

BILL ANALYSIS

Senate Research Center
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H.B. 2019
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties contend that with both technology enhancements and changes in general practices and federal law, many statutory provisions relating to the regulation of manufactured homes are inapplicable and inaccurate or do not comport with other areas of the law. H.B. 2019 addresses this issue by revising and updating provisions relating to the regulation of manufactured homes.

H.B. 2019 amends current law relating to the regulation of manufactured homes.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Manufactured Housing Board (board) in SECTION 7 (Section 1201.104, Occupations Code) of this bill.

Rulemaking authority previously granted to the board is modified in SECTION 14 (Section 1201.118, Occupations Code), SECTION 18 (Section 1201.1521, Occupations Code), SECTION 25 (Section 1201.203, Occupations Code), and SECTION 54 (Section 1201.405, Occupations Code) of this bill.

Rulemaking authority previously granted to the executive director of the manufactured housing division of the Texas Department of Housing and Community Affairs is rescinded in SECTION 85 (Section 1201.303, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1201.003, Occupations Code, by amending Subdivisions (1), (6), (7), (8), (19), (23), (24), (26), (30), and (32) and adding Subdivisions (9-a), (21-a), and (26-a), as follows:

- (1) Redefines “advertisement.”
- (6) Redefines “broker.”
- (7) Redefines “business use.”
- (8) Redefines “consumer.”
- (9-a) Defines “credit transaction.”
- (19) Redefines “manufacturer.”
- (21-a) Defines “nonresidential use.”
- (23) Redefines “related person.”
- (24) Redefines “retailer.”
- (26) Redefines “salesperson.”

(26-a) Defines “sales purchase contract.”

(30) Defines “statement of ownership,” rather than “statement of ownership and location.”

(32) Redefines “used manufactured home.”

SECTION 2. Amends Subchapter A, Chapter 1201, Occupations Code, by adding Section 1201.010, as follows:

Sec. 1201.010. ELECTRONIC PUBLIC RECORDS REQUIRED. Requires the Texas Department of Housing and Community Affairs (TDHCA) to provide to the public through TDHCA’s Internet website searchable and downloadable information regarding manufactured home (home) ownership records, lien records, installation records, license holder records, and enforcement actions.

SECTION 3. Amends Section 1201.054, Occupations Code, by adding Subsection (d), as follows:

(d) Requires the Manufactured Housing Board (board), to maintain affordability of homes in this state, to:

(1) conduct a cost benefit analysis for any rule, process, or policy change that will increase a fee or another incurred cost by more than \$50 for license holders or consumers; and

(2) present at the next board meeting an analysis detailing whether the need for the rule, process, or policy change justifies the increase.

SECTION 4. Amends Section 1201.055(a), Occupations Code, to require the board, with guidance from the federal Housing and Community Development Act of 1974 (42 U.S.C. Section 5301 et seq.) and from certain rules and regulations, to establish a fee for the inspection of a used home to determine whether the home is habitable for the issuance of a new statement of ownership, rather than for the issuance of a new statement of ownership and location.

SECTION 5. Amends Section 1201.101(b), (c), and (g), Occupations Code, as follows:

(b) Prohibits a person, except as otherwise provided by this chapter (Manufactured Housing), from selling or exchanging, or from offering to sell or exchange, two or more homes to consumers in this state in a 12-month period unless the person holds a retailer’s license. Deletes existing text prohibiting a person, except as otherwise provided by this chapter, from selling, exchanging, or lease-purchasing or offering to sell, exchange, or lease-purchase two or more homes to consumers in this state in a 12-month period unless the person holds a retailer’s license.

(c) Prohibits a person from offering to negotiate or negotiate for others a bargain or contract for the sale or exchange, rather than for the sale, exchange, or lease-purchase, of two or more homes to consumers in this state in a 12-month period unless the person holds a broker’s license.

(g) Prohibits a person from making an announcement concerning the sale or exchange of, or from offering to sell or exchange, a home to a consumer in this state through an advertisement unless the person holds a certain license. Deletes existing text prohibiting a person from making an announcement concerning the sale, exchange, or lease-purchase of, or from offering to sell, exchange, or lease-purchase, a home to a consumer in this state through advertisement unless the person holds a certain license.

SECTION 6. Amends Section 1201.102, Occupations Code, by adding Subsection (c-1) and amending Subsection (d), as follows:

(c-1) Prohibits an individual who is listed as an owner, principal, partner, corporate officer, registered agent, or related person of an entity that is licensed as a retailer or broker from acting on behalf of that license holder in the capacity of a retailer, broker, or salesperson without holding the appropriate license if at least one individual who is listed as an owner, principal, partner, corporate officer, registered agent, or related person of an entity has satisfied the requirements of Sections 1201.104 (Qualifications for License) and 1201.113 (Certification and Continuing Education Programs).

(d) Authorizes a person who holds a certain license to act as a broker or salesperson under this chapter without holding a license or filing a bond or other security as required by this chapter if negotiations for the sale or exchange, rather than if negotiations for the sale, exchange, or lease-purchase, of a home are conducted for a certain consumer.

SECTION 7. Amends Sections 1201.104(a-1), (a-2), and (h), Occupations Code, as follows:

(a-1) Requires a certain person, if a certain applicant is applying for a retailer's license, to be a management official who satisfies certain requirements for each retail location operated by the applicant, rather than who satisfies certain requirements at each retail location operated by the applicant.

(a-2) Requires an applicant for a retailer's license to complete four hours of specialized instruction relevant to the sale and exchange, rather than to the sale, exchange, and lease-purchase, of homes.

(h) Requires that an examination be a requirement of successful completion of any initial required course of instruction under this section and requires the board, if the examination failure rate exceeds 25 percent, to review the examination and its procedures and adopt rules intended to maintain the historical passage rate for the examination.

SECTION 8. Amends Section 1201.105(a), Occupations Code, to provide that the bond or other security is payable to the manufactured homeowner consumer claims program (program), rather than to the manufactured homeowners' recovery trust fund (trust fund).

SECTION 9. Amends Section 1201.106(a-1), Occupations Code, to authorize the executive director of the manufactured housing division of TDHCA (director; division), notwithstanding the provisions of Subsection (a) (relating to requiring an applicant for a license or a license holder to file a certain bond or other security for the issuance or renewal of a license in a certain amount), to require additional security for the licensing, renewal, or relicensing of a person, or the sponsoring of a salesperson, who, either directly, as a related person, or through a related person, has undertaken or been the subject of certain activities, including causing the program to incur certain costs or liabilities, rather than causing the trust fund to incur certain costs or liabilities.

SECTION 10. Amends Sections 1201.107(b) and (d), Occupations Code, as follows:

(b) Provides that a location at which a home is shown to the public or at which the home is offered for sale or exchange, rather than offered for sale, exchange, or lease-purchase, by a retailer to consumers requires a bond.

(d) Makes a conforming change.

SECTION 11. Amends Section 1201.111(a), Occupations Code, to provide that, notwithstanding any other provision of this chapter, a certain financial institution engaged in the business of selling or exchanging, or offering for sale or exchange, certain homes is not required to fulfill certain tasks to be licensed as a retailer, rather than to provide that, notwithstanding any other provision of this chapter, a certain financial institution engaged in the business of selling, exchanging, or lease-purchasing or offering for sale, exchange, or lease-purchase certain homes is not required to fulfill certain tasks to be licensed as a retailer.

SECTION 12. Amends the heading to Section 1201.113, Occupations Code, to read as follows:

Sec. 1201.113. CONTINUING EDUCATION PROGRAMS.

SECTION 13. Amends Section 1201.113, Occupations Code, by amending Subsections (a) and (b) and adding Subsection (d), as follows:

(a) Requires the board to approve, rather than to approve or administer, continuing education programs for licensees under this chapter.

(b) Provides that completion of an approved program described by Subsection (a), rather than completion of an approved or administered continuing education course described by Subsection (a), is a prerequisite to renewal of a license.

(d) Authorizes the director, if the approval of a program expires between regularly scheduled board meetings and on receipt of the required renewal application, fee, and necessary documentation of education material, to approve the continued administration of the program until the next board meeting.

SECTION 14. Amends Section 1201.118, Occupations Code, to require the board to adopt rules providing for additional review and scrutiny of certain applications that involve a person who has, among certain other findings, previously caused the program to incur unreimbursed payments or claims, rather than previously caused the trust fund to incur unreimbursed payments or claims.

SECTION 15. Amends Section 1201.151, Occupations Code, by amending Subsection (e) and adding Subsection (f), as follows:

(e) Provides that a deposit becomes a down payment upon execution of a sales purchase contract, rather than upon execution of a binding written agreement. Requires the retailer, if the consumer, thereafter, exercises the consumer's three-day right of rescission in accordance with Section 1201.1521 (Rescission of Contract for Sale, Exchange, or Lease-Purchase of Home), not later than a certain date, to refund to the consumer all money and other consideration received from the consumer, with only the allowable deduction for real property appraisal and title work expenses in accordance with Section 1201.1511, which is added by this Act. Deletes existing text requiring the retailer, if the consumer, thereafter, exercises a right of rescission, not later than a certain date, to refund to the consumer all money and other consideration received from the consumer, without offset or deduction.

(f) Provides that retention of real property appraisal and title work expenses authorized by Subsection (e) is not allowed if the consumer exercises the right of rescission in accordance with 12 C.F.R. Section 1026.23.

SECTION 16. Amends Subchapter D, Chapter 1201, Occupations Code, by adding Section 1201.1511, as follows:

Sec. 1201.1511. REAL PROPERTY APPRAISAL AND TITLE WORK EXPENSES. (a) Authorizes a retailer, notwithstanding Section 1201.151 (Refunds) or 1201.1521, to collect from a consumer in advance or deduct from the consumer's deposit or down payment any expenses incurred by the retailer if, after receiving a conditional notification of approval from a lender chosen by the consumer, the consumer fulfills certain criteria.

(b) Prohibits a retailer from charging to the consumer any fees or expenses other than certain real property appraisal and title work expenses disclosed to the consumer.

(c) Authorizes TDHCA to demand copies of contracts, invoices, receipts, or other proof of any real property appraisal and title work expenses retained by a retailer.

SECTION 17. Amends Section 1201.152(a), Occupations Code, as follows:

(a) Provides that, if a retailer purchases a new home from an unlicensed manufacturer in violation of Section 1201.505 (Prohibited Purchase), a consumer's contract with the retailer for the purchase or exchange of the home, rather than for the purchase, exchange, or lease-purchase of the home, is voidable until a certain date. Makes a conforming change.

SECTION 18. Amends Section 1201.1521, Occupations Code, as follows:

Sec. 1201.1521. New heading: RESCISSION OF CONTRACT FOR SALE OR EXCHANGE OF HOME. (a) Authorizes a person who acquires a home from or through a licensee by purchase or exchange, in a cash transaction occurring not later than the third day after the date the sales purchase contract is signed, to rescind the contract without penalty or charge other than the real property appraisal and title work expenses incurred in accordance with Section 1201.1511. Deletes existing text authorizing a person who acquires a 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 person who acquires a home from or through a licensee by purchase or exchange, in a transfer that is based wholly or partly on a credit transaction occurring not later than the third day after the date of the signing of a certain financing credit contract with respect to which the consumer's purchased home will serve as collateral for the credit transaction, to rescind the contract without penalty or charge other than the real property appraisal and title work expenses incurred in accordance with Section 1201.1511.

(c) Redesignates existing Subsection (b) as Subsection (c) and changes reference to 12 C.F.R. Part 226 to 12 C.F.R. Part 1026.

SECTION 19. Amends Section 1201.156, Occupations Code, to provide that an advertisement relating to manufactured housing is an offer to sell or exchange, rather than to sell, exchange, or lease-purchase, manufactured housing to consumers.

SECTION 20. Amends Section 1201.157, Occupations Code, as follows:

Sec. 1201.157. New heading: RETAILER AS WAREHOUSE. (a) Provides that, with respect to the storage of homes for hire, a licensed retailer is a "warehouse" as defined by Section 7.102 (Definitions and Index of Definitions), Business & Commerce Code, and a "warehouseman" under Chapter 24 (Forcible Entry and Detainer), Property Code, rather than provides that a licensed retailer is a "warehouseman" as defined by Section 7.102, Business & Commerce Code, for the storage of homes for hire. Makes nonsubstantive changes.

(b) Provides that the provisions of the Business & Commerce Code relating to the storage of goods for hire apply to a licensed retailer acting as a warehouse, rather than acting as a warehouseman.

(c) Provides that a licensed retailer acting as a warehouse and warehouseman satisfies certain requirements if the storage of a home occurs on the retailer's lot and the home is secured in the same manner the retailer secures a home held on the lot as inventory.

(d) Provides that, in accordance with the provisions of Section 7.210 (Enforcement of Warehouse's Lien), Business & Commerce Code, a licensed retailer acting as a warehouse to enforce a warehouse's lien is considered to have sold a home in a commercially reasonable manner if the retailer sells the home in the same manner the retailer would sell a home at retail.

SECTION 21. Amends Section 1201.162(a), Occupations Code, to require the retailer, before the completion of a credit application or more than one day before entering into any agreement for a sale or exchange that will not be financed, rather than before entering into any agreement for a sale, exchange, or the exercise of the lease-purchase option that will not be financed, to provide to the consumer a written disclosure in the form promulgated by the board.

SECTION 22. Amends Section 1201.164, Occupations Code, as follows:

Sec. 1201.164. New heading: ADVANCE COPY OF SALES PURCHASE CONTRACT AND DISCLOSURE STATEMENTS; OFFER BY RETAILER. (a) Requires a retailer, in a certain transaction, to deliver to a consumer at least 24 hours before the sales purchase contract is fully executed the contract, with all required information included, signed by the retailer.

(b) Authorizes the consumer, before the execution of the sales purchase contract, to modify or waive the right to rescind and the deadlines for certain disclosures if the consumer makes a certain determination, rather than authorizes the consumer to modify or waive the right to rescind and the deadlines for certain disclosures before the execution of the contract if the consumer makes a certain determination. Requires TDHCA to verify with the consumer the consumer's bona fide personal emergency before issuing the statement of ownership. Deletes existing text providing that certain printed forms are prohibited except in a county that has been declared by the governor to be a major disaster area. Deletes existing text authorizing the retailer, if the governor declares a county to be a major disaster area, to use printed forms promulgated by TDHCA and requiring that this exception expire one year after the county has been declared a major disaster area. Makes a nonsubstantive change.

SECTION 23. Amends the heading to Subchapter E, Chapter 1201, Occupations Code, to read as follows:

SUBCHAPTER E. MANUFACTURED HOME STATEMENTS OF OWNERSHIP

SECTION 24. Amends Section 1201.201, Occupations Code, by amending Subdivisions (1), (2), (3), (5), and (11) and adding Subdivision (1-a), as follows:

(1) Defines "certificate of attachment."

(1-a) Redesignates text of existing Subdivision (1) as Subdivision (1-a) and makes no further changes to this subdivision.

(2) Redefines "document of title."

(3) Redefines "first retail sale."

(5) Redefines "inventory."

(11) Redefines "subsequent sale."

SECTION 25. Amends Section 1201.203, Occupations Code, as follows:

Sec. 1201.203. FORMS; RULES. (a) Requires the board to adopt rules and forms relating to, among certain other matters, the statement of ownership, rather than the statement of ownership and location. Makes a conforming change.

(b) Requires the board to adopt rules for the documenting of the ownership, rather than for the documenting of the ownership and location, of a certain home.

SECTION 26. Amends Sections 1201.204(a) and (c), Occupations Code, as follows:

(a) Requires that a manufacturer's certificate show, on a certain form, each subsequent transfer of a home between retailers and from retailer to owner, if the transfer from retailer to owner involves a completed application for the issuance of a statement of ownership, rather than for the issuance of a statement of ownership and location.

(c) Makes conforming changes.

SECTION 27. Amends Section 1201.205, Occupations Code, as follows:

Sec. 1201.205. New heading: STATEMENT OF OWNERSHIP FORM. Requires that a statement of ownership, rather than a statement of ownership and location, be evidenced by a board-approved form issued by TDHCA setting forth:

(1) through (7) makes no changes to these subdivisions;

(8) makes conforming changes;

(9) makes no changes to this subdivision;

(10) a statement of whether the owner has elected to treat the home as real property, rather than treat the home as real property or personal property;

(11) statements of whether the home is a salvaged home and whether the home is reserved for business use only or for another nonresidential use; and

(12) makes no changes to this subdivision.

SECTION 28. Amends Sections 1201.2055(a), (c), (d), (e), (g), and (i), Occupations Code, as follows:

(a) Requires an owner of a home, in completing an application for the issuance of a statement of ownership, rather than a statement of ownership and location, to indicate whether the owner elects to treat the home as real property, rather than indicate whether the owner elects to treat the home as personal property or real property.

(c) Provides that, if TDHCA issues a statement of ownership to an owner of a home treated as personal property, rather than if TDHCA issues a statement of ownership and location to an owner who has elected to treat a home as personal property, the statement of ownership on file with TDHCA is evidence of ownership of the home. Makes a conforming change.

(d) Requires TDHCA, if an owner elects to treat a home as real property, to issue to the owner a copy of the statement of ownership, rather than issue to the owner a certified copy of the statement of ownership and location, that on its face reflects that the owner has elected to treat the home as real property at the location listed on the statement. Makes conforming changes.

(e) Makes conforming changes.

(g) Makes conforming changes.

(i) Makes conforming changes.

SECTION 29. Amends the heading to Section 1201.206, Occupations Code, to read as follows:

Sec. 1201.206. APPLICATION FOR ISSUANCE OF STATEMENT OF OWNERSHIP.

SECTION 30. Amends Sections 1201.206(a), (b), (c), (e), (f), (g), (h), and (k), Occupations Code, as follows:

(a) Requires the retailer, at the first retail sale of a home, to provide for the installation of the home and ensure that the application for the issuance of a statement of ownership, rather than a statement of ownership and location, is properly completed. Makes a conforming change.

(b) Makes a conforming change.

(c) Makes a conforming change.

(e) Makes a conforming change.

(f) Makes a conforming change.

(g) Requires that a certain statement from the tax assessor-collector also be filed with TDHCA when an application is filed for the issuance of a statement of ownership for a used home that is not in a retailer's inventory or is being converted from personal property to real property in accordance with Section 1201.2075 (Conversion from Personal Property to Real Property), rather than requires that a certain statement from the tax assessor-collector also be filed when an application for the issuance of a statement of ownership and location for a used home that is not in a retailer's inventory is filed. Requires that the statement from the tax assessor-collector indicate that, with respect to each January 1 occurring in the 18-month period preceding the date of the sale, there are no perfected and enforceable tax liens on the home that have not been extinguished and canceled in accordance with Section 32.015 (Tax Lien on Manufactured Home), Tax Code, or personal property taxes due on the home. Deletes existing text requiring that the statement from the tax assessor-collector indicate that there are no taxes due on the home that may have accrued on each January 1 that falls within the 18 months before the date of the sale.

(h) and (k) makes conforming changes.

SECTION 31. Amends the heading to Section 1201.207, Occupations Code, to read as follows:

Sec. 1201.207. ISSUANCE OF STATEMENT OF OWNERSHIP.

SECTION 32. Amends Sections 1201.207(a), (a-1), (b), (c), and (d), Occupations Code, as follows:

(a) Requires TDHCA, except as provided for in Subsection (a-1) (relating to requiring TDHCA to cease issuing statements of ownership for a certain period until all certain tax liens have been processed), to process any completed application for the issuance of a statement of ownership, rather than a statement of ownership and location, not later than a certain date.

(a-1) Requires TDHCA, during a certain period, to post on its Internet website a certain notice. Makes conforming changes.

(b) Requires TDHCA to make available to the public on TDHCA's Internet website in a searchable and downloadable format all ownership and lienholder information contained on the statement of ownership. Makes a conforming change.

(c) Makes conforming changes.

(d) Makes conforming changes.

SECTION 33. Amends Section 1201.2075, Occupations Code, as follows:

Sec. 1201.2075. CONVERSION FROM PERSONAL PROPERTY TO REAL PROPERTY. (a) Prohibits TDHCA, except as provided by Subsection (b) or Section 1201.206(k) (relating to authorizing TDHCA to issue a statement of ownership and

location to a certain person under certain circumstances), from issuing a statement of ownership, rather than a statement of ownership and location, for a home that is being converted from personal property to real property until a certain event has occurred.

(b) Authorizes TDHCA to issue a statement of ownership before the release of any liens or before receiving the consent of any lienholders as required by this section, or without receiving the statement required by Section 1201.206(g) (relating to a certain statement from the tax assessor-collector filed with TDHCA), if TDHCA releases a copy, rather than a certified copy, of the statement to a certain entity. Makes a conforming change.

SECTION 34. Amends Section 1201.2076, Occupations Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Prohibits TDHCA from issuing a statement of ownership, rather than a statement of ownership and location, for a certain home until TDHCA has inspected the home and made certain determinations.

(a-1) Prohibits TDHCA, notwithstanding Subsection (a), from requiring an inspection for habitability before issuing a statement of ownership with respect to a home if the home is being sold to or ownership is otherwise being transferred to a retailer. Provides that TDHCA remains subject to the other requirements of Subsection (a).

SECTION 35. Amends Section 1201.208, Occupations Code, as follows:

Sec. 1201.208. New heading: PAYMENT OF TAXES REQUIRED FOR ISSUANCE OF STATEMENT OF OWNERSHIP. (a) Provides that any licensee who sells or exchanges, rather than who sells, exchanges, or lease-purchases, a new home to any consumer is responsible for the payment of all required sales and use tax (tax) on such home.

(b) Requires that the payment, if it is determined that a new home was sold or exchanged without the required tax being paid, rather than if it is determined that a new home was sold, exchanged, or lease-purchased without the required tax being paid, be made from a certain fund.

SECTION 36. Amends Section 1201.209, Occupations Code, as follows:

Sec. 1201.209. New heading: GROUNDS FOR REFUSAL TO ISSUE OR FOR SUSPENSION OR REVOCATION OF STATEMENT OF OWNERSHIP. Prohibits TDHCA from refusing to issue a statement of ownership, rather than a statement of ownership and location, and prohibits it from suspending or revoking a statement of ownership unless under certain circumstances. Makes conforming changes.

SECTION 37. Amends the heading to Section 1201.210, Occupations Code, to read as follows:

Sec. 1201.210. PROCEDURE FOR REFUSAL TO ISSUE OR SUSPENSION OR REVOCATION OF STATEMENT OF OWNERSHIP.

SECTION 38. Amends Section 1201.210(a), Occupations Code, as follows:

(a) Requires the director, if the director refuses to issue or suspends or revokes a statement of ownership, rather than a statement of ownership and location, to give, by certified mail, written notice of that action to certain persons.

SECTION 39. Amends Section 1201.212, Occupations Code, as follows:

Sec. 1201.212. TRANSFER OF OWNERSHIP BY OPERATION OF LAW. (a) Requires TDHCA, if the ownership of a home in this state is transferred in a certain way, to issue a new statement of ownership after receiving a copy of certain documents, rather than issue

a new statement of ownership and location after receiving a certified copy of certain documents. Makes a conforming change.

(b) and (c) Makes conforming changes.

SECTION 40. Amends Section 1201.213(b), Occupations Code, to provide that, if the statement of ownership, rather than the statement of ownership and location, is being issued in connection with the sale of the home, the seller is not eligible to sign a certain agreement unless the seller is of a certain relationship to each other person signing the agreement.

SECTION 41. Amends Section 1201.214, Occupations Code, as follows:

Sec. 1201.214. New heading: DOCUMENT OF TITLE; CERTIFICATE OF ATTACHMENT. (a) Provides that, effective September 1, 2003, all outstanding documents of title or certificates of attachment are considered to be statements of ownership, rather than all outstanding documents of title are considered to be statements of ownership and location.

(b) Makes conforming changes.

SECTION 42. Amends Section 1201.216, Occupations Code, as follows:

Sec. 1201.216. CHANGE IN USE. (a) Requires TDHCA, if the owner of a home notifies TDHCA that the owner intends to treat the home as real property or intends to treat the home as a salvaged home or reserve the home for a business use or another nonresidential use, to indicate on the statement of ownership for the home that, among certain other information, the owner of the home has elected to treat the home as described by this subsection. Deletes existing text requiring TDHCA, if the owner of a home notifies TDHCA that the owner intends to treat the home as real property or to reserve its use for a business purpose or salvage, to indicate on the statement of ownership and location for the home that, among certain other information, the owner of the home has elected to treat the home as real property or to reserve its use for a business purpose or salvage.

(b) Makes a conforming change.

SECTION 43. Amends Section 1201.217, Occupations Code, by amending Subsections (b), (d), and (e) and adding Subsections (d-1) and (g), as follows:

(b) Requires the owner of a real property on which an abandoned home is located, before declaring a home abandoned, to send a notice of intent to declare the home abandoned to certain persons, including all lienholders at the addresses listed on the home's statement of ownership, rather than on the home's statement of ownership and location.

(d) Makes a conforming change.

(d-1) Requires the real property owner, when applying for a statement of ownership under this section, to include with the application an affidavit stating that the person owns the real property where the home is located and the name of the person to whom the title to the home will be transferred under this section is the same name that is listed in the real property or tax records indicating the current ownership of the real property.

(e) Makes a conforming change.

(g) Authorizes an owner of real property on which a home has been abandoned, notwithstanding Subsection (f) (relating to the applicability of this section), to apply for a new statement of ownership with respect to a home that was previously declared abandoned and then resold and abandoned again.

SECTION 44. Amends Section 1201.219(h), Occupations Code, to require TDHCA to remove from a home's statement of ownership, rather than from a home's statement of ownership and location, a certain reference under certain conditions.

SECTION 45. Amends Section 1201.220, Occupations Code, as follows:

Sec. 1201.220. REPORT TO CHIEF APPRAISER. (a) Creates this subsection from existing text. Requires TDHCA to make available in a certain format to each chief appraiser of an appraisal district in this state a monthly report that, for certain homes, including homes previously installed in the county for which a transfer of ownership was recorded by the issuance of a statement of ownership, rather than by the issuance of a statement of ownership and location, during the preceding month, lists certain information.

(b) Requires TDHCA to make the required report available to the public on TDHCA's Internet website in a searchable and downloadable format.

SECTION 46. Amends Section 1201.221(b), Occupations Code, to require that a certain request contain, among certain other information, the name of the owner of the home as reflected on the statement of ownership, rather than as reflected on the statement of ownership and location.

SECTION 47. Amends Section 1201.222(a), Occupations Code, to provide that a home is treated as real property only if the owner of the home has elected to treat the home as real property as provided by Section 1201.2055 (Election by Owner), and a copy of the statement of ownership for the home, rather than a certified copy of the statement of ownership and location for the home, has been filed in the real property records of the county in which the home is located.

SECTION 48. Amends Section 1201.255(a), Occupations Code, to prohibit an uninstalled home from being occupied for any purpose other than to view the home on a retailer's sales lot.

SECTION 49. Amends Section 1201.358(d), Occupations Code, to provide that a manufacturer, retailer, or installer entitled to indemnification under this section (Failure to Show Good Cause; Hearing Results) is a consumer for purposes of Subchapter I (Manufactured Homeowners' Recovery Trust Fund) and authorizes the person to recover actual damages from the program, rather than authorizes the person to recover actual damages from the trust fund.

SECTION 50. Amends Section 1201.360(a), Occupations Code, as follows:

(a) Authorizes the seller of real property to which a new HUD-code home is permanently attached to give the initial purchaser a certain written warranty if:

(1) the statement of ownership, rather than the statement of ownership and location, reflects that the owner has elected to treat the home as real property;

(2) makes a conforming change; and

(3) a copy of the statement of ownership, rather than a certified copy of the statement of ownership and location, has been filed in the real property records for the county in which the home is located.

SECTION 51. Amends the heading to Subchapter I, Chapter 1201, Occupations Code, to read as follows:

SUBCHAPTER I. MANUFACTURED HOMEOWNER CONSUMER CLAIMS PROGRAM

SECTION 52. Amends Section 1201.401, Occupations Code, as follows:

Sec. 1201.401. New heading: MANUFACTURED HOMEOWNER CONSUMER CLAIMS PROGRAM. (a) Creates this subsection from existing text. Requires TDHCA to administer the program to provide a remedy for damages resulting from prohibited

conduct by a person licensed under this chapter, rather than provides that the manufactured homeowners' recovery trust fund is an account in the general revenue fund.

(b) Authorizes TDHCA to make a payment under the program only after all other departmental operating expenses are sufficiently funded.

SECTION 53. Amends Section 1201.404, Occupations Code, as follows:

Sec. 1201.404. CONSUMER COMPENSATION. (a) Requires that a payment made under the program, rather than the trust fund, except as otherwise provided by Subchapter C (Regulation of Certain Types of Housing and Buildings), be paid in a certain manner.

(b) Provides that TDHCA is not liable to the consumer if the program does not have the money necessary to pay the actual damages determined to be payable, rather than provides that the trust fund and the director are not liable to the consumer if the trust fund does not have the money necessary to pay the actual damages determined to be payable.

SECTION 54. Amends Sections 1201.405(c), (d), (f), and (g), Occupations Code, as follows:

(c) Provides that TDHCA is not liable for, and prohibits the director from paying, certain costs under the program, rather than provides that the trust fund is not liable for, and prohibits the director from paying, certain costs.

(d) Provides that this subchapter does not apply to, and prohibits a consumer from, notwithstanding other provisions of this subchapter, recovering through the program as a result of, a claim against a license holder that results from a cause of action directly related to the sale, exchange, brokerage, or installation of a home before September 1, 1987. Deletes existing text providing that this subchapter does not apply to, and prohibiting a consumer from, notwithstanding other provisions of this subchapter, recovering against the trust fund as a result of, a claim against a license holder that results from a cause of action directly related to the sale, lease-purchase, exchange, brokerage, or installation of a home before September 1, 1987.

(f) Provides that TDHCA is not liable for, and prohibits the director from paying, actual damages to address other matters, unless the matters involve, among certain other activities, perfected and enforceable tax liens not extinguished and canceled in accordance with Section 32.015, Tax Code. Deletes existing text providing that the trust fund is not liable for, and prohibits the director from paying, certain costs. Makes nonsubstantive changes.

(g) Authorizes the board, by rule, to place reasonable limits on the costs that may be approved for payment under the program, rather than 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 under the program to provide estimates establishing that the cost will be reasonable. Makes a conforming change. Authorizes such rules to also specify such procedures and requirements as the board may deem necessary and advisable for the administration of the program, rather than for the administration of the trust fund.

SECTION 55. Amends the heading to Section 1201.406, Occupations Code, to read as follows:

Sec. 1201.406. PROCEDURE FOR RECOVERY UNDER MANUFACTURED HOMEOWNER CONSUMER CLAIMS PROGRAM.

SECTION 56. Amends Section 1201.406(a), Occupations Code, to require a consumer, to recover under the program, rather than to recover from the trust fund, to file a written, sworn complaint in the form required by the director not later than a certain date.

SECTION 57. Amends Sections 1201.409(a) and (c), Occupations Code, as follows:

(a) Requires that the program, rather than the trust fund, except as otherwise provided by Subchapter C, be reimbursed by the surety on a bond or from other security filed under Subchapter C for the amount of a claim that is paid out under the program, rather than paid out of the trust fund, by the director to a consumer in accordance with this subchapter.

(c) Makes conforming changes.

SECTION 58. Amends Section 1201.410, Occupations Code, as follows:

Sec. 1201.410. New heading: INFORMATION ON RECOVERY UNDER MANUFACTURED HOMEOWNER CONSUMER CLAIMS PROGRAM. Requires the director to complete certain tasks, including to prepare information for notifying consumers of their rights to recover under the program, rather than to recover from the trust fund.

SECTION 59. Amends Section 1201.451, Occupations Code, as follows:

Sec. 1201.451. TRANSFER OF GOOD AND MARKETABLE TITLE REQUIRED. (a) Prohibits a person, except as otherwise provided by this subchapter (Used or Salvaged Manufactured Homes), from selling or exchanging, rather than from selling, exchanging, or lease-purchasing, a used home without the appropriate transfer of good and marketable title to the home.

(b) Requires the purchaser or transferee, on receipt of certain documents, to apply for the issuance of a statement of ownership, rather than for the issuance of a statement of ownership and location.

SECTION 60. Amends Section 1201.452(a), Occupations Code, to prohibit a person, except as otherwise provided by this subchapter, from selling or exchanging or negotiating for the sale or exchange of a used home to a consumer unless the appropriate seal or label is attached to the home, rather than to prohibit a person, except as provided by this subchapter, from selling, exchanging, or lease-purchasing or negotiating for the sale, exchange, or lease-purchase of a used home to a consumer unless the appropriate seal or label is attached to the home.

SECTION 61. Amends Section 1201.455, Occupations Code, as follows:

Sec. 1201.455. WRITTEN DISCLOSURE AND WARRANTY OF HABITABILITY REQUIRED. (a) Prohibits a person, except as otherwise provided by this subchapter, from selling or exchanging, rather than from selling, exchanging, or lease-purchasing, a used home to a consumer for use as a dwelling without providing certain documents.

(b) Provides that any obligation or liability of the seller under this subchapter is terminated unless the consumer notifies the seller in writing of a defect that makes the home not habitable not later than a certain date or the date of the sale or exchange, rather than the date of the sale, exchange, or lease-purchase agreement.

SECTION 62. Amends Section 1201.456, Occupations Code, to provide that the warranty requirement imposed by Section 1201.455 does not apply to a sale or exchange, rather than to a sale, exchange, or lease-purchase, of a home from one consumer to another.

SECTION 63. Amends Section 1201.457, Occupations Code, as follows:

Sec. 1201.457. New heading: HABITABILITY: CHANGE TO OR FROM NONRESIDENTIAL USE OR SALVAGE. (a) Provides that, if the sale or exchange of a used home is to a purchaser for the purchaser's business use, rather than if the sale, exchange, or lease-purchase of a used home is to a purchaser for the purchaser's business use, the home is not required to be habitable unless the purchaser discloses to the retailer in writing at the time of purchase that the purchaser intends for a person to be present in

the home for regularly scheduled work shifts of not less than eight hours each day. Requires the purchaser of the home to file with TDHCA an application for the issuance of a statement of ownership, rather than for the issuance of a statement of ownership and location, indicating that the home is reserved for a business use.

(a-1) Provides that, if the sale or exchange of a used home is for the purchaser's nonresidential use other than a business use, the home is not required to be habitable. Requires the purchaser of the home to file with TDHCA an application for the issuance of a statement of ownership indicating that the home is for a nonresidential use other than a business use.

(b) Prohibits a person, if a used home is reserved for a business use or another nonresidential use or is salvaged, from knowingly allowing any person to occupy or use the home as a dwelling unless the director issues a new statement of ownership indicating that the home is no longer reserved for that use or is no longer salvaged, rather than prohibits a person, if a used home is reserved for business use or salvaged, from knowingly allowing any 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. Makes conforming changes.

SECTION 64. Amends Section 1201.459(c), Occupations Code, to provide that a seal issued to certain persons is for identification purposes only and does not imply that a purchaser of the home at a tax sale is authorized to obtain a new statement of ownership, rather than a new statement of ownership and location, from TDHCA without an inspection for habitability.

SECTION 65. Amends Section 1201.460, Occupations Code, as follows:

Sec. 1201.460. COMPLIANCE NOT REQUIRED FOR LIENHOLDER. (a) Provides that a holder of a lien recorded on the statement of ownership of a home that has been converted to real property who sells or exchanges a repossessed home covered by that statement of ownership is not required to comply with this chapter if the sale or exchange is to or through a licensed retailer or to a purchaser for the purchaser's business use or another nonresidential use. Deletes existing text providing that a holder of a lien recorded on the statement of ownership and location of a home that has not been converted to real property who sells, exchanges, or lease-purchases a repossessed home covered by that statement of ownership and location is not required to comply with this chapter if the sale, exchange, or lease-purchase is to or through a licensed retailer or to a purchaser for the purchaser's business use.

(b) Provides that, if the sale or exchange of the repossessed home is to or through a licensed retailer, rather than if the sale, exchange, or lease-purchase of the repossessed home is to or through a licensed retailer, the retailer is responsible and liable for compliance with this chapter and TDHCA rules. Prohibits the lienholder from being joined as a party in any litigation relating to the sale or exchange of the home, rather than relating to the sale, exchange, or lease-purchase of the home.

(c) Makes conforming changes.

SECTION 66. Amends Sections 1201.461(b), (c), (e), (f), and (h), Occupations Code, as follows:

(b) Requires a person who owns a used home that is salvaged to apply to the director for the issuance of a new statement of ownership, rather than a new statement of ownership and location, that indicates that the home is salvaged.

(c) Makes a conforming change.

(e) Prohibits a person from repairing, rebuilding, or otherwise refurbishing, rather than from repairing, rebuilding, or otherwise altering, a salvaged home unless the person

complies with certain rules. Provides that, for purposes of this subsection, “refurbish” means any general repairs, improvements, or aesthetic changes to a home that do not constitute the rebuilding of a salvaged home.

(f) Makes a conforming change.

(h) Prohibits a licensee from participating in the sale, exchange, or installation, rather than in the sale, exchange, lease-purchase, or installation, for use as a dwelling of a certain home.

SECTION 67. Amends Section 1201.504, Occupations Code, as follows:

Sec. 1201.504. New heading: PROHIBITED SALE OR EXCHANGE. (a) Prohibits a manufacturer from selling or exchanging or offering to sell or exchange a home to a certain person, rather than prohibits a manufacturer from selling, exchanging, or lease-purchasing or offering to sell, exchange, or lease-purchase a home to a certain person.

(b) Makes conforming changes.

(c) Makes conforming changes.

SECTION 68. Amends Sections 1201.512(b) and (c), Occupations Code, as follows:

(b) Prohibits a retailer, broker, or salesperson who sells or exchanges a new home, rather than who sells, exchanges, or lease-purchases a new home, to a consumer for use as a permanent dwelling in this state from performing certain actions unless the retailer, broker, or salesperson complies with certain requirements and laws and ensures the consumer’s compliance with applicable law by requiring the evidence described by Subsection (c).

(c) Requires a consumer seeking to acquire a new or used home for use as a permanent dwelling in this state, before closing on the acquisition of the home, to provide certain evidence relating to the location of the home to the retailer, broker, or salesperson selling or exchanging the home, rather than to the retailer, broker, or salesperson selling, exchanging, or lease-purchasing the home.

SECTION 69. Amends Section 1201.513(b), Occupations Code, to prohibit a retailer from knowingly permitting a consumer to occupy a home that is the subject of a sale or exchange, rather than a 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 certain form.

SECTION 70. Amends Section 1201.551, Occupations Code, as follows:

Sec. 1201.551. DENIAL OF LICENSE; DISCIPLINARY ACTION. (a) Authorizes the director to deny, permanently revoke, or suspend for a definite period and specified sales location or geographic area a license if the director determines that the applicant or license holder, among certain other violations, failed repeatedly to file with TDHCA a completed application for a statement of ownership, rather than for a statement of ownership and location, before a certain date or failed to pay the required fee to obtain or renew a license. Makes nonsubstantive changes.

(b) Authorizes the director 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 under the program, rather than a final claim paid from the trust fund, for which demand for reimbursement was made.

SECTION 71. Amends Section 1201.6041(a), Occupations Code, to authorize the director, instead of requiring a consumer to apply for compensation under the program under Subchapter I, rather than for compensation from the trust fund under Subchapter I, to order a manufacturer,

retailer, broker, or installer, as applicable, to pay a refund directly to a consumer who sustains certain damages under certain conditions.

SECTION 72. Amends Section 347.002(b), Finance Code, as follows:

(b) Changes a reference to Part I, Consumer Credit Protection Act (15 U.S.C. Section 1601 et seq.) to the Truth in Lending Act (15 U.S.C. Section 1601 et seq.). Changes a reference to 12 C.F.R. 226.1 et seq. to Regulation Z (12 C.F.R. Part 1026).

SECTION 73. Amends Section 347.004(a), Finance Code, as follows:

(a) Changes a reference to Part I, Consumer Credit Protection Act (15 U.S.C. Section 1601 et seq.) to the Truth in Lending Act (15 U.S.C. Section 1601 et seq.). Changes a reference to 12 C.F.R. 226.1 et seq. to Regulation Z (12 C.F.R. Part 1026).

SECTION 74. Amends Section 347.056, Finance Code, as follows:

Sec. 347.056. AUTHORITY OF CONSUMER CREDIT COMMISSIONER RELATING TO A CREDIT DOCUMENT. Prohibits the consumer credit commissioner, except as provided by Section 347.004(a) (relating to requiring a creditor to comply with certain requirements), from requiring the inclusion of any specific language or a disclosure on a credit document that is not expressly required by a regulation of the Office of the Comptroller of the Currency, rather than by a regulation of the Office of Thrift Supervision. Makes a nonsubstantive change.

SECTION 75. Amends Section 347.155(b), Finance Code, as follows:

(b) Changes a reference to the Office of Thrift Supervision to the Office of the Comptroller of the Currency. Changes a reference to the Depository Institutions Deregulation and Monetary Control Act of 1980 (12 U.S.C. Section 4a et seq.) to the Depository Institutions Deregulation and Monetary Control Act of 1980 (12 U.S.C. Section 1735f-7a et seq.).

SECTION 76. Amends Section 347.356, Finance Code, to change a reference to the Office of Thrift Supervision to the Office of the Comptroller of the Currency.

SECTION 77. Amends Section 347.455(b), Finance Code, to change a reference to 12 C.F.R. Section 226.1 et seq. (Regulation Z) to Regulation Z (12 C.F.R. Part 1026).

SECTION 78. Amends Section 63.005(a), Property Code, as follows:

(a) Provides that a home becomes a new improvement to the homestead of a family or of a single adult person upon the filing of the appropriate statement of ownership, rather than upon the filing of the certificate of attachment, as provided in Chapter 1201, Occupations Code. Makes a conforming change.

SECTION 79. Amends Section 1.04(3-a), Tax Code, to provide that, notwithstanding anything contained herein to the contrary, a home is an improvement to real property only under certain conditions, including if a copy of the statement of ownership, rather than a certified copy of the statement of ownership and location, has been filed with the real property records of the county in which the home is located as provided in Section 1201.2055(d), Occupations Code.

SECTION 80. Amends Section 11.432(a), Tax Code, as follows:

(a) Requires that the application for exemption required by Section 11.43 (Application for Exemption), except as provided by Subsection (a-1) (relating to the authorized verification of home ownership by an appraisal district using certain computer records), for a home to qualify as a residence homestead under Section 11.13 (Residence Homestead), be accompanied by:

(1) a copy of the statement of ownership for the home, rather than a copy of the statement of ownership and location for the home, issued by the division under Section 1201.207, Occupations Code, showing that the individual applying for the exemption is the owner of the home;

(2) a copy of the sales purchase agreement or other applicable contract or agreement or the payment receipt showing that the applicant is the purchaser of the home; or

(3) a sworn affidavit by the applicant stating that:

(A) makes no changes to this paragraph;

(B) the seller of the home did not provide the applicant with the applicable contract or agreement, rather than the seller of the home did not provide the applicant with a purchase contract; and

(C) makes no changes to this paragraph.

SECTION 81. Amends Section 23.127(a), Tax Code, by amending Subdivisions (3) and (9) to redefine “declaration” and “retail manufactured housing inventory.”

SECTION 82. Amends Section 23.127, Tax Code, by adding Subsection (m), to require a chief appraiser, except as provided by Subsection (d) (relating to the appraisal of personal property held by a retailer), to appraise retail manufactured housing inventory in the manner provided by this section (Retail Manufactured Housing Inventory; Value).

SECTION 83. Amends Section 25.08(e), Tax Code, as follows:

(e) Requires that a home be listed together with the land on which the home is located if:

(1) the statement of ownership for the home issued under Section 1201.207, Occupations Code, rather than the statement of ownership and location for a home issued under Section 1201.207, Occupations Code, reflects that the owner has elected to treat the home as real property; and

(2) a copy of the statement of ownership, rather than a certified copy of the statement of ownership and location, has been filed in the real property records in the county in which the home is located.

SECTION 84. Amends Section 32.03(b), Tax Code, to provide that a bona fide purchaser for value or the holder of a lien recorded on a home statement of ownership, rather than recorded on a home statement of ownership and location, is not required to pay any taxes that have not been recorded with TDHCA.

SECTION 85. Repealers: Sections 1201.003(16) (relating to defining “lease-purchase”) and (31) (relating to defining “trust fund”); Section 1201.058(b) (relating to requiring that ten dollars of certain fees be deposited to the credit of the trust fund and used for certain programs); Sections 1201.206(i) (relating to requiring a certain notice to be accompanied by certain documents under certain circumstances), (i-1) (relating to authorizing TDHCA to adopt a discounted fee for the filing of the notice of installation under certain circumstances), and (j) (relating to requiring TDHCA to provide the tax collector one copy of any requested notice of installation in addition to providing each chief appraiser a certain report); Section 1201.210(d) (relating to requiring TDHCA to place a hold on certain activities until a revocation or suspension has become final); Sections 1201.303(c) (relating to requiring the director to establish a third-party installation inspection program to provide a certain function on or after January 1, 2015, and under certain conditions), (d) (relating to the requirements of the third-party installation inspection program), (e) (relating to requiring TDHCA to submit a certain report relating to the inspection of homes to certain entities not later than January 1, 2015), (f) (relating to requiring the director to adopt certain rules not later than December 1, 2015, under certain conditions relating to the inspection

of homes), and (g) (relating to providing that certain subsections expire September 1, 2016 if TDHCA is not required to establish a third-party installation program); Section 1201.402 (Administration of Trust Fund); Section 1201.403 (Amount Reserved in Trust Fund; Payment of Costs); and Section 1201.611(h) (relating to requiring that a certain penalty be deposited in the trust fund).

SECTION 86. Effective date: September 1, 2017.