or who is a related person of such a license holder is not required to apply for a salesperson's license. Deletes existing text providing that, in the case of a sole proprietorship,

partnership, or corporation that holds a retailer's or broker's license, an owner, partner, or officer of that entity is not required to apply for a salesperson's license if that owner, partner, or officer is properly listed in the retailer's or broker's license application.

SECTION 9. Amends Section 1201.103, Occupations Code, by amending Subsections (a) and (d) and adding Subsection (a-1), as follows:

(a) Requires certain license applicants to file a license application with the director containing, among other things, the legal name, address, and telephone number of the applicant and each person who will be a related person at the time the license is issued, all trade names and the names of all other business organizations under which the applicant does business subject to this chapter and the address of such business organization, and the location to which the license will apply. Deletes existing text requiring the application to contain the name of the business registered with the secretary of state if incorporated.

(a-1) Provides that all required records of a licensee under Subsection (a) are to be maintained at the licensee's principal office or such other location within this state as the licensee may designate.

(d) Requires an applicant for a salesperson's license to file an application with the director that is sponsored by a currently licensed retailer or broker, rather than a licensed, bonded retailer.

SECTION 10. Amends Sections 1201.104 and 1201.105, Occupations Code, as follows:

Sec. 1201.104. QUALIFICATIONS FOR LICENSE. (a) Requires a person, as a requirement, rather than a prerequisite, for a manufacturer's, retailer's, broker's, installer's, salvage rebuilder's, or salesperson's license, who was not licensed or registered with TDHCA or a predecessor agency on September 1, 1987, not more than 12 months before applying for the person's first license under this chapter, to attend and successfully complete 20 hours of instruction in the law, including instruction in consumer protection regulations, except as provided by Subsection (e). Requires the applicant to employ at least one related person who meets the requirement described by this subsection if the applicant is not an individual. Deletes existing text prohibiting the director from issuing a license to that person until the course of instruction is completed.

(b) Provides that successful completion of the course of instruction is a prerequisite to obtaining the license, except in the case of an applicant for a salesperson's license.

(c) Authorizes an applicant for a salesperson's license to apply for a license without having completed the course of instruction provided that the person successfully completes the next scheduled course offered after the date of the person's licensure. Provides that the person's license is automatically suspended until the person successfully completes the course if the person fails to complete such a course successfully and in a timely manner.

(d) Creates this subsection from existing Subsection (b).

(e) Requires the board to adopt rules relating to course content and approval. Requires classes to be live. Provides that online or other electronic classes are not permitted.

(f) Requires an applicant for an initial installer's license to receive a license on a probationary basis. Requires the person's probationary status to remain in effect until such time as the sufficient number of installations completed by the person have been inspected by TDHCA and found not to have any identified material violations of TDHCA rules. Requires the board, with the advice of the advisory committees to be established under Section 1201.251, to adopt rules to establish what constitutes a sufficient number of installations under this subsection.

(g) Deletes existing text providing that Subsection (a) does not apply to a registration holder who applies for a salesperson's license.

(h) Requires successful passage of an examination to be a requirement for the successful completion of an initial required course of instruction required under this section, but prohibits successful passage of an examination from being a prerequisite for continuing education courses. Deletes existing text prohibiting an examination from being made a prerequisite of licensing. Deletes existing Subsection (c) providing alternatives to the course of instruction. Deletes existing Subsection (d) requiring a manufacturer to reimburse TDHCA for the actual cost of a program presented under Subsection (c)(1).

Sec. 1201.105. SECURITY REQUIRED. (a) Makes no changes to this subsection.

(b) Requires any other security filed to be maintained in or by a federally insured depository institution, rather than a banking institution, located in this state.

(c) Authorizes the board to direct the director to stop accepting bonds issued by a surety if TDHCA experiences significant problems in obtaining timely reimbursements from the surety.

SECTION 11. Amends Section 1201.106, Occupations Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires a license holder or applicant for a license to file a bond or other security for the issuance or renewal of a license in a certain amount.

(a-1) Authorizes the director, notwithstanding the provisions of Subsection (a), to require additional security for the licensing, renewal, or relicensing of a person who, either directly, as a related person, or through a related person, has been the subject of a license revocation, has caused the trust fund to incur unreimbursed costs of liabilities in excess of available surety bond coverage, or has failed to pay an administrative penalty that has been assessed by final order.

SECTION 12. Amends Section 1201.108, Occupations Code, as follows:

Sec. 1201.108. SECURITY: CHANGE IN OWNERSHIP OR LOCATION. (a) Provides that a new bond is not required for a change in location or ownership of a licensee or a business entity under which a license holder conducts business, rather than ownership of a corporation that is a license holder.

(b) Requires a licensee to notify TDHCA of a change described in Subsection (a) not later than the 10th day before the date the change occurs.

(c) Requires the licensee, after a change described by Subsection (a), to provide to TDHCA a proper endorsement to the original bond showing that the bond continues to apply to the license without interruption. Deletes existing text authorizing the director to require a proper endorsement of the original bond.

SECTION 13. Amends Sections 1201.113(a), (b), and (c), Occupations Code, as follows:

(a) Requires the board to approve or administer continuing education programs for licensees under this chapter. Requires a continuing education program to be at least eight hours long and include the current TDHCA rules and such other matters as the board may deem relevant. Deletes existing text requiring the board to recognize, prepare, or administer a certification and continuing education program for salespersons regulated under this chapter.

(b) Provides that attendance at an approved or administered continuing education course described by Subsection (a) is a prerequisite to renewal of a license.

Deletes existing text requiring a person who holds a salesperson's license to participate in certification and continuing education programs as provided by Subsection (c).

(c) Requires that no test is to be given in relation to any continuing education program. Deletes existing Subsection (c) authorizing the board to contract with certain private, nonprofit organizations and educational institutions in order to prepare or administer a certification or continuing education program under this section.

SECTION 14. Amends Section 1201.114, Occupations Code, as follows:

Sec. 1201.114. New heading: LICENSE EXPIRATION; PROBATIONARY LICENSE.

(a) Provides that any license issued under this chapter, other than a probationary license, is valid for two years. Deletes existing text providing that a manufacturer's, retailer's, broker's, or installer's license is valid for one year and a salesperson's license is valid for two years.

(b) Authorizes the director to issue a probationary license on such terms and for such period as are deemed reasonable if it is determined that a licensed salesperson or installer should receive a probationary license. Authorizes the issuance of a license on a probationary basis, any one or more of the specific terms of the probation, or the period of probation to be appealed before the 31st day after issuance of the probationary license by written notice to the director. Requires the director, if appeal is made, to set the matter for a hearing before the State Office of Administrative Hearings (SOAH), and requires all administrative proceedings relating to the issuance of the probationary license to be deemed to be a contested case under Chapter 2001, Government Code. Requires the probationary license, if no appeal is made, to be issued and remain in effect in accordance with the terms specified. Deletes existing Subsection (b) authorizing the board by rule to adopt a system under which licenses expire on specific dates during the year and provides a process to determine the amount of fees owed during the year in which the license expiration date is changed.

SECTION 15. Amends Subchapter C, Chapter 1201, Occupations Code, by adding Section 1201.118, as follows:

Sec. 1201.118. RULES RELATING TO CERTAIN PERSONS. Requires the board to adopt rules providing for additional review and scrutiny of any application for an initial or renewal license that involves a person who has previously been found to have committed certain violations under this chapter, engaged in activity subject to this chapter without holding the required license, caused the trust fund to incur unreimbursed payments or claims, or failed to fulfill the terms of a final order, including the payment of any assessed administrative penalties.

SECTION 16. Amends Section 1201.1505, Occupations Code, as follows:

Sec. 1201.1505. DEPOSIT ON SPECIALLY ORDERED MANUFACTURED HOMES. Authorizes a retailer to require a deposit, rather than an earnest money deposit, on a specially ordered manufactured home. Deletes existing text authorizing a retailer to require a deposit only if certain conditions are met.

SECTION 17. Amends the heading to Section 1201.151, Occupations Code, to read as follows:

Sec. 1201.151. REFUNDS.

SECTION 18. Amends Section 1201.151, Occupations Code, by amending Subsection (a) and adding Subsection (e), as follows

(a) Requires a retailer, rather than a retailer, salesperson, or agent of the retailer, to refund a consumer's deposit not later than 15 days after the date that a written request for the refund is received from the consumer.

(e) Provides that a deposit becomes a down payment upon execution of a binding written agreement. Requires the retailer, not later than the 15th day after the date of the rescission, to refund to the consumer all money and other consideration received from the consumer, without offset or deduction, if the consumer exercises a right of rescission.

SECTION 19. Amends Section 1201.1521, Occupations Code, as follows:

Sec. 1201.1521. RESCISSION OF CONTRACT FOR SALE, EXCHANGE, OR LEASE-PURCHASE OF HOME. (a) Creates this subsection from existing text. Authorizes a person who acquires a manufactured home from or through a licensee by purchase, exchange, or lease-purchase, not later than the third day after the date the applicable contract is signed, to rescind the contract without penalty or charge.

(b) Authorizes a consumer, subject to rules adopted by the board, to waive a right of rescission in the event of a bona fide emergency. Requires such rules, to the extent practicable, to be modeled on the federal rules for the waiver of a right of rescission under Title 12, Code of Federal Regulations, Part 226 (Truth in Lending).

SECTION 20. Amends Section 1201.158, Occupations Code, as follows:

Sec. 1201.158. SALESPERSON. Authorizes a licensed salesperson to work only for the person's sponsoring retailer or broker. Deletes existing text authorizing a licensed salesperson to work for more than one retailer or broker or at more than one sales location.

SECTION 21. Amends Section 1201.159, Occupations Code, by amending Subsection (a) and adding Subsections (c) and (d), as follows:

(a) Creates an exception provided by Section 1201.456, to the requirement that a broker ensures the seller gives the buyer applicable disclosures and warranties.

(c) Requires a broker to provide to any person who engages the broker's services a written disclosure of which interests in the transaction, if any, the broker represents.

(d) Authorizes a broker to assist in the sale of a manufactured home only if that seller has a current license.

SECTION 22. Amends Section 1201.161, Occupations Code, by amending Subsections (a) and (d) and adding Subsection (e), as follows:

(a) Provides that a licensed retailer or installer is not required to obtain a permit, certificate, or license or pay a fee to transport manufactured housing to the place of installation except as required by the Texas Department of Transportation (TxDOT) under Subchapter E (Manufactured and Industrialized Housing), Chapter 623, Transportation Code, rather than except as required by TDHCA or TxDOT.

(d) Authorizes TDHCA to pay the reasonable cost of providing the copies or the list and information under Subsection (c), unless the information is provided electronically.

(e) Authorizes the copies and lists to be provided electronically.

SECTION 23. Amends Sections 1201.162, Occupations Code, as follows:

Sec. 1201.162. DISCLOSURE BY RETAILER AND LENDER. (a) Requires the retailer, rather than the retailer or agent, to provide to the consumer a written disclosure in a form promulgated by the board before the completion of a credit application or more

than one day before entering into any agreement for a sale, exchange, or the exercise of the lease purchase [sic] option that will not be financed. Requires the disclosure form to be printed in at least 12-point type, address certain matters of concern related to manufactured home ownership, and conspicuously disclose the consumer's right of rescission. Deletes existing text providing a statement required to be provided to the consumer before the completion of a credit application.

(b) Redesignated from existing Subsection (d).

(c) Requires the right of rescission described in Subsection (a) to apply only to the sale transaction between the retailer and the consumer.

Provides that failure by the retailer to comply with the disclosure provisions of this section does not affect the validity of a subsequent conveyance or transfer of title of a manufactured home or otherwise impair a title or lien position of a person other than the retailer. Requires the consumer to continue to have the right of rescission with regard to the retailer until the end of the third day after the retailer delivers a copy of the disclosure required by Subsection (a). Requires the consumer's execution of a signed receipt of a copy of the notice required by Subsection (a) to constitute conclusive proof of the delivery of the disclosure. Requires the right of rescission to immediately cease on the filing of the lien with TDHCA if the consumer grants a person other than the retailer a lien.

SECTION 24. Amends Section 1201.164, Occupations Code, as follows:

Sec. 1201.164. New heading: ADVANCE COPY OF CONTRACT AND DISCLOSURE STATEMENTS; OFFER BY RETAILER. (a) Requires a retailer to deliver to a consumer at least 24 hours before the contract is fully executed the contract, with all required information included, signed by the retailer, in a transaction that is to be financed and that will not be subject to the federal Real Estate Settlement Procedures Act of 1974 (Pub. L. No. 93-533) and its implementing regulations, rather than in a chattel mortgage transaction involving an installment contract. Creates an exception provided by Subsection (b) relating to the consumer accepting the offer in a certain time frame. Makes a conforming change.

(b) Authorizes the consumer to modify or waive the right to rescind and the deadlines for disclosures before the execution of the contract that are provided by Subsection (a) if the consumer determines that the purchase of the manufactured home is needed to meet a bona fide personal emergency. Requires the consumer, if the consumer has a bona fide personal emergency that necessitates the immediate purchase of the manufactured home, to give the retailer a dated written statement that describes the emergency, specifically modifies or waives the notice periods and any right of rescission, as applicable, and bears the signature of all of the consumers entitled to the disclosure and right of rescission. Requires the retailer, in such event, to immediately give the consumer all of the disclosures required by this code and sell the manufactured home without the required waiting periods or the right of rescission. Provides that printed forms for this purpose are prohibited except in a county that has been declared by the governor to be a major disaster area. Authorizes the retailer, if the governor declares a county to be a major disaster area, to use printed forms promulgated by TDHCA. Requires this exception to expire one year after the county has been declared a major disaster area.

SECTION 25. Amends Sections 1201.203, 1201.204, and 1201.205, Occupations Code, as follows:

Sec. 1201.203. FORMS; RULES. (a) Requires the board, rather than the director, to adopt rules and forms relating to the manufacturer's certificate, the statement of ownership and location, the application for a statement of ownership and location, and the issuance of an initial or revised statement of ownership and location, rather than the

issuance of a statement of ownership and location at the first retail sale and for a subsequent sale or transfer of a manufactured home.

(b) Requires the board, rather than the director, to adopt rules for the documenting of the ownership and location of a manufactured home that has been previously owned in this state or another state. Requires the rules to protect the lienholder recorded with TDHCA, rather than recorded on a statement of ownership and location, a certificate, or other document of title.

Sec. 1201.204. MANUFACTURER'S CERTIFICATE. (a) Requires a manufacturer's certificate to show, among other things, the original transfer of a manufactured home from the manufacturer to the retailer on a form prescribed by the director, rather than by the director or on another document.

(b) Provides that a security interest in inventory evidenced by a properly recorded inventory finance lien, rather than the manufacturer's certificate, automatically converts to a security interest in proceeds and cash proceeds.

(c) Requires, rather than authorizes, the retailer to submit the original manufacturer's certificate for a manufactured home to TDHCA after the first retail sale of the home. Requires TDHCA, on or before the issuance of the requested statement of ownership and location, to send written notice to each party currently reflected in TDHCA's records as having a recorded lien on the inventory of that retailer if an application for an initial statement of ownership and location is made without the required manufacturer's certificate and the retailer does not provide it as required. Provides that failure to include the original manufacturer's certificate with such an application does not impair a consumer's ability to obtain, on submittal of an otherwise complete application, a statement of ownership and location free and clear of any liens other than liens created by or consented to by the consumer.

Sec. 1201.205. New heading: STATEMENT OF OWNERSHIP AND LOCATION FORM. Requires a statement of ownership and location to be evidenced by a board-approved form issued by TDHCA setting forth certain information and statements.

SECTION 26. Amends Section 1201.2055, Occupations Code, by amending Subsection (b) and adding Subsections (i), as follows:

(b) Requires a statement of election under Subsection (a) to be executed before a notary on the form of application for statement and [sic] ownership and location promulgated by the board. Deletes existing text requiring a statement of election to be made by affidavit.

(i) Provides that, notwithstanding the 60-day deadline specified in Subsection (d), if the closing of a mortgage loan to be secured by real property including the manufactured home is held, the loan is funded, and a deed of trust covering the real property and all improvements on the property is recorded and the licensed title company or attorney who closed the loan failed to complete the conversion to real property in accordance with this chapter, the holder or servicer of the loan may apply for a statement of ownership and location electing real property status, may obtain from TDHCA a certified copy of the statement of ownership and location, and make the necessary filings and notifications to complete such conversion at any time provided that certain conditions are met.

SECTION 27. Amends Sections 1201.206, 1201.207, 1201.2075, 1201.2076, and 1201.208, Occupations Code, as follows:

Sec. 1201.206. APPLICATION FOR ISSUANCE OF STATEMENT OF OWNERSHIP AND LOCATION. (a) Redesignated from existing Subsection (b). Requires the retailer to surrender to TDHCA the original manufacturer's statement of origin in accordance with Section 1201.204 at the same time that the retailer applies for the first statement of ownership and location.

(b) Redesignated from existing Subsection (c). Requires the retailer to provide to TDHCA the completed application for the issuance of a statement of ownership and location not later than 60, rather than 30, days after the date of the retail sale. Authorizes the consumer to apply for the issuance of a statement of ownership and location if for any reason the retailer does not timely comply with the requirements of this subsection.

(c) Redesignated from existing Subsection (d). Makes conforming changes.

(d) Requires the seller to file a completed application for the issuance of a new statement of ownership and location reflecting the change of ownership of the trade-in manufactured home from the prospective buyer to the seller if the seller accepts a trade-in manufactured home as part of the consideration for the sale of another manufactured home. Requires the seller to file the application for the issuance of a new statement of ownership and location for the traded in manufactured home at the same time that the seller files the application for the issuance of a new statement of ownership and location for the manufactured home that was sold by the seller. Requires the seller, if the seller is a retailer, to indicate on the application for the issuance of the new statement of ownership and location whether the trade-in manufactured home has been added to the inventory of the retailer.

(e) Makes no changes to this subsection.

(f) Makes a conforming change.

(g) Requires the seller, when the seller files an application for the issuance of a statement of ownership and location for a used manufactured home that is not in a retailer's inventory, to also file with TDHCA a written statement from the tax assessor-collector that there are no personal property taxes due on the manufactured home that have accrued on each January 1 that falls within the 18 months before the date of the sale.

(h) Authorizes TDHCA to assess an additional fee of at least \$100 against the seller if a person selling a manufactured home to a consumer for residential use fails to file with TDHCA the application for the issuance of a statement of ownership and location and the appropriate filing fee before the 61st day after the date of the sale. Requires TDHCA have the authority to enforce the collection of any additional fee from the seller through judicial means. Requires TDHCA to place on the application for the issuance of a statement of ownership and location a specific legend regarding a late fee that may be assessed.

(i) Requires the notice to be accompanied by certain copies of the notice when a properly completed notice of installation on TDHCA's promulgated form is filed that relates to a secondary move.

(i-1) Authorizes TDHCA to adopt a discounted fee for the filing of the notice of installation if the method specified in Subsection (i)(2) is used to report the installation.

(j) Requires TDHCA, on request, to provide the tax collector one copy of any requested reported notice of installation in addition to providing each chief appraiser the monthly report required by Section 1201.220.

(k) Authorizes TDHCA to issue a statement of ownership and location to the person claiming ownership if the person can provide a supporting affidavit describing the chain of title and such reasonable supporting proof as the director may require if, notwithstanding any provision in this chapter to the contrary, a person has acquired a manufactured home and the owner of record or any intervening owners of liens or equitable interests cannot be located to assist in documenting the chain of title.

Sec. 1201.207. ISSUANCE OF STATEMENT OF OWNERSHIP AND LOCATION. (a) Creates an exception provided for in Subsection (a-1) to the requirement that TDHCA processes completed applications within a specific time frame.

(a-1) Requires TDHCA, for the period immediately following June 30 of each year, to cease issuing of statements of ownership and location until all tax liens filed with TDHCA before June 30 have been processed and either recorded or rejected, except for applications relating to new manufactured homes and applications accompanied by a tax certificate. Provides that, during this period, TDHCA will post on its website a notice as to when it is anticipated that processing statements of ownership and location will resume and when it is anticipated that such processing will be within the 15-working-day time frame provided by Subsection (a).

(b) Requires TDHCA to maintain a record of the issuance in its electronic records, rather than placing the original statement in its files, and requires TDHCA to mail a copy, rather than a certified copy, to the owner and each lienholder if TDHCA issues a statement of ownership and location for a manufactured home.

(c) Authorizes TDHCA to issue subsequent statement of ownership and location for the home if all parties reflected in TDHCA's records as having an interest in the home give their written consent or release their interest by TDHCA's procedures provided by Section 1201.206(k) to document ownership and lien status. Prohibits TDHCA from altering the record of the ownership or lien status of a manufactured home for any activity occurring before the issuance of the statement of ownership and location without either the written permission of the owner of record for the manufactured home, their legal representative or a court order.

(d) Provides that, notwithstanding any other provision of this chapter, if the consumer purchases a new manufactured home from a licensed retailer in the ordinary course of business, whether or not a statement of ownership and location has been issued for the manufactured home, the consumer is a bona fide purchaser for value without notice and is entitled to ownership of the manufactured home free of all liens and to a statement of ownership and location reflecting the same on payment by the consumer of the purchase price to the retailer. Entitles the owner of an existing lien to recover the value of the lien from the retailer if there is an existing lien on the new home perfected with TDHCA.

(e) Provides that, notwithstanding any other provisions of this chapter, if the consumer purchases a used manufactured home from a retailer in the ordinary course of business, the consumer takes the manufactured home free and clear of any liens created by the selling retailer even if they are recorded.

Sec. 1201.2075. CONVERSION FROM PERSONAL PROPERTY TO REAL PROPERTY. (a) Creates an exception as provided by Section 1201.2062 to the prohibition of TDHCA from issuing a statement of ownership and location for a manufactured home that is being converted from personal property to real property for a certain amount of time.

(b) Authorizes TDHCA to issue a statement of ownership and location before the release of any liens or the consent of any lienholders as required by this section if TDHCA releases a certified copy of the statement to a licensed title insurance company that has issued a commitment to issue a title insurance policy covering all prior liens on the home in connection with a loan that the title company has closed or a federally insured financial institution or licensed attorney who has obtained from a licensed title insurance company a title insurance policy covering all prior liens on the home.

Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL PROPERTY. (a) Makes no changes to this subsection.

(b) Authorizes TDHCA, for the purposes of Subsection (a)(1), to rely on a commitment for title insurance, a title insurance policy, or a lawyer's title opinion to determine that any liens on real property have been released.

Sec. 1201.208. PAYMENT OF TAXES REQUIRED FOR ISSUANCE OF STATEMENT OF OWNERSHIP AND LOCATION. (a) Requires any licensee who sells, exchanges, or lease-purchases a new manufactured home to any consumer is responsible for the payment of all required sales and use tax on such home. Deletes existing text prohibiting TDHCA from issuing a statement of ownership and location for a new manufactured home installed for occupancy in this state unless the state sales and use tax has been paid.

(b) Requires the payment to be made from the fund, up to the available penal amount of the licensee's bond or the remaining balance of the security for the license if it is determined that a new manufactured home was sold, exchanged, or lease-purchased without the required sales and use tax being paid, and requires a claim for reimbursement to be filed with the licensee's surety or the amount deducted from the security for the license. Deletes existing text authorizing proof of payment to be shown in any manner prescribed by TDHCA.

SECTION 28. Amends Section 1201.210, Occupations Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Provides that if an appeal is not timely made, the revocation or suspension described in the notice of the director's action becomes final.

(d) Requires TDHCA to place a hold on any activity relating to the statement of ownership and location other than the recordation of liens, including tax liens, until a revocation or suspension has become final.

SECTION 29. Amends Section 1201.214(b) , Occupations Code, to require TDHCA to mail to the owner or lienholder a copy, rather than a certified copy, of the statement of ownership and location issued under this subsection.

SECTION 30. Amends Section 1201.216(a), Occupations Code, to make conforming and nonsubstantive changes.

SECTION 31. Amends Section 1201.217, Occupations Code, by amending Subsections (b) and (c) and adding Subsection (f), as follows:

(b) Requires the owner of real property where a manufactured home is located, to send a notice of intent to declare the home abandoned to the record owner of the home, all lienholders at the addresses listed on the home's statement of ownership and location on file with TDHCA, and the tax assessor-collector for each taxing unit that imposes ad valorem taxes on the real property where the home is located. Requires the notice to include the address where the home is currently located. Requires a reasonable effort to be made to locate the person for whom the notice is intended if that person does not reside and is no longer receiving mail at such address.

(c) Authorizes the record owner for the home, a lienholder, or a tax assessor-collector for a taxing unit that imposes ad valorem taxes on the real property on which the home is located to enter the real property where the home is located to remove the home on receipt of a notice of intent to declare a manufactured home abandoned. Requires the real property owner to disclose to the record owner, lienholder, or tax assessor-collector seeking to remove the home the location of the home and grant the person reasonable access to the home. Provides that a person removing the home is responsible to the real property owner for any damage to the real property resulting from the removal of the home.

(f) Provides that this section does not apply if the person who owns the real property on which the manufactured home is located and who is declaring that the home is abandoned, or any person who is related to or affiliated with that person, has now, or has ever owned, an interest in the manufactured home.

SECTION 32. Amends Sections 1201.219 and 1201.220, Occupations Code, as follows:

Sec. 1201.219. PERFECTION AND EFFECT OF LIENS. (a) Provides that a lien on manufactured homes in inventory is perfected only by filing the lien with TDHCA on the required form. Deletes existing text providing that a lien on manufactured homes in inventory is perfected by filing a security agreement with TDHCA in a form that contains the information the director requires.

(b) Requires the form to require the disclosure of the original dollar amount of the lien and, if a tax lien, the name and address of the person in whose name the manufactured home is listed on the tax roll. Requires TDHCA on its website to disclose the date of each lien filing, the original amount of the lien claimed by each filing, and the fact that the amount shown does not include additional sums including interest, penalties, and attorney's fees. Provides that the statement required by Section 1201.205(7), rather than the recordation of a lien with TDHCA, is notice to all persons that the tax lien exists. Requires tax liens to be filed by the tax assessor-collector for any taxing unit with the power to tax the manufactured home. Provides that a single filing by a tax assessor-collector is a filing for all the taxing units for which the tax collector is empowered to collect.

(c) Provides that, notwithstanding any other provision of this or any other law, rather than subchapter, the filing of a lien security agreement on the inventory of a retailer does not prevent a buyer in the ordinary course of business, as defined by Section 1.201 (General Definitions), Business & Commerce Code, from acquiring good and marketable title free of that lien, and prohibits TDHCA from considering that lien for the purpose of title issuance. Makes conforming changes.

Sec. 1201.220. REPORT TO COUNTY TAX ASSESSOR-COLLECTOR. (a) Requires TDHCA to provide to each county tax assessor-collector in this state a monthly report that, for each manufactured home reported as having been installed in the county during the preceding month and for each manufactured home previously installed in the county for which a transfer of ownership was recorded by the issuance of a statement of ownership and location during the preceding month, lists certain information. Provides that certain information includes the name of the manufacturer of the home, if available, the model designation of the home, if available, the address or location where the home was reported as installed, and the reported date of the installation of the home.

(b) Makes a conforming change.

SECTION 33. Amends the heading to Section 1201.251, Occupations Code, to read as follows:

Sec. 1201.251. STANDARDS AND REQUIREMENTS ADOPTED BY BOARD.

SECTION 34. Amends Section 1201.251, Occupations Code, by amending Subsection (a) and adding Subsections (d) and (e), as follows:

(a) Requires the board, rather than the director, to adopt standards and requirements for the installation and construction of certain manufactured housing and the construction of certain HUD-code manufactured homes.

(d) Authorizes the board to adopt rules that provide for the approval of foundation systems and devices by licensed engineers. Requires a generic installation standard adopted by rule to first be reviewed by an advisory committee established by the board, in order to ensure that the standards and requirements adopted under this section are

recommended by qualified persons. Requires the advisory committee to include one or more engineers in addition to representatives of manufacturers, installers, and manufacturers of stabilization systems or devices.

(e) Requires the advisory committee to submit a report to the board providing each comment and concern regarding any proposed rule. Provides that the members of the committee are not personally liable for providing the advice to the board.

SECTION 35. Amends Section 1201.252(a), Occupations Code, to make a conforming change.

SECTION 36. Amends Sections 1201.253, 1201.254, and 1201.255, Occupations Code, as follows:

Sec. 1201.253. HEARING ON STANDARD OR REQUIREMENT. Deletes existing text requiring the director to publish notice and conduct a public hearing in accordance with Sections 1201.054 and 1201.060.

Sec. 1201.254. EFFECTIVE DATE OF REQUIREMENT OR STANDARD. Makes conforming changes.

Sec. 1201.255. INSTALLATION OF MANUFACTURED HOUSING. (a) Creates this subsection from existing text. Requires manufactured housing that is installed to be installed in compliance with the standards and rules adopted and orders issued by TDHCA, rather than the director, except as authorized under Section 1201.252.

(b) Prohibits an installer from installing a manufactured home at a location on a site that has evidence of ponding, runoff under heavy rains, or bare uncompacted soil unless the installer first obtains the owner's signature on a specific form promulgated by the board and the owner accepts that risk.

SECTION 37. Amends Section 1201.301(b), Occupations Code, to authorize a state inspector to travel inside or outside of the state to inspect the facility of a licensee, rather than a manufacturing facility.

SECTION 38. Amends the heading to Section 1201.302, Occupations Code, to read as follows:

Sec. 1201.302. INSPECTION BY LOCAL GOVERNMENTAL UNITS.

SECTION 39. Amends Sections 1201.302(a) and (b), Occupations Code, to make conforming changes.

SECTION 40. Amends Sections 1201.351(a) and (b), Occupations Code, as follows:

(a) Requires the manufacturer of a new HUD-code manufactured home to warrant, among other things, that the home and all appliances and equipment included in the home are free from defects in materials or workmanship, except for cosmetic defects.

(b) Provides that the manufacturer's warranty is in effect until at least the first anniversary of the date of initial installation of the home at the consumer's homesite or the closing of the consumer's acquisition of an already installed new home, whichever is later.

SECTION 41. Amends Sections 1201.352 through 1201.355, Occupations Code, as follows:

Sec. 1201.352. New heading: RETAILER'S WARRANTY ON A NEW HUD-CODE MANUFACTURED HOME. (a) Requires the retailer of a new HUD-code manufactured home to warrant to the consumer in writing that, among other things, installation of the home at the initial homesite was or will be, as applicable, completed in accordance with TDHCA standards, rules, orders, and requirements. Authorizes the warranty to expressly disclaim or limit any warranty regarding cosmetic defects.

(b) Provides that the retailer's warranty on a new HUD-code manufactured home is in effect until the first anniversary of the later of the date of the initial installation of the home at the consumer's homesite or the closing of the consumer's purchase or acquisition of the home.

(c) Makes a conforming change.

(d) Requires the retailer to deliver to the consumer a copy of the warranty given by the licensed installer not later than 30 days after the date of installation of the new HUD-code manufactured home.

Sec. 1201.353. NOTICE OF NEED FOR WARRANTY SERVICE. (a) Requires the consumer to give written notice to the manufacturer, retailer, or installer, as applicable, of a need for warranty service or repairs.

(b) Provides that written notice to TDHCA is deemed to be notice to the manufacturer, retailer, or installer commencing three business days after receipt and forwarding of the notice by TDHCA to the licensee by regular mail or electronic mail of a scanned copy of the notice.

Sec. 1201.354. CORRECTIVE ACTION REQUIRED. Makes a conforming change.

Sec. 1201.355. CONSUMER COMPLAINT HOME INSPECTION. (a) through (c) Makes conforming changes.

(d) Authorizes TDHCA, notwithstanding any other provision of this section (Consumer Complaint Home Inspection), to make an inspection at any time if TDHCA believes that there is a reasonable possibility that a condition exists that would present an imminent threat to health or safety.

SECTION 42. Amends Sections 1201.356(a), (b), and (c), Occupations Code, as follows:

(a) and (b) Makes conforming changes.

(c) Provides that both the installer and retailer are responsible for the warranty of installation with regard to new manufactured homes. Requires the director to issue the order to the installer for the corrective action if TDHCA determines that a complaint is covered by the installation warranty. Requires the installer to be subject to the provisions of Section 1201.357 if the installer fails to perform the corrective action and requires the director to issue the same order for corrective action to the retailer with a new time frame not to exceed 10 days unless additional time for compliance is needed upon showing of good cause by the retailer. Authorizes the retailer to seek reimbursement from the installer if the retailer is compelled to perform the corrective action because of the failure of the installer to comply with the director's order. Authorizes the period for performing the required warranty work to be shortened by the director as much as reasonably possible if the warranty work is believed necessary to address a possible imminent threat to health or safety, notwithstanding Subsection (f). Makes conforming changes.

SECTION 43. Amends Sections 1201.357 and 1201.358, Occupations Code, as follows:

Sec. 1201.357. FAILURE TO PROVIDE WARRANTY SERVICE. (a) Makes conforming changes.

(b) Requires the director to hold an informal meeting, rather than a hearing, if the manufacturer, retailer, or installer fails to provide warranty service in accordance with TDHCA order. Authorizes the consumer to express the consumer's views at the informal meeting. Requires the director to take certain actions following the meeting. Makes conforming changes.

(c) Makes conforming changes.

Sec. 1201.358. New heading: FAILURE TO SHOW GOOD CAUSE; HEARING RESULTS. (a) Makes conforming changes.

(b) Requires the director to issue a final order stating the correct warranty obligation and the right of the manufacturer, retailer, or installer to indemnification from one of the other parties if it is determined that an order was incorrect regarding a warranty obligation. Deletes existing text providing that if after the hearing under Section 1201.357(b), the director determines that the order under Section 1201.356 was correct in the determination of the warranty obligation of the manufacturer or retailer, failure or refusal by the manufacturer or retailer to comply with the order is a sufficient cause for suspension or revocation of the manufacturer's or retailer's license. Makes conforming changes.

(c) Makes conforming changes.

(d) Deletes existing text authorizing a manufacturer or retailer to recover attorney's fees from the trust fund. Makes a conforming change.

SECTION 44. Amends Section 1201.361, Occupations Code, as follows:

Sec. 1201.361. INSTALLER'S WARRANTY. (a) Requires the installer to give the manufactured home owner a written warranty containing certain information for each installation, rather than all installations not covered by the retailer's warranty described by Section 1201.352 and for the installation of all used manufactured home. Provides that the warranty for the installation of a new HUD-code manufactured home is to be given by the retailer, who is responsible for installation. Provides that if the retailer subcontracts this function to a licensed installer, the retailer and installer are jointly and severally responsible for performance of the warranty.

(b) Provides that, unless the warranty provides for a longer period, the installer or retailer has no obligation or liability under the person's warranty for a new manufactured home for any defect described in a written notice received from the consumer more than two years after the later of the date of purchase or the date of installation.

SECTION 45. Amends Subchapter H, Chapter 1201, Occupations Code, by adding Section 1201.362, as follows:

Sec. 1201.362. INSPECTIONS NOT LIMITED; CORRECTIONS. (a) Requires nothing in this chapter to limit the ability of TDHCA to inspect a manufactured home at any time.

(b) Authorizes the director to take certain steps to have a defect corrected if during any inspection TDHCA identifies an aspect of an installation that does not conform to the applicable requirements, notwithstanding the limitations and terms of any warranty.

SECTION 46. Amends Section 1201.402(a), Occupations Code, to delete existing text providing that the director is the trustee of the trust fund.

SECTION 47. Amends Section 1201.404(b), Occupations Code, to require the director to pay the consumer whose claim is the earliest by date and time to have been found to be verified and properly payable.

SECTION 48. Amends Section 1201.405, Occupations Code, by adding Subsections (f) and (g), as follows:

(f) Provides that the trust fund is not liable for and prohibits the director from paying attorney's fees or certain actual damages.

(g) Authorizes the board by rule to place reasonable limits on the costs that may be approved for payment from the trust fund, including the costs of reassigned warranty

work, and require consumers making claims that may be subject to reimbursement from the trust fund to provide reasonable estimates establishing that the cost will be reasonable. Authorizes such rules to also specify procedures and requirements as the board may deem necessary and advisable for the administration of the trust fund.

SECTION 49. Amends Section 1201.406 and 1201.407, Occupations Code, as follows:

Sec. 1201.406. PROCEDURE FOR RECOVERY FROM TRUST FUND. (a) Requires a consumer to file a written, sworn complaint in the form required by the director to recover from the trust fund.

(b) Requires TDHCA, on receipt of a verified complaint, to notify each appropriate license holder and the issuer of any surety bond issued in connection with their licenses, and investigate the claim and issue a preliminary determination on the claim, giving the consumer, the licensee, and any surety an opportunity to resolve the matter by agreement or dispute the preliminary determination.

(c) Provides that if the matter being investigated is not resolved by agreement or is disputed by written notice to the director before the 31st day after the date of the preliminary determination, the preliminary determination is required to automatically become final and requires the director to make demand on the surety or deduct any payable amount of the claim from the licensee's security.

Sec. 1201.407. DISAGREEMENT OF PARTIES; INFORMAL DISPUTE RESOLUTION PROCESS. (a) Requires TDHCA to conduct an informal dispute resolution process, including a home inspection if appropriate, to resolve the dispute if a preliminary determination is disputed, rather than if the license holders or a license holder and a consumer disagree as to responsibility for a complaint.

(b) Requires TDHCA to make any changes in the determination the director considers to be appropriate and issue another written preliminary determination as the responsibility and liability of the manufacturer, retailer, broker, and installer for a preliminary determination that had been disputed to become final and valid, rather than for a claim determined to be valid.

(c) Requires TDHCA, before making a final determination, to allow, rather than provide, a license holder 10 days, rather than an opportunity, to comment on this preliminary determination.

(d) Requires the director to issue a final determination after consideration of the comments made in relation to the preliminary determination.

(e) Authorizes the final determination to be appealed to the board on or before the 10th day after the date of issuance by giving written notice to the director, and requires the director to place the matter to the board for consideration at the next meeting on a date for which the matter could be publicly posted as required by Chapter 551 (Open Meetings), Government Code.

(f) Redesignated from existing Subsection (e). Deletes existing text requiring TDHCA to notify a license holder's surety and give the surety an opportunity to participate in the informal dispute resolution process under certain conditions.

SECTION 50. Amends Sections 1201.409(a) and (b), Occupations Code, as follows:

(a) Deletes existing text requiring the trust fund to be reimbursed by the surety on a bond or from other security filed under Subchapter C (Licensing) for the amount of a claim that resulted from an act or omission of the license holder who filed the bond or other security.

(b) Makes a nonsubstantive change.

SECTION 51. Amends Section 1201.410, Occupations Code, as follows:

Sec. 1201.410. New heading: INFORMATION ON RECOVERY FROM TRUST FUND. Requires the director to prepare information for notifying, rather than a pamphlet informing, consumers of their rights to recover from the trust fund. Requires the director to make the information available to consumers on TDHCA's website and make printed copies available on request. Deletes existing text authorizing the director to contract with a private party for the printing and distribution of the pamphlet.

SECTION 52. Amends Section 1201.451(b), Occupations Code, to require the seller to forward necessary documents to the purchaser or transferee not later than 60, rather than 30, days after the effective date of the transfer of ownership. Authorizes the purchaser or transferee to apply directly for the issuance of a statement of ownership and location if the seller or transferor fails to forward the necessary, executed documents.

SECTION 53. Amends Section 1201.453, Occupations Code, to provide that manufactured housing is habitable only if, among other things, all exterior doors and windows are in place and operate properly.

SECTION 54. Amends Section 1201.457(b), Occupations Code, to prohibit any person from knowingly allowing another person to occupy or use the home as a dwelling unless the director issues a new statement of ownership and location indicating that the home is no longer reserved for business use or salvage if a used manufactured home is reserved for business use or salvaged. Deletes existing text prohibiting the purchaser of a used manufactured home for business use or the purchaser of a salvaged manufactured home from selling, exchanging, or lease-purchasing the home for use as a dwelling.

SECTION 55. Amends Section 1201.459, Occupations Code, as follows:

Sec. 1201.459. COMPLIANCE NOT REQUIRED FOR SALE FOR COLLECTION OF DELINQUENT TAXES. (a) Provides that a tax assessor-collector, rather than a tax collector, is not required to comply with this subchapter (Used or Salvaged Manufactured Homes) or another provision of this chapter relating to the sale of a used manufactured home in order to collect delinquent taxes.

(b) Authorizes a tax appraiser or a tax assessor-collector, rather than just a tax collector, to apply to TDHCA for a seal if the tax appraiser or assessor-collector assumes full responsibility for the affixation of a seal to the home and the seal is actually affixed on the home. Deletes existing text authorizing the collector to pay the applicable fee and recover that fee as part of the cost of the sale of the home.

(c) Makes conforming changes.

SECTION 56. Amends the heading to Section 1201.461, Occupations Code, to read as follows:

Sec. 1201.461. SALVAGED MANUFACTURED HOME; CRIMINAL PENALTY.

SECTION 57. Amends Section 1201.461, Occupations Code, by adding Subsections (g) and (h), as follows:

(g) Authorizes a county or other unit of local government that identifies a manufactured home within its jurisdiction that has been declared salvage to impose on that home such inspection, correction, and other requirements as it could apply if the home were not a manufactured home.

(h) Prohibits a licensee from participating in the sale, exchange, lease-purchase, or installation for use as a dwelling of a manufactured home that is salvage and that has not been repaired in accordance with this chapter and TDHCA rules. Provides that an act that is prohibited by this subsection is deemed to be a practice that constitutes an

imminent threat to health or safety and is subject to the imposition of penalties and other sanctions provided for by this chapter. Provides that a violation of this subsection is a Class B misdemeanor.

SECTION 58. Amends Section 1201.503, Occupations Code, to prohibit a manufacturer, retailer, broker, or installer from altering a home to which a label has been attached and before installation of the home before the sale to a consumer without obtaining prior written approval from a licensed engineer and providing evidence of such approval to TDHCA.

SECTION 59. Amends Section 1201.506(a), Occupations Code, to require a retailer or broker to comply with all applicable provisions of the Finance Code.

SECTION 60. Amends Subchapter K, Occupations Code, by adding Section 1201.513, as follows:

Sec. 1201.513. **DISPOSITION OF TRADE-INS AND OCCUPANCY OF HOMES BEFORE CLOSING.** (a) Prohibits a retailer from selling a trade-in manufactured home before the closing of the sale in connection with which the retailer receives the trade-in.

(b) Prohibits a retailer from knowingly permitting a consumer to occupy a manufactured home that is the subject of a sale, exchange, or lease-purchase to that consumer before the closing of any required financing unless the consumer is first given a form adopted by the board disclosing that if for any reason the financing does not close, the consumer may be required to vacate the home.

SECTION 61. Amends Sections 1201.551, 1201.552, and 1201.553, Occupations Code, as follows:

Sec. 1201.551. **DENIAL OF LICENSE; DISCIPLINARY ACTION.** (a) Authorizes the director to deny, permanently revoke, or suspend a license if it is determined that the applicant or license holder, among other things, failed repeatedly to file with TDHCA a completed application for a statement of ownership and location before the 61st day after the date of the sale of a manufactured home as required by Section 1201.206 or the date of the installation, whichever occurred later., and that the license holder or applicant has had another license issued by this state revoked or suspended.

(b) Authorizes the director, rather than TDHCA, to suspend or revoke a license if, after receiving notice of a claim, the license holder or the license holder's surety fails or refuses to pay a final claim paid from the trust fund for which demand for reimbursement was made, rather than the license holder or the license holder's surety participate in the information dispute resolution process described by Section 1201.407.

Sec. 1201.552. New heading: **LICENSE REVOCATION, SUSPENSION, OR DENIAL; HEARING.** Authorizes the director to issue an order to revoke, suspend, or deny a new or renewal license. Requires the director, if before the 31st day after an order revoking, suspending, or denying a license is issued, the person against whom that order is issued requests a hearing by giving written notice to the director, to set a hearing before SOAH. Provides that if the person does not request a hearing before the 31st day after the date the order is issued, the order becomes final. Requires any administrative proceedings related to the revocation, suspension, or denial of a license under this subsection to be a contested case under Chapter 2001, Government Code. Requires the board to issue an order after receiving a proposal for decision. Deletes existing text requiring the director to conduct a hearing involving the denial, renewal, revocation, or suspension, of a license in accordance with Chapter 2001, Government Code.

Sec. 1201.553. **JUDICIAL REVIEW.** Makes conforming changes.

SECTION 62. Amends Section 1201.605, Occupations Code, as follows:

Sec. 1201.605. ADMINISTRATIVE PENALTY. (a) Authorizes the director to assess against a person who fails to comply with, rather than obtain or maintain a license as required by, this chapter or the rules adopted under this chapter, or a final order of TDHCA, an administrative penalty in an amount not to exceed \$10,000 for each violation of this chapter and other specific fees.

(b) Authorizes the director to assess against a licensee, rather than a retailer, who fails to provide information to a consumer an administrative penalty in a certain amount based on the number of violations committed.

(c) Requires the director to consider certain factors regarding the violation in determining the amount of an administrative penalty assessed under this section.

(d) Authorizes the director to impose an administrative penalty in accordance with this section. Requires the director to set a hearing before SOAH if before the 31st day after the date a person receives notice of the imposition of an administrative penalty, the person requests a hearing by giving written notice to the director. Provides that the penalty becomes final if the person does not request a hearing before the 31st day after the date the person received notice of the imposition of the administrative penalty. Requires any administrative proceedings relating to the imposition of an administrative penalty under this subsection to be a contested case under Chapter 2001, Government Code. Requires the board to issue an order after receiving a proposal for decision.

SECTION 63. Amends Subchapter M, Chapter 1201, Occupations Code, by adding Sections 1201.607 through 1201.611, as follows:

Sec. 1201.607. ISSUANCE OF ORDERS AND REQUESTS FOR HEARINGS. Provides that an order issued by the director under this chapter automatically becomes a final order if the order is not appealed before the 31st day after the date the order was issued. Requires the order be deemed to have been appealed and is a contested case under Chapter 2001, Government Code, if the person made the subject of the order files a written request for a hearing with the director. Requires the director to set any appealed order for a hearing before SOAH. Requires the board to issue a final order after receiving and reviewing the proposal for decision related to the case.

Sec. 1201.608. INSPECTION OF LICENSEE RECORDS. (a) Authorizes TDHCA to inspect a licensee's records during normal business hours without advance notice if the director believes that such inspection is necessary for certain reasons.

(b) Authorizes the director to request or issue a subpoena for a licensee's records.

(c) Authorizes TDHCA to carry out "sting" or undercover investigations in accordance with board-adopted rules if the director believes such action to be appropriate to detect and address suspected violations of this chapter.

(d) Provides that, while an investigation is pending, information obtained by TDHCA in connection with that investigation is confidential unless disclosure of the information is specifically permitted or required by other law.

Sec. 1201.609. ACTING WITHOUT LICENSE; CRIMINAL PENALTY. Provides that a person who is not exempt under this chapter and who, without first obtaining a license required under this chapter, performs an act that requires a license under this chapter commits an offense. Provides that a second or subsequent conviction for an offense under this section is a Class A misdemeanor.

Sec. 1201.610. CEASE AND DESIST. (a) Authorizes the director to issue to the license holder without notice and hearing an order to cease and desist from continuing a particular action or an order to take affirmative action, or both, to enforce compliance with this chapter, if there is reasonable cause to believe that a person licensed under this

chapter has violated or is about to violate any a provision of this chapter or the rules adopted by TDHCA under this chapter.

(b) Authorizes the director to issue an order to a licensee to cease and desist from violating any law, rule, or written agreement or to take corrective action with respect to such violations if the violations in any way are related to the sale, financing, or installation of a manufactured home or the providing of goods or services in connection with the sale, financing, or installation of a manufactured home unless the matter that is the basis of such violation is expressly subject to inspection and regulation by another state agency. Requires the director to consult with the person in charge of the day-to-day administration of that agency before issuing an order of any matter involves a law that is subject to any other administration or interpretation by another agency.

(c) Requires an order issued under Subsection (a) or (b) to contain a reasonably detailed statement of the facts on which the order is based. Requires the director to set and give notice of a hearing if a person against whom the order is issued requests a hearing before the 31st day after the date the order is issued. Requires the hearing to be governed by Chapter 2001, Government Code. Authorizes the board by order to find that a violation has or has not occurred based on the findings of fact, conclusions of law, and recommendations of the hearings officer.

(d) Provides that the order is considered final and not appealable if a hearing is not requested under Subsection (c) before the 31st day after the date an order is issued.

(e) Authorizes the director, after giving notice, to impose a person who violates a cease and desist order an administrative penalty in an amount not to exceed \$1,000 for each day of the violation. Authorizes the director to institute in district court a suit for injunctive relief and for the collection of the administrative penalty. Provides that a bond is not required of the director with respect to injunctive relief granted under this subsection.

(f) Authorizes the director, without prior hearing and after not less than 10 days' notice to the person, to suspend the person's license if a person fails to pay an administrative penalty that has become final or fails to comply with an order of the director that has become final, in addition to any other remedy provided by law. Requires the suspension to continue until the person has complied with the cease and desist order or paid the administrative penalty. Prohibits the person from performing any act requiring a license under this chapter and all compensation received by the person during the period of suspension is subject to forfeiture to the person from whom it was received during the period of suspension.

(g) Authorizes an order of suspension under Subsection (f) to be appealed. Provides that an appeal is a contested case governed by Chapter 2001, Government Code. Requires a hearing of an appeal of an order of suspension issued under Subsection (f) to be held not later than 15 days after the date of receipt of the notice of appeal. Requires the appellant to be provided at least three days' notice of the time and place of the hearing.

(h) Authorizes an order revoking the license of a retailer, broker, installer, or salesperson to provide that the person is prohibited, without obtaining prior written consent of the director, from being a related person of a licensee.

Sec. 1201.611. SANCTIONS AND PENALTIES. (a) Requires the board to adopt rules relating to the administrative sanctions that may be enforced against a person regulated by TDHCA.

(b) Requires the director to issue an order approving the determination and ordering the person to pay the recommended penalty if the person charged with a violation accepts the director's determination.

(c) Requires the person charged to either pay the penalty in full or take certain alternative actions not later than 30 days after the date on which the decision is final.

(d) Entitles a person charged with a penalty who is financially unable to comply with Subsection (c) to judicial review if the person files with the court, as part of the person's petition for judicial review, a sworn statement that the person is unable to meet the requirements of that subsection.

(e) Authorizes TDHCA or the attorney general to bring an action for the collection of the penalty if the person charged does not pay the penalty and does not pursue judicial review.

(f) Provides that judicial review of the director's order assessing the penalty is subject to the substantial evidence rule and requires the judicial review to be instituted by filing a petition with a district court in Travis County.

(g) Requires the director, if, after judicial review, the penalty is reduced or not assessed, to remit to the person the appropriate amount, plus accrued interest if the penalty has been paid, or requires the director to execute a release of a supersedeas bond that has been posted. Requires the accrued interest on amounts remitted by the director under this subsection to be paid at a rate equal to the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and require the accrued interest to be paid for the period beginning on the date the assessed penalty is paid to the director and ending on the date the penalty is remitted.

(h) Requires a penalty collected under this section to be deposited in the trust fund.

(i) Provides that all proceedings conducted under this section and any review or appeal of those proceedings are subject to Chapter 2001, Government Code.

(j) Authorizes the attorney general, on behalf of the director, to institute an action for injunctive relief to restrain a person from continuing a violation for civil penalties not to exceed \$1,000 for each violation and not exceeding \$250,000 in the aggregate if it appears that the person is in violation of, or is threatening to violate, any provision of this chapter or a rule or order related to the administration and enforcement of the manufactured housing program. Requires a civil action filed under this subsection to be filed in district court in Travis County. Authorizes the attorney general and the director to recover reasonable expenses incurred in obtaining injunctive relief under this subsection, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

SECTION 64. Amends Section 2306.6022(b), Government Code, to require the manufactured housing division (division) to make available on its website, rather than provide to the person filing the complaint and to each person who is a subject of the complaint a copy of, the division's policies and procedures relating to complaint investigation and resolution and provide copies of such information on request.

SECTION 65. Amends Section 94.051, Property Code, to change the language to be included on a separate disclosure statement to be given to a tenant.

SECTION 66. Amends Section 94.052(b), Property Code, to create an exception provided by Section 94.204 to the provisions of a landlord who chooses not to renew a lease and to make nonsubstantive changes.

SECTION 67. Amends Section 94.053(c), Property Code, to make a nonsubstantive change.

SECTION 68. Amends the heading to Section 94.204, Property Code, to read as follows:

Sec. 94.204. NONRENEWAL OF LEASE FOR CHANGE IN LAND USE.

SECTION 69. Amends Section 94.204(a), Property Code, to authorize a landlord to choose not to renew a lease agreement to change the manufactured home community's land use only if certain actions are taken by the landlord not later than the 180th day before the date the land use will change.

SECTION 70. Amends Sections 11.432(a) and (b), Tax Code, as follows:

(a) Requires that the application for exemption be accompanied by, among other things, a copy of the purchase contract showing that the applicant is the purchaser of the manufactured home, unless a photostatic copy of the current title page for the home is displayed on the TDHCA website. Authorizes the appraisal district to rely upon the computer records of TDHCA to determine whether a manufacture home qualifies for an exemption.

(b) Entitles the consumer to obtain the homestead exemptions provided by Section 11.13 (Residence Homestead) regardless of whether an owner has elected to treat the manufactured home as real property or personal property or the home is listed on the tax rolls together with the real property to which it is attached or is listed separately from that property.

SECTION 71. Amends Section 31.072, Tax Code, by adding Subsection (i), to require the collector to enter into a contract with a property owner who owns the manufactured home and requests the establishment of the escrow account if, notwithstanding Subsection (a), the escrow account will be used solely to provide for the payment of property taxes collected on the property owner's manufactured home.

SECTION 72. Amends Section 32.03, Tax Code, as follows:

Sec. 32.03. RESTRICTIONS ON PERSONAL PROPERTY TAX LIEN. (a) Makes no changes to this subsection.

(a-1) Authorizes a tax lien, with regard to a manufactured home, to be recorded at any time not later than six months after the end of the calendar year for which the tax was owed. Authorizes a tax lien on a manufactured home to be enforced if it has been recorded in accordance with the laws in effect at the time of the recordation of the lien. Prohibits a properly recorded tax lien from being enforced against a new manufactured home that is owned by a person who acquired the manufactured home from a retailer as a buyer in the ordinary course of business. Deletes existing text prohibiting a tax lien against a manufactured home from being enforced unless it has been recorded with TDHCA within a certain time frame.

(a-2) Prohibits a person from transferring ownership, rather than a title, of a manufactured home until all tax liens perfected on the home that have been filed in a timely manner with TDHCA and until any personal property taxes on the manufactured home which accrued on each January 1 that falls within the 18 months preceding the date of the sale have been paid.

(b) Prohibits a taxing unit nor anyone acting on its behalf from using a tax warrant or any other method to attempt to execute or foreclose on the manufactured home unless a tax lien has been filed in a timely manner with TDHCA.

(c) Authorizes a taxpayer to designate in writing which tax year will be credited with a particular payment. Requires the taxing unit to issue a receipt for the

payment of the taxes for the designated year once a taxpayer pays all the amounts owing for a given year.

(d) Authorizes the taxing unit to file a tax lien within the 150-day period following the date on which the tax becomes delinquent if a manufactured home was omitted from the tax roll for either or both of the two preceding tax years, notwithstanding any other provision of law.

(e) Requires the taxing unit to provide upon request an estimated amount of taxes computed in a certain manner if personal property taxes on the home have not been levied by the taxing unit. Requires the tax collector to accept payment of the estimated personal property taxes and issue a certification to TDHCA that the estimated taxes are being held in escrow until the taxes are levied in order to enable transfer of the manufactured home. Requires the tax collector, once the taxes are levied, to apply the escrowed sums to the levied taxes. Requires the tax collector, at the time he or she accepts payment of the taxes, to provide notice that the payment of the estimated taxes is an estimate that may be raised once the appraisal rolls for the year are certified and that the new owner may be liable for the payment of any difference between the tax established by the certified appraisal roll and the estimate actually paid.

SECTION 73. (a) Repealer: Sections 1201.059 (Fees for Statements of Ownership and Location), 1201.112 (Temporary Installers License), 1201.113(c), (d), (e), (f), and (g) (relating to providing a certification or continuing education program), 1201.163 (Chattel Mortgage Transaction: Consumer Protection Disclosures), 1201.214(c) (requiring an owner or lienholder who applies for the issuance of a statement of ownership and location to replace a lost or destroyed document of title to execute an affidavit), 1201.214(d) (requiring an owner or lienholder to surrender the original document of title if found), and 1201.408 (Agreement of Parties; Arbitration), Occupations Code.

(b) Repealer: Section 2306.6023 (Sanctions and Penalties), Government Code.

SECTION 74. Makes application of Sections 94.051, 94.052, 94.053, and 92.204, Property Code, as amended by this Act, prospective.

SECTION 75. Provides that the change in law made by this Act applies only to the sale, exchange, or lease-purchase of a new or used manufactured home on or after the effective date of this Act.

SECTION 76. Provides that, except as otherwise provided by this Act, the changes in law made by this Act apply only to a license issued or renewed by TDHCA on or after January 1, 2008.

SECTION 77. Provides that the change in law made by this Act applies only to an offense committed on or after the effective date of this Act.

SECTION 78. Makes application of this Act prospective to an ad valorem tax year that begins on or after January 1, 2008. Provides that the changes in law made to those provisions do not affect a tax lien that attached to property for a tax year that began before January 1, 2008, and that previous law is continued in effect for purposes of the tax lien.

SECTION 79. Effective date: January 1, 2008.