

Chapter 408

H.B. No. 2019

1 AN ACT
2 relating to the regulation of manufactured homes.

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

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

8 (1) "Advertisement" means a commercial message that
9 promotes the sale or[~~7~~] exchange[~~7~~, ~~or~~ ~~lease-purchase~~] of a
10 manufactured home and that is presented on radio, television, a
11 public-address system, or electronic media or appears in a
12 newspaper, a magazine, a flyer, a catalog, direct mail literature,
13 an inside or outside sign or window display, point-of-sale
14 literature, a price tag, or other printed material. The term does
15 not include educational material or material required by law.

16 (6) "Broker" means a person engaged by one or more
17 other persons to negotiate or offer to negotiate a bargain or
18 contract for the sale or[~~7~~] exchange[~~7~~, ~~or~~ ~~lease-purchase~~] of a
19 manufactured home for which a certificate or other document of
20 title has been issued and is outstanding. The term does not
21 include a person who maintains a location for the display of
22 manufactured homes.

23 (7) "Business use" means the use of a manufactured
24 home in conjunction with operating a business, for a purpose other

1 than as a permanent or temporary residential dwelling.

2 (8) "Consumer" means a person, other than a person
3 licensed under this chapter, who seeks to acquire or acquires by
4 purchase or [7] exchange [~~7~~ ~~or lease-purchase~~] a manufactured home.

5 (9-a) "Credit transaction" has the meaning assigned by
6 Section 347.002(a)(3), Finance Code.

7 (19) "Manufacturer" means a person who constructs or
8 assembles manufactured housing for sale or [7] exchange [~~7~~ ~~or~~
9 ~~lease-purchase~~] in this state.

10 (21-a) "Nonresidential use" means use of a
11 manufactured home for a purpose other than as a permanent or
12 temporary residential dwelling.

13 (23) "Related person" means a person who:

14 (A) directly [~~or indirectly~~] participates in
15 management or policy decisions; and

16 (B) is designated by an entity and satisfies the
17 requirements of Sections 1201.104 and 1201.113 on behalf of the
18 entity, if the entity is licensed or seeking licensure under this
19 chapter.

20 (24) "Retailer" means a person who:

21 (A) is engaged in the business of buying for
22 resale, selling, or exchanging manufactured homes or offering
23 manufactured homes for sale or [7] exchange [~~7~~ ~~or lease-purchase~~] to
24 consumers, including a person who maintains a location for the
25 display of manufactured homes; and

26 (B) sells or [7] exchanges [~~7~~ ~~or lease-purchases~~]
27 at least two manufactured homes to consumers in a 12-month period.

1 (26) "Salesperson" means a person who, as an employee
2 or agent of a retailer or broker, sells [~~or lease-purchases~~] or
3 offers to sell [~~or lease-purchase~~] manufactured housing to a
4 consumer.

5 (26-a) "Sales purchase contract" means the contract
6 between a retailer and a consumer for the purchase of a manufactured
7 home from the retailer.

8 (30) "Statement of ownership [~~and location~~]" means a
9 statement issued by the department and setting forth:

10 (A) the ownership [~~and location~~] of a
11 manufactured home in this state as provided by Section 1201.205;
12 and

13 (B) other information required by this chapter.

14 (32) "Used manufactured home" means a manufactured
15 home which has been occupied for any use or for which a statement of
16 ownership [~~and location~~] has been issued. The term does not
17 include:

18 (A) a manufactured home that was used as a sales
19 model at a licensed retail location; or

20 (B) a manufactured home that:

21 (i) was sold as a new manufactured home and
22 installed but never occupied;

23 (ii) had a statement of ownership [~~and~~
24 ~~location~~]; and

25 (iii) was taken back from the consumer or
26 transferee because of a first payment default or agreement to
27 rescind or unwind the transaction.

1 SECTION 2. Subchapter A, Chapter 1201, Occupations Code, is
2 amended by adding Section 1201.010 to read as follows:

3 Sec. 1201.010. ELECTRONIC PUBLIC RECORDS REQUIRED. The
4 department shall provide to the public through the department's
5 Internet website searchable and downloadable information regarding
6 manufactured home ownership records, lien records, installation
7 records, license holder records, and enforcement actions.

8 SECTION 3. Section 1201.054, Occupations Code, is amended
9 by adding Subsection (d) to read as follows:

10 (d) To maintain affordability of manufactured homes in this
11 state, the board shall:

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

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

18 SECTION 4. Section 1201.055(a), Occupations Code, is
19 amended to read as follows:

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

25 (1) if the department acts as a design approval
26 primary inspection agency, a schedule of fees for the review of
27 HUD-code manufactured home blueprints and supporting information,

1 to be paid by the manufacturer seeking approval of the blueprints
2 and supporting information;

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

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

10 (4) a fee for the inspection of the rebuilding of a
11 salvaged manufactured home, to be paid by the retailer;

12 (5) a fee for the inspection of a used manufactured
13 home to determine whether the home is habitable for the issuance of
14 a new statement of ownership [~~and location~~]; and

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

17 SECTION 5. Sections 1201.101(b), (c), and (g), Occupations
18 Code, are amended to read as follows:

19 (b) Except as otherwise provided by this chapter, a person
20 may not sell or [7] exchange, or [~~lease-purchase or~~] offer to sell
21 or [7] exchange, [~~or lease-purchase~~] two or more manufactured homes
22 to consumers in this state in a 12-month period unless the person
23 holds a retailer's license.

24 (c) A person may not offer to negotiate or negotiate for
25 others a bargain or contract for the sale or [7] exchange [~~or~~
26 ~~lease-purchase~~] of two or more manufactured homes to consumers in
27 this state in a 12-month period unless the person holds a broker's

1 license.

2 (g) A person may not make an announcement concerning the
3 sale or [7] exchange [~~7~~ ~~or lease purchase~~] of, or offer to sell or [7]
4 exchange [~~7~~ ~~or lease purchase~~], a manufactured home to a consumer in
5 this state through an advertisement unless the person holds a
6 manufacturer's, retailer's, or broker's license. This subsection
7 does not apply to:

8 (1) a person exempt from licensing; or

9 (2) an advertisement concerning real property on which
10 there is a manufactured home that has been converted to real
11 property in accordance with Section 1201.2055.

12 SECTION 6. Section 1201.102, Occupations Code, is amended
13 by adding Subsection (c-1) and amending Subsection (d) to read as
14 follows:

15 (c-1) An individual who is listed as an owner, principal,
16 partner, corporate officer, registered agent, or related person of
17 an entity that is licensed as a retailer or broker may act on behalf
18 of that license holder in the capacity of a retailer, broker, or
19 salesperson without holding the appropriate license if at least one
20 individual who is listed as an owner, principal, partner, corporate
21 officer, registered agent, or related person of the entity has
22 satisfied the requirements of Sections 1201.104 and 1201.113.

23 (d) A person who holds a real estate broker's or
24 salesperson's license under Chapter 1101 may act as a broker or
25 salesperson under this chapter without holding a license or filing
26 a bond or other security as required by this chapter if negotiations
27 for the sale or [7] exchange [~~7~~ ~~or lease purchase~~] of a manufactured

1 home are conducted for a consumer for whom the person is also acting
2 as a real estate broker or salesperson under Chapter 1101
3 consistent with Section 1201.007.

4 SECTION 7. Sections 1201.104(a-1), (a-2), and (h),
5 Occupations Code, are amended to read as follows:

6 (a-1) If the applicant is not an individual, the applicant
7 must have at least one related person who satisfies the
8 requirements of Subsection (a). If that applicant is applying for a
9 retailer's license, the related person must be a management
10 official who satisfies the requirements of Subsections (a) and
11 (a-2) for ~~at~~ each retail location operated by the applicant.

12 (a-2) An applicant for a retailer's license must complete
13 four hours of specialized instruction relevant to the sale and ~~[~~
14 exchange~~], and lease-purchase~~ of manufactured homes. The
15 instruction under this subsection is in addition to the instruction
16 required under Subsection (a).

17 (h) An examination must be a requirement of successful
18 completion of any initial required course of instruction under this
19 section. The period needed to complete an examination under this
20 subsection may not be used to satisfy the minimum education
21 requirements under Subsection (a), (a-2), (a-3), or (a-4). If the
22 examination failure rate exceeds 25 percent, the board shall:

23 (1) review the examination and the examination
24 procedures; and

25 (2) adopt rules intended to maintain the historical
26 passage rate for the examination.

27 SECTION 8. Section 1201.105(a), Occupations Code, is

1 amended to read as follows:

2 (a) The department may not issue or renew a license unless a
3 bond or other security in a form prescribed by the director is filed
4 with the department as provided by this subchapter. The bond or
5 other security is payable to the manufactured homeowner consumer
6 claims program [~~trust fund~~].

7 SECTION 9. Section 1201.106(a-1), Occupations Code, is
8 amended to read as follows:

9 (a-1) Notwithstanding the provisions of Subsection (a), the
10 director may require additional security for the licensing,
11 renewal, or relicensing of a person, or the sponsoring of a
12 salesperson, who, either directly, as a related person, or through
13 a related person, has been the subject of a license revocation, has
14 caused the manufactured homeowner consumer claims program [~~trust~~
15 ~~fund~~] to incur unreimbursed costs or liabilities in excess of
16 available surety bond coverage, or has failed to pay an
17 administrative penalty that has been assessed by final order.

18 SECTION 10. Sections 1201.107(b) and (d), Occupations Code,
19 are amended to read as follows:

20 (b) Property used for the business that is not contiguous
21 to, or located within 300 feet of, a bonded location requires a
22 separate bond. A location at which a manufactured home is shown to
23 the public or at which the home is offered for sale or [~~or~~] exchange [~~or~~
24 ~~or lease-purchase~~] by a retailer to consumers requires a bond.

25 (d) If a retailer or broker offers for sale or participates
26 in any way in the sale of a manufactured home at a location other
27 than an undivided parcel of real property where more than one

1 manufactured home is located and offered for sale or[7] exchange[7]
2 ~~or lease-purchase~~] by a retailer or broker to the public, the
3 retailer or broker must:

4 (1) identify the bond on file with the department in
5 conjunction with that person's license; and

6 (2) provide contractually in the sales transaction
7 that the identified bond applies to the sale.

8 SECTION 11. Section 1201.111(a), Occupations Code, is
9 amended to read as follows:

10 (a) Notwithstanding any other provision of this chapter, a
11 state or national bank, state or federal savings and loan
12 association, federal savings bank, or state or federal credit union
13 engaged in the business of selling or[7] exchanging, [~~or~~
14 ~~lease-purchasing~~] or offering for sale or[7] exchange, [~~or~~
15 ~~lease-purchase~~] manufactured homes that the institution has
16 acquired through repossession of collateral is not required to
17 attend a course of instruction or file a bond or other security to
18 be licensed as a retailer.

19 SECTION 12. The heading to Section 1201.113, Occupations
20 Code, is amended to read as follows:

21 Sec. 1201.113. [~~CERTIFICATION AND~~] CONTINUING EDUCATION
22 PROGRAMS.

23 SECTION 13. Section 1201.113, Occupations Code, is amended
24 by amending Subsections (a) and (b) and adding Subsection (d) to
25 read as follows:

26 (a) The board shall approve [~~or administer~~] continuing
27 education programs for licensees under this chapter. A continuing

1 education program must be at least eight hours long and must include
2 the current rules of the department and such other matters as the
3 board may deem relevant.

4 (b) Completion of an approved [~~or administered~~] continuing
5 education program [~~course~~] described by Subsection (a) is a
6 prerequisite to renewal of a license.

7 (d) If the approval of a continuing education program
8 expires between regularly scheduled board meetings, the director
9 may, on receipt of the required renewal application, fee, and
10 necessary documentation of education material, approve the
11 continued administration of the program until the next board
12 meeting.

13 SECTION 14. Section 1201.118, Occupations Code, is amended
14 to read as follows:

15 Sec. 1201.118. RULES RELATING TO CERTAIN PERSONS. The
16 board shall adopt rules providing for additional review and
17 scrutiny of any application for an initial or renewal license that
18 involves a person who has previously:

19 (1) been found in a final order to have participated in
20 one or more violations of this chapter that served as grounds for
21 the suspension or revocation of a license;

22 (2) been found to have engaged in activity subject to
23 this chapter without possessing the required license;

24 (3) caused the manufactured homeowner consumer claims
25 program [~~trust fund~~] to incur unreimbursed payments or claims; or

26 (4) failed to abide by the terms of a final order,
27 including the payment of any assessed administrative penalties.

1 SECTION 15. Section 1201.151, Occupations Code, is amended
2 by amending Subsection (e) and adding Subsection (f) to read as
3 follows:

4 (e) A deposit becomes a down payment upon execution of a
5 sales purchase contract [~~binding written agreement~~]. Thereafter,
6 if the consumer exercises the consumer's three-day [~~a~~] right of
7 rescission in accordance with Section 1201.1521, the retailer
8 shall, not later than the 15th day after the date of the rescission,
9 refund to the consumer all money and other consideration received
10 from the consumer, with only the allowable [~~without offset or~~]
11 deduction for real property appraisal and title work expenses in
12 accordance with Section 1201.1511.

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

17 SECTION 16. Subchapter D, Chapter 1201, Occupations Code,
18 is amended by adding Section 1201.1511 to read as follows:

19 Sec. 1201.1511. REAL PROPERTY APPRAISAL AND TITLE WORK
20 EXPENSES. (a) Notwithstanding Section 1201.151 or 1201.1521, a
21 retailer may collect from a consumer in advance or deduct from the
22 consumer's deposit or down payment any expenses incurred by the
23 retailer if, after receiving a conditional notification of approval
24 from a lender chosen by the consumer, the consumer:

25 (1) contracts with the retailer to arrange for
26 services that are performed by an appraiser of real property or a
27 title company in connection with real property that will be

1 included in the purchase or exchange or is intended to be pledged by
2 the consumer as collateral for the consumer's purchase or exchange
3 of a manufactured home;

4 (2) is provided notice of laws relating to rescission
5 and real property appraisal and title work expenses before signing
6 the contract for real property appraisal and title work services;
7 and

8 (3) is provided an itemized list of the specific real
9 property appraisal and title work expenses incurred by the
10 retailer.

11 (b) A retailer may not charge to the consumer any fees or
12 expenses other than the real property appraisal and title work
13 expenses disclosed to the consumer under Subsection (a)(3).

14 (c) The department may demand copies of contracts,
15 invoices, receipts, or other proof of any real property appraisal
16 and title work expenses retained by a retailer.

17 SECTION 17. Section 1201.152(a), Occupations Code, is
18 amended to read as follows:

19 (a) If a retailer purchases a new manufactured home from an
20 unlicensed manufacturer in violation of Section 1201.505, a
21 consumer's contract with the retailer for the purchase or[~~or~~]
22 exchange[~~or lease-purchase~~] of the home is voidable until the
23 second anniversary of the date of purchase or[~~or~~]
24 exchange[~~or lease-purchase~~] of the home.

25 SECTION 18. Section 1201.1521, Occupations Code, is amended
26 to read as follows:

27 Sec. 1201.1521. RESCISSION OF CONTRACT FOR SALE OR[~~or~~]

1 EXCHANGE [~~OR LEASE-PURCHASE~~] OF HOME. (a) A person who acquires a
2 manufactured home from or through a licensee by purchase or [~~7~~]
3 exchange [~~or lease-purchase~~] may, in a cash transaction occurring
4 not later than the third day after the date the sales purchase
5 [~~applicable~~] contract is signed, rescind the contract without
6 penalty or charge other than the real property appraisal and title
7 work expenses incurred in accordance with Section 1201.1511.

8 (b) A person who acquires a manufactured home from or
9 through a licensee by purchase or exchange may, in a transfer that
10 is based wholly or partly on a credit transaction occurring not
11 later than the third day after the date of the signing of the
12 binding note, security agreement, or other financing credit
13 contract with respect to which the consumer's purchased
14 manufactured home will serve as collateral for the credit
15 transaction, rescind the contract without penalty or charge other
16 than the real property appraisal and title work expenses incurred
17 in accordance with Section 1201.1511.

18 (c) [~~(b)~~] Subject to rules adopted by the board, a consumer
19 may waive a right of rescission in the event of a bona fide
20 emergency. Such rules shall, to the extent practical, be modeled on
21 the federal rules for the waiver of a right of rescission under 12
22 C.F.R. Part 1026 [~~226~~].

23 SECTION 19. Section 1201.156, Occupations Code, is amended
24 to read as follows:

25 Sec. 1201.156. ADVERTISEMENT AS OFFER. An advertisement
26 relating to manufactured housing is an offer to sell or [~~7~~]
27 exchange [~~or lease-purchase~~] manufactured housing to consumers.

1 SECTION 20. Section 1201.157, Occupations Code, is amended
2 to read as follows:

3 Sec. 1201.157. RETAILER AS WAREHOUSE [~~WAREHOUSEMAN~~]. (a)
4 With respect to the storage of manufactured homes for hire, a [A]
5 licensed retailer is:

6 (1) a "warehouse" [~~"warehouseman"~~] as defined by
7 Section 7.102, Business & Commerce Code; and

8 (2) a "warehouseman" under Chapter 24, Property Code
9 [~~, for the storage of manufactured homes for hire~~].

10 (b) The provisions of the Business & Commerce Code relating
11 to the storage of goods for hire apply to a licensed retailer acting
12 as a warehouse [~~warehouseman~~].

13 (c) A licensed retailer acting as a warehouse and
14 warehouseman satisfies all storage, bonding, insurance, public
15 sale, and security requirements if the storage of a manufactured
16 home occurs on the retailer's lot and the home is secured in the
17 same manner the retailer secures a manufactured home held on the lot
18 as inventory.

19 (d) In accordance with the provisions of Section 7.210,
20 Business & Commerce Code, a licensed retailer acting as a warehouse
21 to enforce a warehouse's lien is considered to have sold a
22 manufactured home in a commercially reasonable manner if the
23 retailer sells the manufactured home in the same manner the
24 retailer would sell a manufactured home at retail.

25 SECTION 21. Section 1201.162(a), Occupations Code, is
26 amended to read as follows:

27 (a) Before the completion of a credit application or more

1 than one day before entering into any agreement for a sale or[~~7~~]
2 exchange[~~7, or the exercise of the lease purchase option~~] that will
3 not be financed, the retailer must provide to the consumer a written
4 disclosure in the form promulgated by the board. The disclosure
5 shall be in at least 12-point type and must address matters of
6 concern relating to costs and obligations that may be associated
7 with home ownership, matters to be considered in making financing
8 decisions, related costs that may arise when purchasing a
9 manufactured home, and such other matters as the board may deem
10 appropriate to promote informed purchase, financing, and related
11 decisions regarding the acquisition and ownership of a manufactured
12 home. The form shall also conspicuously disclose the consumer's
13 right of rescission.

14 SECTION 22. Section 1201.164, Occupations Code, is amended
15 to read as follows:

16 Sec. 1201.164. ADVANCE COPY OF SALES PURCHASE CONTRACT AND
17 DISCLOSURE STATEMENTS; OFFER BY RETAILER. (a) In a transaction
18 that is to be financed and that will not be subject to the federal
19 Real Estate Settlement Procedures Act of 1974 (Pub. L. No. 93-533)
20 and its implementing regulations, a retailer shall deliver to a
21 consumer at least 24 hours before the sales purchase contract is
22 fully executed the contract, with all required information
23 included, signed by the retailer. The delivery of the contract,
24 with all required information included, signed by the retailer
25 constitutes a firm offer by the retailer. Except as provided for by
26 [~~in~~] Subsection (b), the consumer may accept the offer not earlier
27 than 24 hours after the delivery of the contract. If the consumer

1 has not accepted the offer within 72 hours after the delivery of the
2 contract, the retailer may withdraw the offer.

3 (b) Before the execution of the sales purchase contract, the
4 ~~[The]~~ consumer may modify or waive the right to rescind and the
5 deadlines for disclosures ~~[before the execution of the contract]~~
6 that are provided by Subsection (a) if the consumer determines that
7 the purchase of the manufactured home is needed to meet a bona fide
8 personal emergency. If the consumer has a bona fide personal
9 emergency that necessitates the immediate purchase of the
10 manufactured home, the consumer shall give the retailer a dated
11 written statement that describes the emergency, specifically
12 modifies or waives the notice periods and any right of rescission,
13 and bears the signature of all of the consumers entitled to the
14 disclosures and right of rescission. In such event the retailer
15 shall immediately give the consumer all of the disclosures required
16 by this code and sell the manufactured home without the required
17 waiting periods or the right of rescission. The department shall
18 verify with the consumer the consumer's bona fide personal
19 emergency before issuing the statement of ownership ~~[Printed forms~~
20 ~~for this purpose are prohibited except in a county that has been~~
21 ~~declared by the governor to be a major disaster area. If the~~
22 ~~governor declares a county to be a major disaster area, the retailer~~
23 ~~may use printed forms promulgated by the department. This~~
24 ~~exception shall expire one year after the county has been declared a~~
25 ~~major disaster area].~~

26 SECTION 23. The heading to Subchapter E, Chapter 1201,
27 Occupations Code, is amended to read as follows:

1 SUBCHAPTER E. MANUFACTURED HOME STATEMENTS OF OWNERSHIP [~~AND~~
2 LOCATION]

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

6 (1) "Certificate of attachment" means a written
7 instrument issued solely by and under the authority of the director
8 before September 1, 2001, that provides the information required by
9 former Section 19(1), Texas Manufactured Housing Standards Act
10 (Article 5221f, Vernon's Texas Civil Statutes), as that subsection
11 existed before that date. Beginning September 1, 2003, a
12 certificate of attachment is considered to be a statement of
13 ownership and may be exchanged for a statement of ownership as
14 provided by Section 1201.214.

15 (1-a) "Debtor" has the meaning assigned by Section
16 9.102, Business & Commerce Code.

17 (2) "Document of title" means a written instrument
18 issued solely by and under the authority of the director before
19 September 1, 2003, that provides the information required by
20 Section 1201.205, as that section existed before that date.
21 Beginning September 1, 2003, a document of title is considered to be
22 a statement of ownership [~~and location~~] and may be exchanged for a
23 statement of ownership [~~and location~~] as provided by Section
24 1201.214.

25 (3) "First retail sale" means a consumer's initial
26 acquisition of a new manufactured home from a retailer by purchase
27 or [~~]~~ exchange [~~, or lease-purchase~~]. The term includes a bargain,

1 sale, transfer, or delivery of a manufactured home for which the
2 director has not previously issued a statement of ownership [~~and~~
3 ~~location~~], with intent to pass an interest in the home, other than a
4 lien.

5 (5) "Inventory" means new and used manufactured homes
6 that:

7 (A) a retailer has designated as the retailer's
8 inventory for sale pursuant to the process implemented by the
9 department; and

10 (B) are not used as residential dwellings when so
11 designated [~~has the meaning assigned by Section 9.102, Business &~~
12 ~~Commerce Code~~].

13 (11) "Subsequent sale" means a bargain, sale,
14 transfer, or delivery of a manufactured home, with intent to pass an
15 interest in the home, other than a lien, from one person to another
16 after the first retail sale and initial issuance of a statement of
17 ownership [~~and location~~].

18 SECTION 25. Section 1201.203, Occupations Code, is amended
19 to read as follows:

20 Sec. 1201.203. FORMS; RULES. (a) The board shall adopt
21 rules and forms relating to:

22 (1) the manufacturer's certificate;

23 (2) the statement of ownership [~~and location~~];

24 (3) the application for a statement of ownership [~~and~~
25 ~~location~~]; and

26 (4) the issuance of an initial or revised statement of
27 ownership.

1 (b) The board shall adopt rules for the documenting of the
2 ownership [~~and location~~] of a manufactured home that has been
3 previously owned in this state or another state. The rules must
4 protect a lienholder recorded with the department.

5 SECTION 26. Sections 1201.204(a) and (c), Occupations Code,
6 are amended to read as follows:

7 (a) A manufacturer's certificate must show:

8 (1) on a form prescribed by the director, the original
9 transfer of a manufactured home from the manufacturer to the
10 retailer; and

11 (2) on a form prescribed by the director, each
12 subsequent transfer of a manufactured home between retailers and
13 from retailer to owner, if the transfer from retailer to owner
14 involves a completed application for the issuance of a statement of
15 ownership [~~and location~~].

16 (c) After the first retail sale of a manufactured home, the
17 retailer must submit the original manufacturer's certificate for
18 that home to the department. If an application for an initial
19 statement of ownership is made without the required manufacturer's
20 certificate and the retailer does not provide it as required, the
21 department shall, on or before the issuance of the requested
22 statement of ownership [~~and location~~], send written notice to each
23 party currently reflected on the department's records as having a
24 recorded lien on the inventory of that retailer with respect to that
25 home. Failure to include the original manufacturer's certificate
26 with such an application does not impair a consumer's ability to
27 obtain, on submittal of an otherwise complete application, a

1 statement of ownership [~~and location~~] free and clear of any liens
2 other than liens created by or consented to by the consumer.

3 SECTION 27. Section 1201.205, Occupations Code, is amended
4 to read as follows:

5 Sec. 1201.205. STATEMENT OF OWNERSHIP [~~AND LOCATION~~] FORM.
6 A statement of ownership [~~and location~~] must be evidenced by a
7 board-approved form issued by the department setting forth:

8 (1) the name and address of the seller and the name
9 and, if it is different from the location of the home, the mailing
10 address of the new owner;

11 (2) the manufacturer's name and address and any model
12 designation, if available;

13 (3) in accordance with the board's rules:

14 (A) the outside dimensions of the manufactured
15 home when installed for occupancy, as measured to the nearest
16 one-half foot at the base of the home, exclusive of the tongue or
17 other towing device; and

18 (B) the approximate square footage of the home
19 when installed for occupancy;

20 (4) the identification number for each section or
21 module of the home;

22 (5) the physical address where the home is installed
23 for occupancy, including the name of the county, and, if it is
24 different from the physical address, the mailing address of the
25 owner of the home;

26 (6) in chronological order of recordation, the date of
27 each lien, other than a tax lien, on the home and the name and

1 address of each lienholder, or, if a lien is not recorded, a
2 statement of that fact;

3 (7) a statement regarding tax liens as follows:

4 "On January 1st of each year, a new tax lien comes into
5 existence on a manufactured home in favor of each taxing unit having
6 jurisdiction where the home is actually located on January 1st. In
7 order to be enforced, any such lien must be recorded with the Texas
8 Department of Housing and Community Affairs - Manufactured Housing
9 Division as provided by law. You may check that division's records
10 through its website or contact that division to learn any recorded
11 tax liens. To find out about the amount of any unpaid tax
12 liabilities, contact the tax office for the county where the home
13 was actually located on January 1st of that year.";

14 (8) a statement that if two or more eligible persons,
15 as determined by Section 1201.213, file with the application for
16 the issuance of a statement of ownership [~~and location~~] an
17 agreement signed by all the persons providing that the home is to be
18 held jointly with a right of survivorship, the director shall issue
19 the statement of ownership [~~and location~~] in all the names;

20 (9) the location of the home;

21 (10) a statement of whether the owner has elected to
22 treat the home as real property [~~or personal property~~];

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

26 (12) any other information the board requires.

27 SECTION 28. Sections 1201.2055(a), (c), (d), (e), (g), and

1 (i), Occupations Code, are amended to read as follows:

2 (a) In completing an application for the issuance of a
3 statement of ownership [~~and location~~], an owner of a manufactured
4 home shall indicate whether the owner elects to treat the home as
5 [~~personal property or~~] real property. An owner may elect to treat a
6 manufactured home as real property only if the home is attached to:

7 (1) real property that is owned by the owner of the
8 home; or

9 (2) land leased to the owner of the home under a
10 long-term lease, as defined by department rule.

11 (c) If the department issues a statement of ownership [~~and~~
12 ~~location~~] to an owner of a manufactured home treated as personal
13 property [~~who has elected to treat a manufactured home as personal~~
14 ~~property~~], the statement of ownership [~~and location~~] on file with
15 the department is evidence of ownership of the home. A lien,
16 charge, or other encumbrance on a home treated as personal property
17 may be made only by filing the appropriate document with the
18 department.

19 (d) If an owner elects to treat a manufactured home as real
20 property, the department shall issue to the owner a [~~certified~~]
21 copy of the statement of ownership [~~and location~~] that on its face
22 reflects that the owner has elected to treat the manufactured home
23 as real property at the location listed on the statement. Not later
24 than the 60th day after the date the department issues a [~~certified~~]
25 copy of the statement of ownership [~~and location~~] to the owner, the
26 owner must:

27 (1) file the [~~certified~~] copy in the real property

1 records of the county in which the home is located; and

2 (2) notify the department and the chief appraiser of
3 the applicable appraisal district that the [~~certified~~] copy has
4 been filed.

5 (e) A real property election for a manufactured home is not
6 considered to be perfected until a [~~certified~~] copy of the
7 statement of ownership [~~and location~~] has been filed and the
8 department and the chief appraiser of the applicable appraisal
9 district have been notified of the filing as provided by Subsection
10 (d).

11 (g) After a real property election is perfected under
12 Subsection (e):

13 (1) the home is considered to be real property for all
14 purposes; and

15 (2) no additional issuance of a statement of ownership
16 [~~and location~~] is required with respect to the manufactured home,
17 unless:

18 (A) the home is moved from the location specified
19 on the statement of ownership [~~and location~~];

20 (B) the real property election is changed; or

21 (C) the use of the property is changed as
22 described by Section 1201.216.

23 (i) Notwithstanding the 60-day deadline specified in
24 Subsection (d), if the closing of a mortgage loan to be secured by
25 real property including the manufactured home is held, the loan is
26 funded, and a deed of trust covering the real property and all
27 improvements on the property is recorded and the licensed title

1 company or attorney who closed the loan failed to complete the
2 conversion to real property in accordance with this chapter, the
3 holder or servicer of the loan may apply for a statement of
4 ownership [~~and location~~] electing real property status, obtain a
5 [~~certified~~] copy of the statement of ownership [~~and location~~], and
6 make the necessary filings and notifications to complete such
7 conversion at any time provided that:

8 (1) the record owner of the home, as reflected on the
9 department's records, has been given at least 60 days' prior written
10 notice at:

11 (A) the location of the home and, if it is
12 different, the mailing address of the owner as specified in the
13 department records; and

14 (B) any other location the holder or servicer
15 knows or believes, after a reasonable inquiry, to be an address
16 where the owner may have been or is receiving mail or is an address
17 of record;

18 (2) such notification shall be given by certified
19 mail; and

20 (3) the department by rule shall require evidence that
21 the holder or servicer requesting such after-the-fact completion of
22 a real property election has complied with the requirements of this
23 subsection.

24 SECTION 29. The heading to Section 1201.206, Occupations
25 Code, is amended to read as follows:

26 Sec. 1201.206. APPLICATION FOR ISSUANCE OF STATEMENT OF
27 OWNERSHIP [~~AND LOCATION~~].

1 SECTION 30. Sections 1201.206(a), (b), (c), (e), (f), (g),
2 (h), and (k), Occupations Code, are amended to read as follows:

3 (a) At the first retail sale of a manufactured home, the
4 retailer shall provide for the installation of the home and ensure
5 that the application for the issuance of a statement of ownership
6 [~~and location~~] is properly completed. The consumer shall return
7 the completed application to the retailer. In accordance with
8 Section 1201.204, the retailer shall surrender to the department
9 the original manufacturer's statement of origin at the same time
10 that the retailer applies for the first statement of ownership [~~and~~
11 ~~location~~].

12 (b) Not later than the 60th day after the date of the retail
13 sale, the retailer shall provide to the department the completed
14 application for the issuance of a statement of ownership [~~and~~
15 ~~location~~]. If for any reason the retailer does not timely comply
16 with the requirements of this subsection, the consumer may apply
17 for the issuance of the statement.

18 (c) Not later than the 60th day after the date of each
19 subsequent sale or transfer of a home that is considered to be
20 personal property, the seller or transferor shall provide to the
21 department a completed application for the issuance of a new
22 statement of ownership [~~and location~~]. If for any reason the seller
23 or transferor does not timely comply with the requirements of this
24 subsection, the consumer may apply for the issuance of the
25 statement.

26 (e) Ownership of a manufactured home does not pass or vest
27 at a sale or transfer of the home until a completed application for

1 the issuance of a statement of ownership [~~and location~~] is filed
2 with the department.

3 (f) If the owner of a manufactured home relocates the home,
4 the owner shall apply for the issuance of a new statement of
5 ownership [~~and location~~] not later than the 60th day after the date
6 the home is relocated. The department shall require that the owner
7 submit evidence that the home was relocated in accordance with the
8 requirements of the Texas Department of Motor Vehicles.

9 (g) When an application is filed for the issuance of a
10 statement of ownership [~~and location~~] for a used manufactured home
11 that is not in a retailer's inventory or is being converted from
12 personal property to real property in accordance with Section
13 1201.2075 [~~is filed~~], a statement from the tax assessor-collector
14 for the taxing unit having power to tax the manufactured home shall
15 also be filed with the department. The statement from the tax
16 assessor-collector must indicate that, with respect to each January
17 1 occurring in the 18-month period preceding the date of the sale,
18 there are no perfected and enforceable tax liens on the
19 manufactured home that have not been extinguished and canceled in
20 accordance with Section 32.015, Tax Code, or personal property
21 taxes due on the manufactured home [~~that may have accrued on each~~
22 January 1 that falls within the 18 months before the date of the
23 sale].

24 (h) If a person selling a manufactured home to a consumer
25 for residential use fails to file with the department the
26 application for the issuance of a statement of ownership [~~and~~
27 ~~location~~] and the appropriate filing fee before the 61st day after

1 the date of the sale, the department may assess a fee of at least
2 \$100 against the seller. The department shall have the authority to
3 enforce the collection of any fee from the seller through judicial
4 means. The department shall place on the application for the
5 issuance of a statement of ownership [~~and location~~] the following
6 legend in a clear and conspicuous manner:

7 "THE FILING OF AN APPLICATION FOR THE ISSUANCE OF A STATEMENT
8 OF OWNERSHIP [~~AND LOCATION~~] LATER THAN SIXTY (60) DAYS AFTER THE
9 DATE OF A SALE TO A CONSUMER FOR RESIDENTIAL USE MAY RESULT IN A FEE
10 OF UP TO ONE HUNDRED DOLLARS (\$100.00). ANY SUCH APPLICATION THAT
11 IS SUBMITTED LATE MAY BE DELAYED UNTIL THE FEE IS PAID IN FULL."

12 (k) Notwithstanding any provision in this chapter to the
13 contrary, if a person has acquired a manufactured home and the owner
14 of record or any intervening owners of liens or equitable interests
15 cannot be located to assist in documenting the chain of title, the
16 department may issue a statement of ownership [~~and location~~] to the
17 person claiming ownership if the person can provide a supporting
18 affidavit describing the chain of title and such reasonable
19 supporting proof as the director may require.

20 SECTION 31. The heading to Section 1201.207, Occupations
21 Code, is amended to read as follows:

22 Sec. 1201.207. ISSUANCE OF STATEMENT OF OWNERSHIP [~~AND~~
23 ~~LOCATION~~].

24 SECTION 32. Sections 1201.207(a), (a-1), (b), (c), and (d),
25 Occupations Code, are amended to read as follows:

26 (a) Except as provided for in Subsection (a-1), the
27 department shall process any completed application for the issuance

1 of a statement of ownership [~~and location~~] not later than the 15th
2 working day after the date the application is received by the
3 department. If the department rejects an application, the
4 department shall provide a clear and complete explanation of the
5 reason for the rejection and instructions on how to cure any
6 defects, if possible.

7 (a-1) For the period immediately following June 30 of each
8 year, the department shall, except for applications relating to new
9 manufactured homes and applications accompanied by a tax
10 certificate, cease issuing statements of ownership [~~and location~~]
11 until all tax liens filed with the department before June 30 have
12 been processed and either recorded or rejected. During this period
13 the department will post on its Internet website a notice as to when
14 it is anticipated that processing statements of ownership [~~and~~
15 ~~location~~] will resume and when it is anticipated that such
16 processing will be within the 15-working-day time frame provided by
17 Subsection (a).

18 (b) If the department issues a statement of ownership [~~and~~
19 ~~location~~] for a manufactured home, the department shall maintain a
20 record of the issuance in its electronic records and shall mail a
21 copy to the owner and each lienholder. The department shall make
22 available to the public on the department's Internet website in a
23 searchable and downloadable format all ownership and lienholder
24 information contained on the statement of ownership.

25 (c) Except with respect to any change in use, servicing of a
26 loan on a manufactured home, release of a lien on a manufactured
27 home by an authorized lienholder, or change in ownership of a lien

1 on a manufactured home, but subject to Section 1201.2075, if the
2 department has issued a statement of ownership [~~and location~~] for a
3 manufactured home, the department may issue a subsequent statement
4 of ownership [~~and location~~] for the home only if all parties
5 reflected in the department's records as having an interest in the
6 manufactured home give their written consent or release their
7 interest, either in writing or by operation of law, or the
8 department has followed the procedures provided by Section
9 1201.206(k) to document ownership and lien status. Once the
10 department issues a statement of ownership [~~and location~~], the
11 department shall not alter the record of the ownership or lien
12 status, other than to change the record to accurately reflect the
13 proper owner's or lienholder's identity or to release a lien if an
14 authorized lienholder files with the department a request for that
15 release, of a manufactured home for any activity occurring before
16 the issuance of the statement of ownership [~~and location~~] without
17 either the written permission of the owner of record for the
18 manufactured home, their legal representative, or a court order.

19 (d) Notwithstanding any other provision of this chapter, if
20 the consumer purchases a new manufactured home from a licensed
21 retailer in the ordinary course of business, whether or not a
22 statement of ownership [~~and location~~] has been issued for the
23 manufactured home, the consumer is a bona fide purchaser for value
24 without notice and is entitled to ownership of the manufactured
25 home free and clear of all liens and to a statement of ownership
26 [~~and location~~] reflecting the same on payment by the consumer of the
27 purchase price to the retailer. If there is an existing lien on the

1 new manufactured home perfected with the department, the owner of
2 the lien is entitled to recover the value of the lien from the
3 retailer.

4 SECTION 33. Section 1201.2075, Occupations Code, is amended
5 to read as follows:

6 Sec. 1201.2075. CONVERSION FROM PERSONAL PROPERTY TO REAL
7 PROPERTY. (a) Except as provided by Subsection (b) or Section
8 1201.206(k), the department may not issue a statement of ownership
9 [~~and location~~] for a manufactured home that is being converted from
10 personal property to real property until:

11 (1) each lien on the home is released by the
12 lienholder; or

13 (2) each lienholder gives written consent, to be
14 placed on file with the department.

15 (b) The department may issue a statement of ownership [~~and~~
16 ~~location~~] before the release of any liens or before receiving the
17 consent of any lienholders as required by this section, or without
18 receiving the statement required by Section 1201.206(g), if the
19 department releases a [~~certified~~] copy of the statement to:

20 (1) a licensed title insurance company that has issued
21 a commitment to issue a title insurance policy covering all prior
22 liens on the home in connection with a loan that the title company
23 has closed; or

24 (2) a federally insured financial institution or
25 licensed attorney who has obtained from a licensed title insurance
26 company a title insurance policy covering all prior liens on the
27 home.

1 SECTION 34. Section 1201.2076, Occupations Code, is amended
2 by amending Subsection (a) and adding Subsection (a-1) to read as
3 follows:

4 (a) The department may not issue a statement of ownership
5 [~~and location~~] for a manufactured home that is being converted from
6 real property to personal property until the department has
7 inspected the home and determined that it is habitable and:

8 (1) each lien, including a tax lien, on the home is
9 released by the lienholder; or

10 (2) each lienholder, including a taxing unit, gives
11 written consent, to be placed on file with the department.

12 (a-1) Notwithstanding Subsection (a), the department may
13 not require an inspection for habitability before issuing a
14 statement of ownership with respect to a manufactured home if the
15 home is being sold to or ownership is otherwise being transferred to
16 a retailer. The department remains subject to the other
17 requirements of Subsection (a).

18 SECTION 35. Section 1201.208, Occupations Code, is amended
19 to read as follows:

20 Sec. 1201.208. PAYMENT OF TAXES REQUIRED FOR ISSUANCE OF
21 STATEMENT OF OWNERSHIP [~~AND LOCATION~~]. (a) Any licensee who sells
22 or [~~7~~] exchanges [~~7 or lease-purchased~~] a new manufactured home to
23 any consumer is responsible for the payment of all required sales
24 and use tax on such home.

25 (b) If it is determined that a new manufactured home was
26 sold or [~~7~~] exchanged [~~7 or lease-purchased~~] without the required
27 sales and use tax being paid, the payment shall be made from the

1 fund, up to the available penal amount of the licensee's bond or the
2 remaining balance of the security for the license, and a claim for
3 reimbursement shall be filed with the licensee's surety or the
4 amount deducted from the security for the license.

5 SECTION 36. Section 1201.209, Occupations Code, is amended
6 to read as follows:

7 Sec. 1201.209. GROUNDS FOR REFUSAL TO ISSUE OR FOR
8 SUSPENSION OR REVOCATION OF STATEMENT OF OWNERSHIP [~~AND LOCATION~~].

9 The department may not refuse to issue a statement of ownership [~~and~~
10 ~~location~~] and may not suspend or revoke a statement of ownership
11 [~~and location~~] unless:

12 (1) the application for issuance of the statement of
13 ownership [~~and location~~] contains a false or fraudulent statement,
14 the applicant failed to provide information required by the
15 director, or the applicant is not entitled to issuance of the
16 statement of ownership [~~and location~~];

17 (2) the director has reason to believe that the
18 manufactured home is stolen or unlawfully converted, or the
19 issuance of a statement of ownership [~~and location~~] would defraud
20 the owner or a lienholder of the manufactured home;

21 (3) the director has reason to believe that the
22 manufactured home is salvaged, and an application for the issuance
23 of a new statement of ownership [~~and location~~] that indicates that
24 the home is salvaged has not been filed;

25 (4) the required fee has not been paid;

26 (5) the state sales and use tax has not been paid in
27 accordance with Chapter 158, Tax Code, and Section 1201.208; or

1 (6) a tax lien was filed and recorded under Section
2 1201.219 and the lien has not been extinguished.

3 SECTION 37. The heading to Section 1201.210, Occupations
4 Code, is amended to read as follows:

5 Sec. 1201.210. PROCEDURE FOR REFUSAL TO ISSUE OR SUSPENSION
6 OR REVOCATION OF STATEMENT OF OWNERSHIP [~~AND LOCATION~~].

7 SECTION 38. Section 1201.210(a), Occupations Code, is
8 amended to read as follows:

9 (a) If the director refuses to issue or suspends or revokes
10 a statement of ownership [~~and location~~], the director shall give,
11 by certified mail, written notice of that action to:

12 (1) the seller and purchaser or transferor and
13 transferee, as applicable; and

14 (2) the holder of a lien or security interest of
15 record.

16 SECTION 39. Section 1201.212, Occupations Code, is amended
17 to read as follows:

18 Sec. 1201.212. TRANSFER OF OWNERSHIP BY OPERATION OF LAW.

19 (a) If the ownership of a manufactured home in this state is
20 transferred by inheritance, devise, or bequest, by bankruptcy,
21 receivership, judicial sale, or other involuntary divestiture of
22 ownership, or by any other operation of law, the department shall
23 issue a new statement of ownership [~~and location~~] after receiving a
24 [~~certified~~] copy of:

25 (1) the order or bill of sale from an officer making a
26 judicial sale;

27 (2) the order appointing a temporary administrator;

- 1 (3) the probate proceedings;
2 (4) the letters testamentary or the letters of
3 administration; or
4 (5) if administration of an estate is not necessary,
5 an affidavit by all of the heirs at law showing:

- 6 (A) that administration is not necessary; and
7 (B) the name in which the statement of ownership
8 ~~[and location]~~ should be issued.

9 (b) The department may issue a new statement of ownership
10 ~~[and location]~~ in the name of the purchaser at a foreclosure sale:

11 (1) for a lien or security interest foreclosed
12 according to law by nonjudicial means, if the lienholder or secured
13 party files an affidavit showing the nonjudicial foreclosure
14 according to law; or

15 (2) for a foreclosed constitutional or statutory lien,
16 if the person entitled to the lien files an affidavit showing the
17 creation of the lien and the resulting divestiture of title
18 according to law.

19 (c) The department shall issue a new statement of ownership
20 ~~[and location]~~ to a survivor if:

21 (1) an agreement providing for a right of survivorship
22 is signed by two or more eligible persons, as determined under
23 Section 1201.213; and

24 (2) on the death of one of the persons, the department
25 is provided with a copy of the death certificate of that person.

26 SECTION 40. Section 1201.213(b), Occupations Code, is
27 amended to read as follows:

1 (b) If the statement of ownership [~~and location~~] is being
2 issued in connection with the sale of the home, the seller is not
3 eligible to sign a right of survivorship agreement under this
4 subchapter unless the seller is the child, grandchild, parent,
5 grandparent, or sibling of each other person signing the agreement.
6 A family relationship required by this subsection may be a
7 relationship established by adoption.

8 SECTION 41. Section 1201.214, Occupations Code, is amended
9 to read as follows:

10 Sec. 1201.214. DOCUMENT OF TITLE; CERTIFICATE OF ATTACHMENT.

11 (a) Effective September 1, 2003, all outstanding documents of
12 title or certificates of attachment are considered to be statements
13 of ownership [~~and location~~].

14 (b) An owner or lienholder may provide to the department a
15 document of title or certificate of attachment and any additional
16 information required by the department and request that the
17 department issue a statement of ownership [~~and location~~] to replace
18 the document of title or certificate of attachment. The department
19 shall mail to the owner or lienholder a copy of the statement of
20 ownership [~~and location~~] issued under this subsection.

21 SECTION 42. Section 1201.216, Occupations Code, is amended
22 to read as follows:

23 Sec. 1201.216. CHANGE IN USE. (a) If the owner of a
24 manufactured home notifies the department that the owner intends to
25 treat the home as real property or intends to treat the home as a
26 salvaged manufactured home or reserve the home [~~its use~~] for a
27 business use [~~purpose~~] or another nonresidential use [~~salvage~~], the

1 department shall indicate on the statement of ownership [~~and~~
2 ~~location~~] for the home that:

3 (1) the owner of the home has elected to treat the home
4 as described by this subsection [~~as real property or to reserve its~~
5 ~~use for a business purpose or salvage~~]; and

6 (2) except as provided by Section 1201.2055(h), the
7 home is no longer a manufactured home for purposes of regulation
8 under this chapter or of recordation of liens, including tax liens.

9 (b) On application and subject to Sections 1201.2076 and
10 1201.209, the department shall issue for the structure described in
11 the application a new statement of ownership [~~and location~~]
12 restoring the structure's designation as a manufactured home only
13 after an inspection and determination that the structure is
14 habitable as provided by Section 1201.453.

15 SECTION 43. Section 1201.217, Occupations Code, is amended
16 by amending Subsections (b), (d), and (e) and adding Subsections
17 (d-1) and (g) to read as follows:

18 (b) Before declaring a manufactured home abandoned, the
19 owner of real property on which the home is located must send a
20 notice of intent to declare the home abandoned to the record owner
21 of the home, all lienholders at the addresses listed on the home's
22 statement of ownership [~~and location~~] on file with the department,
23 the tax collector for each taxing unit that imposes ad valorem taxes
24 on the real property where the home is located, and any intervening
25 owners of liens or equitable interests. The notice must include
26 the address where the home is currently located. If the person
27 giving such notice knows that a person to whom the notice is being

1 given no longer resides and is no longer receiving mail at a known
2 address, a reasonable effort shall be made to locate the person and
3 give the person notice at an address where the person is receiving
4 mail. Mailing of the notice by certified mail, return receipt
5 requested, postage prepaid, to the persons required to be notified
6 by this subsection constitutes conclusive proof of compliance with
7 this subsection.

8 (d) If the manufactured home remains on the real property
9 for at least 45 days after the date the notice is postmarked:

10 (1) all liens on the home are extinguished; and

11 (2) the real property owner may declare the home
12 abandoned and may apply to the department for a statement of
13 ownership [~~and location~~] listing the real property owner as the
14 owner of the manufactured home.

15 (d-1) When applying for a statement of ownership under this
16 section, the real property owner shall include with the application
17 an affidavit stating that:

18 (1) the person owns the real property where the
19 manufactured home is located; and

20 (2) the name of the person to whom title to the home
21 will be transferred under this section is the same name that is
22 listed in the real property or tax records indicating the current
23 ownership of the real property.

24 (e) A new statement of ownership [~~and location~~] issued by
25 the department under this section transfers, free of any liens, if
26 there is evidence of United States Postal Service return receipt
27 from all lienholders, title to the manufactured home to the real

1 property owner.

2 (g) Notwithstanding Subsection (f), an owner of real
3 property on which a manufactured home has been abandoned may apply
4 for a new statement of ownership with respect to a home that was
5 previously declared abandoned and then resold and abandoned again.

6 SECTION 44. Section 1201.219(h), Occupations Code, is
7 amended to read as follows:

8 (h) The department shall remove from a manufactured home's
9 statement of ownership [~~and location~~] a reference to any tax lien
10 delinquent more than four years for which no suit has been timely
11 filed in accordance with Section 33.05(a)(1), Tax Code, if:

12 (1) a tax collector confirms no suit has been filed; or

13 (2) the department:

14 (A) has submitted to a tax collector two requests
15 under Subsection (g) sent not fewer than 15 days apart; and

16 (B) has not received any response from the tax
17 collector before the 60th day after the tax collector's receipt of
18 the second request.

19 SECTION 45. Section 1201.220, Occupations Code, is amended
20 to read as follows:

21 Sec. 1201.220. REPORT TO CHIEF APPRAISER. (a) The
22 department shall make available in electronic format, or in
23 hard-copy format on request, to each chief appraiser of an
24 appraisal district in this state a monthly report that, for each
25 manufactured home reported as having been installed during the
26 preceding month in the county for which the district was
27 established and for each manufactured home previously installed in

1 the county for which a transfer of ownership was recorded by the
2 issuance of a statement of ownership [~~and location~~] during the
3 preceding month, lists:

4 (1) the name of the owner of the home;

5 (2) the name of the manufacturer of the home, if
6 available;

7 (3) the model designation of the home, if available;

8 (4) the identification number of each section or
9 module of the home;

10 (5) the address or location where the home was
11 reported as installed; and

12 (6) the reported date of the installation of the home.

13 (b) The department shall make the report required by this
14 section available to the public on the department's Internet
15 website in a searchable and downloadable format.

16 SECTION 46. Section 1201.221(b), Occupations Code, is
17 amended to read as follows:

18 (b) A request under Subsection (a) must contain:

19 (1) the name of the owner of the home as reflected on
20 the statement of ownership [~~and location~~]; or

21 (2) the identification number of the home.

22 SECTION 47. Section 1201.222(a), Occupations Code, is
23 amended to read as follows:

24 (a) A manufactured home is treated as real property only if:

25 (1) the owner of the home has elected to treat the home
26 as real property as provided by Section 1201.2055; and

27 (2) a [~~certified~~] copy of the statement of ownership

1 [~~and location~~] for the home has been filed in the real property
2 records of the county in which the home is located.

3 SECTION 48. Section 1201.255(a), Occupations Code, is
4 amended to read as follows:

5 (a) Except as authorized under Section 1201.252,
6 manufactured housing that is installed must be installed in
7 compliance with the standards and rules adopted and orders issued
8 by the department. An uninstalled manufactured home may not be
9 occupied for any purpose other than to view the home on a retailer's
10 sales lot.

11 SECTION 49. Section 1201.358(d), Occupations Code, is
12 amended to read as follows:

13 (d) A manufacturer, retailer, or installer entitled to
14 indemnification under this section is a consumer for purposes of
15 Subchapter I and may recover actual damages from the manufactured
16 homeowner consumer claims program [~~trust fund~~].

17 SECTION 50. Section 1201.360(a), Occupations Code, is
18 amended to read as follows:

19 (a) The seller of real property to which a new HUD-code
20 manufactured home is permanently attached may give the initial
21 purchaser a written warranty that combines the manufacturer's
22 warranty and the retailer's warranty required by this subchapter
23 if:

24 (1) the statement of ownership [~~and location~~] reflects
25 that the owner has elected to treat the home as real property;

26 (2) the home is actually located where the statement
27 of ownership [~~and location~~] reflects that it is located; and

1 (3) a [~~certified~~] copy of the statement of ownership
2 [~~and location~~] has been filed in the real property records for the
3 county in which the home is located.

4 SECTION 51. The heading to Subchapter I, Chapter 1201,
5 Occupations Code, is amended to read as follows:

6 SUBCHAPTER I. MANUFACTURED HOMEOWNER CONSUMER CLAIMS PROGRAM
7 [~~HOMEOWNERS' RECOVERY TRUST FUND~~]

8 SECTION 52. Section 1201.401, Occupations Code, is amended
9 to read as follows:

10 Sec. 1201.401. MANUFACTURED HOMEOWNER CONSUMER CLAIMS
11 PROGRAM [~~HOMEOWNERS' RECOVERY TRUST FUND~~]. (a) The department
12 shall administer the manufactured homeowner consumer claims
13 program to provide a remedy for damages resulting from prohibited
14 conduct by a person licensed under this chapter [~~homeowners'~~
15 ~~recovery trust fund is an account in the general revenue fund~~].

16 (b) The department may make a payment under the manufactured
17 homeowner consumer claims program only after all other departmental
18 operating expenses are sufficiently funded.

19 SECTION 53. Section 1201.404, Occupations Code, is amended
20 to read as follows:

21 Sec. 1201.404. CONSUMER COMPENSATION. (a) Except as
22 otherwise provided by Subchapter C, a payment made under the
23 manufactured homeowner consumer claims program [~~the trust fund~~]
24 shall be paid directly to a consumer or, at the director's option,
25 to a third party on behalf of a consumer to compensate a consumer
26 who sustains actual damages resulting from an unsatisfied claim
27 against a licensed manufacturer, retailer, broker, or installer if

1 the unsatisfied claim results from a violation of:

2 (1) this chapter;

3 (2) a rule adopted by the director;

4 (3) the National Manufactured Housing Construction
5 and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.);

6 (4) a rule or regulation of the United States
7 Department of Housing and Urban Development; or

8 (5) Subchapter E, Chapter 17, Business & Commerce
9 Code.

10 (b) The department is [~~trust fund and the director are~~] not
11 liable to the consumer if the manufactured homeowner consumer
12 claims program [~~trust fund~~] does not have the money necessary to pay
13 the actual damages determined to be payable. The director shall
14 record the date and time of receipt of each verified complaint and,
15 as money becomes available, pay the consumer whose claim is the
16 earliest by date and time to have been found to be verified and
17 properly payable.

18 SECTION 54. Sections 1201.405(c), (d), (f), and (g),
19 Occupations Code, are amended to read as follows:

20 (c) Under the manufactured homeowner consumer claims
21 program, the department [~~The trust fund~~] is not liable for and the
22 director may not pay:

23 (1) punitive, exemplary, double, or treble damages; or

24 (2) damages for pain and suffering, mental anguish,
25 emotional distress, or other analogous tort claims.

26 (d) Notwithstanding other provisions of this subchapter,
27 this subchapter does not apply to, and a consumer may not recover

1 through the manufactured homeowner consumer claims program
2 ~~[against the trust fund]~~ as a result of, a claim against a license
3 holder that results from a cause of action directly related to the
4 sale, ~~[lease-purchase]~~ exchange, brokerage, or installation of a
5 manufactured home before September 1, 1987.

6 (f) Under the manufactured homeowner consumer claims
7 program, the department ~~[The trust fund]~~ is not liable for and the
8 director may not pay:

9 (1) actual damages to reimburse an affiliate or
10 related person of a licensee, except when the director issues an
11 order under Sections 1201.358(b) and (c);

12 (2) actual damages to correct matters that are solely
13 cosmetic in nature;

14 (3) for attorney's fees; or

15 (4) actual damages to address other matters, unless
16 the matters involve:

17 (A) a breach of warranty;

18 (B) a failure to return or apply as agreed money
19 received from a consumer or money for which the consumer was
20 obligated; ~~[or]~~

21 (C) the breach of an agreement to provide goods
22 or services necessary to the safe and habitable use of a
23 manufactured home such as steps, air conditioning, access to
24 utilities, or access to sewage and wastewater treatment; or

25 (D) perfected and enforceable tax liens not
26 extinguished and canceled in accordance with Section 32.015, Tax
27 Code.

1 (g) The board by rule may place reasonable limits on the
2 costs that may be approved for payment under the manufactured
3 homeowner consumer claims program [~~from the trust fund~~], including
4 the costs of reassigned warranty work, and require consumers making
5 claims that may be subject to reimbursement under the manufactured
6 homeowner consumer claims program [~~from the trust fund~~] to provide
7 estimates establishing that the cost will be reasonable. Such
8 rules may also specify such procedures and requirements as the
9 board may deem necessary and advisable for the administration of
10 the manufactured homeowner consumer claims program [~~trust fund~~].

11 SECTION 55. The heading to Section 1201.406, Occupations
12 Code, is amended to read as follows:

13 Sec. 1201.406. PROCEDURE FOR RECOVERY UNDER MANUFACTURED
14 HOMEOWNER CONSUMER CLAIMS PROGRAM [~~FROM TRUST FUND~~].

15 SECTION 56. Section 1201.406(a), Occupations Code, is
16 amended to read as follows:

17 (a) To recover under the manufactured homeowner consumer
18 claims program [~~from the trust fund~~], a consumer must file a
19 written, sworn complaint in the form required by the director not
20 later than the second anniversary of:

21 (1) the date of the alleged act or omission causing the
22 actual damages; or

23 (2) the date the act or omission is discovered or
24 should reasonably have been discovered.

25 SECTION 57. Sections 1201.409(a) and (c), Occupations Code,
26 are amended to read as follows:

27 (a) Except as otherwise provided by Subchapter C, the

1 manufactured homeowner consumer claims program [~~trust fund~~] shall
2 be reimbursed by the surety on a bond or from other security filed
3 under Subchapter C for the amount of a claim that is paid out under
4 the manufactured homeowner consumer claims program [~~of the trust~~
5 ~~fund~~] by the director to a consumer in accordance with this
6 subchapter.

7 (c) If payment to the manufactured homeowner consumer
8 claims program [~~trust fund~~] of a claim is not made by the surety or
9 from the other security in a timely manner, the attorney general
10 shall file suit for recovery of the amount due the manufactured
11 homeowner consumer claims program [~~trust fund~~]. Venue for the suit
12 is in Travis County.

13 SECTION 58. Section 1201.410, Occupations Code, is amended
14 to read as follows:

15 Sec. 1201.410. INFORMATION ON RECOVERY UNDER MANUFACTURED
16 HOMEOWNER CONSUMER CLAIMS PROGRAM [~~FROM TRUST FUND~~]. The director
17 shall prepare information for notifying consumers of their rights
18 to recover under the manufactured homeowner consumer claims program
19 [~~from the trust fund~~], shall post the information on the
20 department's website, and shall make printed copies available on
21 request.

22 SECTION 59. Section 1201.451, Occupations Code, is amended
23 to read as follows:

24 Sec. 1201.451. TRANSFER OF GOOD AND MARKETABLE TITLE
25 REQUIRED. (a) Except as otherwise provided by this subchapter, a
26 person may not sell or[~~7~~] exchange[~~7~~, ~~or lease-purchase~~] a used
27 manufactured home without the appropriate transfer of good and

1 marketable title to the home.

2 (b) Not later than the 60th day after the effective date of
3 the transfer of ownership or the date the seller or transferor
4 obtains possession of the necessary and properly executed
5 documents, the seller or transferor shall forward to the purchaser
6 or transferee the necessary, executed documents. If the seller or
7 transferor fails to forward the documents on a timely basis, the
8 purchaser or transferee may apply directly for the documents. On
9 receipt of the documents, the purchaser or transferee shall apply
10 for the issuance of a statement of ownership [~~and location~~].

11 SECTION 60. Section 1201.452(a), Occupations Code, is
12 amended to read as follows:

13 (a) Except as otherwise provided by this subchapter, a
14 person may not sell or[~~7~~] exchange[~~7~~, ~~or~~ ~~lease-purchase~~] or
15 negotiate for the sale or[~~7~~] exchange[~~7~~, ~~or~~ ~~lease-purchase~~] of a
16 used manufactured home to a consumer unless the appropriate seal or
17 label is attached to the home.

18 SECTION 61. Section 1201.455, Occupations Code, is amended
19 to read as follows:

20 Sec. 1201.455. WRITTEN DISCLOSURE AND WARRANTY OF
21 HABITABILITY REQUIRED. (a) Except as otherwise provided by this
22 subchapter, a person may not sell or[~~7~~] exchange[~~7~~, ~~or~~
23 ~~lease-purchase~~] a used manufactured home to a consumer for use as a
24 dwelling without providing:

25 (1) a written disclosure, on a form not to exceed two
26 pages prescribed by the department, describing the condition of the
27 home and of any appliances that are included in the home; and

1 (2) a written warranty that the home is and will remain
2 habitable until the 60th day after the later of the installation
3 date or the date of the purchase agreement.

4 (b) Unless, not later than the 65th day after the later of
5 the installation date or the date of the sale or[7] exchange[~~7~~~~or~~
6 ~~lease-purchase agreement~~], the consumer notifies the seller in
7 writing of a defect that makes the home not habitable, any
8 obligation or liability of the seller under this subchapter is
9 terminated. The warranty must conspicuously disclose that notice
10 requirement to the consumer.

11 SECTION 62. Section 1201.456, Occupations Code, is amended
12 to read as follows:

13 Sec. 1201.456. HABITABILITY: EXCEPTION TO WARRANTY
14 REQUIREMENT. The warranty requirement imposed by Section 1201.455
15 does not apply to a sale or[7] exchange[~~7~~~~or lease-purchase~~] of a
16 used manufactured home from one consumer to another.

17 SECTION 63. Section 1201.457, Occupations Code, is amended
18 to read as follows:

19 Sec. 1201.457. HABITABILITY: CHANGE TO OR FROM
20 NONRESIDENTIAL [~~BUSINESS~~] USE OR SALVAGE. (a) If the sale or[7]
21 exchange[~~7~~~~or lease-purchase~~] of a used manufactured home is to a
22 purchaser for the purchaser's business use, the home is not
23 required to be habitable unless the purchaser discloses to the
24 retailer in writing at the time of purchase that the purchaser
25 intends for a person to be present in the home for regularly
26 scheduled work shifts of not less than eight hours each day. The
27 purchaser of the home shall file with the department an application

1 for the issuance of a statement of ownership [~~and location~~]
2 indicating that the home is reserved for a business use.

3 (a-1) If the sale or exchange of a used manufactured home is
4 for the purchaser's nonresidential use other than a business use,
5 the home is not required to be habitable. The purchaser of the home
6 shall file with the department an application for the issuance of a
7 statement of ownership indicating that the home is for a
8 nonresidential use other than a business use.

9 (b) If a used manufactured home is reserved for a business
10 use or another nonresidential use or is salvaged, a person may not
11 knowingly allow any person to occupy or use the home as a dwelling
12 unless the director issues a new statement of ownership [~~and~~
13 ~~location~~] indicating that the home is no longer reserved for that
14 [~~business~~] use or is no longer salvaged [~~salvage~~]. On the
15 purchaser's application to the department for issuance of a new
16 statement of ownership [~~and location~~], the department shall inspect
17 the home and, if the department determines that the home is
18 habitable, issue a new statement of ownership [~~and location~~].

19 SECTION 64. Section 1201.459(c), Occupations Code, is
20 amended to read as follows:

21 (c) A seal issued to a tax appraiser or tax
22 assessor-collector is for identification purposes only and does not
23 imply that:

24 (1) the home is habitable; or

25 (2) a purchaser of the home at a tax sale may obtain a
26 new statement of ownership [~~and location~~] from the department
27 without an inspection for habitability.

1 SECTION 65. Section 1201.460, Occupations Code, is amended
2 to read as follows:

3 Sec. 1201.460. COMPLIANCE NOT REQUIRED FOR LIENHOLDER. (a)
4 A holder of a lien recorded on the statement of ownership [~~and~~
5 ~~location~~] of a manufactured home that has not been converted to real
6 property who sells or[~~7~~] exchanges[~~7~~, ~~or~~ ~~lease-purchases~~] a
7 repossessed manufactured home covered by that statement of
8 ownership [~~and~~ ~~location~~] is not required to comply with this
9 chapter if the sale or[~~7~~] exchange[~~7~~, ~~or~~ ~~lease-purchase~~] is:

- 10 (1) to or through a licensed retailer; or
11 (2) to a purchaser for the purchaser's business use or
12 another nonresidential use.

13 (b) If the sale or[~~7~~] exchange[~~7~~, ~~or~~ ~~lease-purchase~~] of the
14 repossessed manufactured home is to or through a licensed retailer,
15 the retailer is responsible and liable for compliance with this
16 chapter and department rules. The lienholder may not be joined as a
17 party in any litigation relating to the sale or[~~7~~] exchange[~~7~~, ~~or~~
18 ~~lease-purchase~~] of the home.

19 (c) If the sale or[~~7~~] exchange[~~7~~, ~~or~~ ~~lease-purchase~~] of the
20 repossessed manufactured home is to a purchaser for the purchaser's
21 business use or another nonresidential use, the lienholder shall
22 apply to the department for the issuance of a new statement of
23 ownership [~~and~~ ~~location~~] indicating that the home is reserved for a
24 business use or another nonresidential use.

25 SECTION 66. Sections 1201.461(b), (c), (e), (f), and (h),
26 Occupations Code, are amended to read as follows:

27 (b) A person who owns a used manufactured home that is

1 salvaged shall apply to the director for the issuance of a new
2 statement of ownership [~~and location~~] that indicates that the home
3 is salvaged.

4 (c) If a new manufactured home is salvaged, the retailer
5 shall remove the label and surrender the label and the
6 manufacturer's certificate under Section 1201.204 to the director
7 for issuance of a statement of ownership [~~and location~~] that
8 indicates that the home is salvaged.

9 (e) A person may not repair, rebuild, or otherwise refurbish
10 [~~alter~~] a salvaged manufactured home unless the person complies
11 with the rules of the director relating to rebuilding a salvaged
12 manufactured home. For purposes of this subsection, "refurbish"
13 means any general repairs, improvements, or aesthetic changes to a
14 manufactured home that do not constitute the rebuilding of a
15 salvaged manufactured home.

16 (f) If a salvaged manufactured home is rebuilt in accordance
17 with this chapter and the rules of the director, the director shall,
18 on application, issue a new statement of ownership [~~and location~~]
19 that indicates that the home is no longer salvaged.

20 (h) A licensee may not participate in the sale, exchange,
21 [~~lease-purchase,~~] or installation for use as a dwelling of a
22 manufactured home that is salvage and that has not been repaired in
23 accordance with this chapter and the department's rules. An act
24 that is prohibited by this subsection is deemed to be a practice
25 that constitutes an imminent threat to health or safety and is
26 subject to the imposition of penalties and other sanctions provided
27 for by this chapter. A violation of this subsection is a Class B

1 misdemeanor.

2 SECTION 67. Section 1201.504, Occupations Code, is amended
3 to read as follows:

4 Sec. 1201.504. PROHIBITED SALE OR[7] EXCHANGE [~~7~~—~~OR~~
5 ~~LEASE-PURCHASE~~]. (a) A manufacturer may not sell or[7] exchange,
6 [~~or lease-purchase~~] or offer to sell or[7] exchange, [~~or~~
7 ~~lease-purchase~~] a manufactured home to a person in this state who is
8 not a licensed retailer.

9 (b) A retailer may not sell or[7] exchange, [~~or~~
10 ~~lease-purchase~~] or offer to sell or[7] exchange, [~~or~~
11 ~~lease-purchase~~] a new HUD-code manufactured home that was
12 constructed by a manufacturer who was not licensed by the
13 department at the time of construction.

14 (c) A retailer, broker, or salesperson may not sell or[7]
15 exchange, [~~or lease-purchase~~] or offer to sell or [7] exchange, [~~or~~
16 ~~lease-purchase~~] a manufactured home to a consumer in this state for
17 use as a dwelling unless the appropriate seal or label is attached
18 to the home.

19 SECTION 68. Sections 1201.512(b) and (c), Occupations Code,
20 are amended to read as follows:

21 (b) Unless the retailer, broker, or salesperson complies
22 with the requirements of the National Flood Insurance Act of 1968
23 (42 U.S.C. Section 4001 et seq.), Subchapter I, Chapter 16, Water
24 Code, and any other applicable local, state, or federal law, and
25 ensures the consumer's compliance with applicable law by requiring
26 the evidence described by Subsection (c), a retailer, broker, or
27 salesperson who sells or[7] exchanges [~~7~~—~~or lease-purchases~~] a new

1 or used manufactured home to a consumer for use as a permanent
2 dwelling in this state may not:

3 (1) deliver or arrange for the delivery of the home to
4 a homesite in a special flood hazard area designated by the director
5 of the Federal Emergency Management Agency;

6 (2) install or arrange for the installation of the
7 home at a homesite in that area; or

8 (3) assist the consumer in the delivery or
9 installation of, or in making arrangements for the delivery or
10 installation of, the home to or at a homesite in that area.

11 (c) Before closing on the acquisition of a new or used
12 manufactured home for use as a permanent dwelling in this state, a
13 consumer seeking to acquire the home must provide to the retailer,
14 broker, or salesperson selling or[~~or~~] exchanging[~~or~~
15 ~~lease-purchasing~~] the home satisfactory evidence that the home will
16 not be located, in a manner that violates local, state, or federal
17 law, on a homesite in a special flood hazard area designated by the
18 director of the Federal Emergency Management Agency. A consumer
19 may satisfy the evidentiary requirement of this subsection by
20 providing the retailer, broker, or salesperson, as applicable, with
21 a copy of any required permit to install a septic tank on the
22 homesite.

23 SECTION 69. Section 1201.513(b), Occupations Code, is
24 amended to read as follows:

25 (b) A retailer may not knowingly permit a consumer to occupy
26 a manufactured home that is the subject of a sale or[~~or~~] exchange[~~or~~
27 ~~or lease-purchase~~] to that consumer before the closing of any

1 required financing unless the consumer is first given a form
2 adopted by the board disclosing that if for any reason the financing
3 does not close, the consumer may be required to vacate the home.

4 SECTION 70. Section 1201.551, Occupations Code, is amended
5 to read as follows:

6 Sec. 1201.551. DENIAL OF LICENSE; DISCIPLINARY ACTION. (a)
7 The director may deny, permanently revoke, or suspend for a
8 definite period and specified sales location or geographic area a
9 license if the director determines that the applicant or license
10 holder:

11 (1) knowingly and wilfully violated this chapter or a
12 rule adopted or order issued under this chapter;

13 (2) unlawfully retained or converted money, property,
14 or any other thing of value from a consumer in the form of a down
15 payment, sales or use tax, deposit, or insurance premium;

16 (3) failed repeatedly to file with the department a
17 completed application for a statement of ownership [~~and location~~]
18 before the 61st day after the date of the sale of a manufactured
19 home as required by Section 1201.206 or the date of the
20 installation, whichever occurred later;

21 (4) failed to give or breached a manufactured home
22 warranty required by this chapter or by the Federal Trade
23 Commission;

24 (5) engaged in a false, misleading, or deceptive act
25 or practice as described by Subchapter E, Chapter 17, Business &
26 Commerce Code;

27 (6) failed to provide or file a report required by the

1 department for the administration or enforcement of this chapter;

2 (7) provided false information on an application,
3 report, or other document filed with the department;

4 (8) acquired a criminal record during the five-year
5 period preceding the application date that, in the opinion of the
6 director, makes the applicant unfit for licensing;

7 (9) failed to file a bond or other security for each
8 location as required by Subchapter C; ~~[or]~~

9 (10) has had another license issued by this state
10 revoked or suspended; or

11 (11) failed to pay the required fee to obtain or renew
12 a license.

13 (b) The director may suspend or revoke a license if, after
14 receiving notice of a claim, the license holder or the license
15 holder's surety fails or refuses to pay a final claim paid under the
16 manufactured homeowner consumer claims program [~~from the trust~~
17 ~~fund~~] for which demand for reimbursement was made.

18 SECTION 71. Section 1201.6041(a), Occupations Code, is
19 amended to read as follows:

20 (a) Instead of requiring a consumer to apply for
21 compensation under the manufactured homeowner consumer claims
22 program [~~from the trust fund~~] under Subchapter I, the director may
23 order a manufacturer, retailer, broker, or installer, as
24 applicable, to pay a refund directly to a consumer who sustains
25 actual damages resulting from an unsatisfied claim against a
26 licensed manufacturer, retailer, broker, or installer if the
27 unsatisfied claim results from a violation of:

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

9 SECTION 72. Section 347.002(b), Finance Code, is amended to
10 read as follows:

11 (b) To the extent possible, a word or phrase used in this
12 chapter, other than a term defined by this section, has the meaning
13 assigned by the Truth in Lending [~~Part I, Consumer Credit~~
14 ~~Protection~~] Act (15 U.S.C. Section 1601 et seq.) and its subsequent
15 amendments, as implemented by Regulation Z (12 C.F.R. Part 1026)
16 [~~12 C.F.R. 226.1 et seq.~~].

17 SECTION 73. Section 347.004(a), Finance Code, is amended to
18 read as follows:

19 (a) A creditor shall comply with all applicable
20 requirements, including required disclosures, under the Truth in
21 Lending [~~Part I, Consumer Credit Protection~~] Act (15 U.S.C. Section
22 1601 et seq.) and its subsequent amendments, as implemented by
23 Regulation Z (12 C.F.R. Part 1026) [~~12 C.F.R. 226.1 et seq.~~
24 ~~(Regulation Z)~~] adopted under that Act.

25 SECTION 74. Section 347.056, Finance Code, is amended to
26 read as follows:

27 Sec. 347.056. AUTHORITY OF CONSUMER CREDIT COMMISSIONER

1 RELATING TO A CREDIT DOCUMENT. Except as provided by Section
2 347.004(a), the ~~[The]~~ commissioner may not require the inclusion of
3 any specific language or a disclosure on a credit document that is
4 not expressly required by:

- 5 (1) this chapter; or
6 (2) a regulation of the Office of the Comptroller of
7 the Currency ~~[Thrift Supervision]~~.

8 SECTION 75. Section 347.155(b), Finance Code, is amended to
9 read as follows:

10 (b) On prepayment, after deduction of an acquisition charge
11 that does not exceed \$50, the consumer is entitled to a refund
12 credit of the time price differential or interest. The amount of
13 the credit is computed on an actuarial basis in accordance with
14 regulations of the Office of the Comptroller of the Currency
15 ~~[Thrift Supervision]~~ adopted under the Depository Institutions
16 Deregulation and Monetary Control Act of 1980 (12 U.S.C. Section
17 1735f-7a ~~[4a]~~ et seq.) for the prepayment of a mortgage loan that is
18 secured by a first lien on a residential manufactured home.

19 SECTION 76. Section 347.356, Finance Code, is amended to
20 read as follows:

21 Sec. 347.356. REQUIREMENTS FOR ACTION TO REPOSSESS,
22 FORECLOSE, OR ACCELERATE PAYMENT OF ENTIRE DEBT. An action to
23 repossess a manufactured home, foreclose a lien on a manufactured
24 home, or accelerate payment of the entire unpaid balance of a credit
25 transaction must comply with the regulations of the Office of the
26 Comptroller of the Currency ~~[Thrift Supervision]~~ relating to the
27 disclosure required for repossession, foreclosure, or acceleration

1 except in extreme circumstances, including abandonment or
2 voluntary surrender of the manufactured home.

3 SECTION 77. Section 347.455(b), Finance Code, is amended to
4 read as follows:

5 (b) If the real property is included in the cash price of a
6 credit transaction, the creditor may:

7 (1) charge a fee that is ordinarily associated with a
8 real property transaction and is not prohibited by law, including a
9 fee that is associated with a real property transaction and
10 excluded from a finance charge under this chapter by the Consumer
11 Credit Protection Act (15 U.S.C. Section 1601 et seq.) and
12 Regulation Z (12 C.F.R. Part 1026) [~~12 C.F.R. Section 226.1 et seq.~~
13 ~~(Regulation Z)~~] adopted under that Act; and

14 (2) elect to treat the manufactured home as if it were
15 residential real property for all purposes in connection with the
16 credit transaction by conspicuously disclosing that election to the
17 consumer.

18 SECTION 78. Section 63.005(a), Property Code, is amended to
19 read as follows:

20 (a) A manufactured home becomes a new improvement to the
21 homestead of a family or of a single adult person upon the filing of
22 the appropriate statement of ownership [~~certificate of attachment~~]
23 as provided in Chapter 1201, Occupations Code. As such, if the debt
24 for the manufactured home was contracted for in writing, that debt
25 is considered to be for work and materials used in constructing new
26 improvements thereon and thus constitutes a valid lien on the
27 homestead when the appropriate statement of ownership [~~certificate~~

1 ~~of attachment~~] is filed in the Official Public Records of Real
2 Property in the county in which the land is located.

3 SECTION 79. Section 1.04(3-a), Tax Code, is amended to read
4 as follows:

5 (3-a) Notwithstanding anything contained herein to
6 the contrary, a manufactured home is an improvement to real
7 property only if the owner of the home has elected to treat the
8 manufactured home as real property pursuant to Section 1201.2055,
9 Occupations Code, and a [~~certified~~] copy of the statement of
10 ownership [~~and location~~] has been filed with the real property
11 records of the county in which the home is located as provided in
12 Section 1201.2055(d), Occupations Code.

13 SECTION 80. Section 11.432(a), Tax Code, is amended to read
14 as follows:

15 (a) Except as provided by Subsection (a-1), for a
16 manufactured home to qualify as a residence homestead under Section
17 11.13, the application for exemption required by Section 11.43 must
18 be accompanied by:

19 (1) a copy of the statement of ownership [~~and~~
20 ~~location~~] for the manufactured home issued by the manufactured
21 housing division of the Texas Department of Housing and Community
22 Affairs under Section 1201.207, Occupations Code, showing that the
23 individual applying for the exemption is the owner of the
24 manufactured home;

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

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

2 (A) the applicant is the owner of the
3 manufactured home;

4 (B) the seller of the manufactured home did not
5 provide the applicant with the applicable [a purchase] contract or
6 agreement; and

7 (C) the applicant could not locate the seller
8 after making a good faith effort.

9 SECTION 81. Section 23.127(a), Tax Code, is amended by
10 amending Subdivisions (3) and (9) to read as follows:

11 (3) "Declaration" means a retail manufactured housing
12 inventory declaration form adopted by the comptroller under this
13 section in relation to units of manufactured housing considered to
14 be retail manufactured housing inventory.

15 (9) "Retail manufactured housing inventory" means all
16 units of manufactured housing that a retailer holds for sale at
17 retail and that are defined as inventory by Section 1201.201,
18 Occupations Code.

19 SECTION 82. Section 23.127, Tax Code, is amended by adding
20 Subsection (m) to read as follows:

21 (m) Except as provided by Subsection (d), a chief appraiser
22 shall appraise retail manufactured housing inventory in the manner
23 provided by this section.

24 SECTION 83. Section 25.08(e), Tax Code, is amended to read
25 as follows:

26 (e) A manufactured home shall be listed together with the
27 land on which the home is located if:

1 (1) the statement of ownership [~~and location~~] for the
2 home issued under Section 1201.207, Occupations Code, reflects that
3 the owner has elected to treat the home as real property; and

4 (2) a [~~certified~~] copy of the statement of ownership
5 [~~and location~~] has been filed in the real property records in the
6 county in which the home is located.

7 SECTION 84. Section 32.03(b), Tax Code, is amended to read
8 as follows:

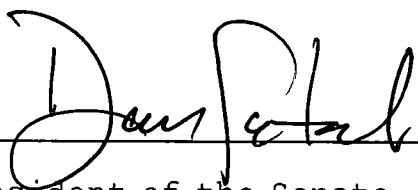
9 (b) A bona fide purchaser for value or the holder of a lien
10 recorded on a manufactured home statement of ownership [~~and~~
11 ~~location~~] is not required to pay any taxes that have not been
12 recorded with the Texas Department of Housing and Community
13 Affairs. In this section, manufactured home has the meaning
14 assigned by Section 32.015(b). Unless a tax lien has been filed
15 timely with the Texas Department of Housing and Community Affairs,
16 no taxing unit, nor anyone acting on its behalf, may use a tax
17 warrant or any other method to attempt to execute or foreclose on
18 the manufactured home.

19 SECTION 85. The following provisions of the Occupations Code
20 are repealed:

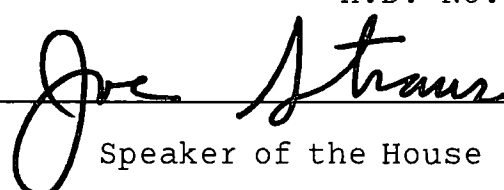
- 21 (1) Sections 1201.003(16) and (31);
22 (2) Section 1201.058(b);
23 (3) Sections 1201.206(i), (i-1), and (j);
24 (4) Section 1201.210(d);
25 (5) Sections 1201.303(c), (d), (e), (f), and (g);
26 (6) Section 1201.402;
27 (7) Section 1201.403; and

1 (8) Section 1201.611(h).

2 SECTION 86. This Act takes effect September 1, 2017.

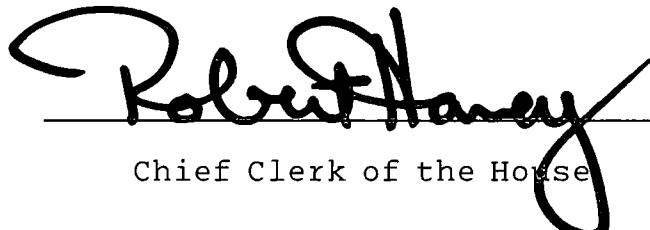


President of the Senate

H.B. No. 2019


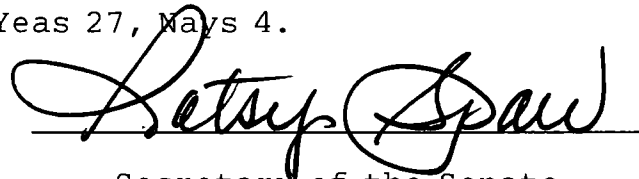
Speaker of the House

I certify that H.B. No. 2019 was passed by the House on April 25, 2017, by the following vote: Yeas 123, Nays 21, 2 present, not voting.



Chief Clerk of the House

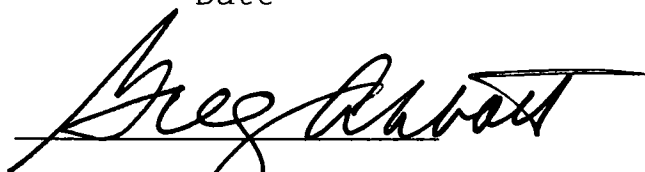
I certify that H.B. No. 2019 was passed by the Senate on May 19, 2017, by the following vote: Yeas 27, Nays 4.



Secretary of the Senate

APPROVED: 5-31-2017

Date



Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2:00 PM O'CLOCK

JUN 01 2017



Secretary of State

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 5, 2017

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2019 by King, Tracy O. (Relating to the regulation of manufactured homes.), As
Engrossed

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 1201 of the Occupations Code, relating to manufactured housing, to require the Texas Department of Housing and Community Affairs (TDHCA) - Manufactured Housing Division (MHD) to provide information to the public on its Internet website regarding manufactured home ownership records, lien records manufacturers' monthly shipment reports, and enforcement actions. The bill would require the Manufactured Housing Board to conduct a cost benefit analysis for any rule, process, or policy change that will increase a fee or other incurred cost by more than \$50 for license holders or consumers. The bill would repeal Occupations Code §§ 1201.402 and 1201.403 relating to the administration and payment of costs from the Manufactured Homeowners' Recovery Trust Fund and require MHD to administer a manufactured homeowner consumer claims program to provide a remedy for damages resulting from prohibited conduct by a person licensed under Chapter 1201. The bill would stipulate that MHD may make a payment under the manufactured homeowner consumer claims program only after all other MHD operating expenses are sufficiently funded.

The bill would take effect on September 1, 2017.

Based on the analysis of TDHCA and the Office of the Attorney General, it is assumed any costs or duties associated with implementing the provisions of the bill could be absorbed within existing resources.

The bill would repeal and replace statutory provisions related to the Manufactured Homeowners' Recovery Trust Fund with provisions that reflect the MHD's current process and method of financing for the payment of manufactured homeowner consumer claims. The Manufactured Homeowners' Recovery Trust Fund was inactivated in fiscal year 2002. The Comptroller's office indicates that the provisions of the bill repealing the trust fund and disposition of certain revenue to the fund would not impact the state's cash flows.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts,
332 Department of Housing and Community Affairs

LBB Staff: UP, CL, EH, SD, TG

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

Revision 1

April 13, 2017

TO: Honorable John Kuempel, Chair, House Committee on Licensing & Administrative Procedures

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2019 by King, Tracy O. (Relating to the regulation of manufactured homes.),
Committee Report 1st House, Substituted

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 1201 of the Occupations Code, relating to manufactured housing, to require the Texas Department of Housing and Community Affairs (TDHCA) - Manufactured Housing Division (MHD) to provide information to the public on its Internet website regarding manufactured home ownership records, lien records manufacturers' monthly shipment reports, and enforcement actions. The bill would require the Manufactured Housing Board to conduct a cost benefit analysis for any rule, process, or policy change that will increase a fee or other incurred cost by more than \$50 for license holders or consumers. The bill would repeal Occupations Code §§ 1201.402 and 1201.403 relating to the administration and payment of costs from the Manufactured Homeowners' Recovery Trust Fund and require MHD to administer a manufactured homeowner consumer claims program to provide a remedy for damages resulting from prohibited conduct by a person licensed under Chapter 1201. The bill would stipulate that MHD may make a payment under the manufactured homeowner consumer claims program only after all other MHD operating expenses are sufficiently funded.

The bill would take effect on September 1, 2017.

Based on the analysis of TDHCA and the Office of the Attorney General, it is assumed any costs or duties associated with implementing the provisions of the bill could be absorbed within existing resources.

The bill would repeal and replace statutory provisions related to the Manufactured Homeowners' Recovery Trust Fund with provisions that reflect the MHD's current process and method of financing for the payment of manufactured homeowner consumer claims. The Manufactured Homeowners' Recovery Trust Fund was inactivated in fiscal year 2002. The Comptroller's office indicates that the provisions of the bill repealing the trust fund and disposition of certain revenue to the fund would not impact the state's cash flows.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts,
332 Department of Housing and Community Affairs

LBB Staff: UP, CL, EH, SD, TG

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 6, 2017

TO: Honorable John Kuempel, Chair, House Committee on Licensing & Administrative Procedures

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2019 by King, Tracy O. (Relating to the regulation of manufactured homes.),
Committee Report 1st House, Substituted

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 1201 of the Occupations Code, relating to manufactured housing, to require the Texas Department of Housing and Community Affairs (TDHCA) - Manufactured Housing Division (MHD) to provide information to the public on its Internet website regarding manufactured home ownership records, lien records manufacturers' monthly shipment reports, and enforcement actions. The bill would require the Manufactured Housing Board to conduct a cost benefit analysis for any rule, process, or policy change that will increase a fee or other incurred cost by more than \$50 for license holders or consumers. The bill would repeal Occupations Code §§1201.402 and 1201.403 relating to the administration and payment of costs from the Manufactured Homeowners' Recovery Trust Fund and require MHD to administer a manufactured homeowner consumer claims program to provide a remedy for damages resulting from prohibited conduct by a person licensed under Chapter 1201. The bill would stipulate that MHD may make a payment under the manufactured homeowner consumer claims program only after all other MHD operating expenses are sufficiently funded.

The bill would take effect on September 1, 2017.

Based on the analysis of TDHCA and the Office of the Attorney General, it is assumed any costs or duties associated with implementing the provisions of the bill could be absorbed within existing resources.

The bill would repeal and replace statutory provisions related to the Manufactured Homeowners' Recovery Trust Fund with provisions that reflect the MHD's current process and method of financing for the payment of manufactured homeowner consumer claims. The Manufactured Homeowners' Recovery Trust Fund was inactivated in fiscal year 2002. The Comptroller's office indicates that the provisions of the bill repealing the trust fund and disposition of certain revenue to the fund would not impact the state's cash flows.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts,
332 Department of Housing and Community Affairs

LBB Staff: UP, CL, EH, TG

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION
Revision 1**

April 12, 2017

TO: Honorable John Kuempel, Chair, House Committee on Licensing & Administrative Procedures

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2019 by King, Tracy O. (Relating to the regulation of manufactured homes.), As Introduced

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 1201 of the Occupations Code, relating to manufactured housing, to require the Texas Department of Housing and Community Affairs (TDHCA) - Manufactured Housing Division (MHD) to provide information to the public on its Internet website regarding manufactured home ownership records, lien records manufacturers' monthly shipment reports, and enforcement actions. The bill would require the Manufactured Housing Board to conduct a cost benefit analysis for any rule, process, or policy change that will increase a fee or other incurred cost by more than \$50 for license holders or consumers. The bill would amend Section 1201.403 to require that the amount reserved in the Manufactured Homeowners' Recovery Trust Fund be determined by a specific appropriation made to TDHCA and allocated to the fund by the operating budget of the department. The bill would specify that if any part of MHD's operating budget is funded by appropriated receipts, the trust fund shall be funded out of appropriated receipts only after all other department operations have been sufficiently funded. The bill would repeal the requirement that \$10 of the fee for each purchase or exchange of a manufactured home be deposited to the credit of the trust fund. The bill would repeal Section 1201.101(f-1), which prohibits a manufacture home retailer from operating more than one location under a single license.

The bill would take effect on September 1, 2018.

Based on the analysis of TDHCA and the Office of the Attorney General, it is assumed any costs or duties associated with implementing the provisions of the bill could be absorbed within existing resources. Based on the information provided by TDHCA, it is assumed the elimination of the provisions of Occupations Code, Section 1201.101(f-1), would not result in a significant operational or fiscal impact.

Based on the analysis of the Comptroller's office, the bill would recreate the currently inactive Manufactured Homeowners' Recovery Trust Fund as an account in the General Revenue Fund. Because appropriations to TDHCA for the MHD consist of Appropriated Receipts, this analysis assumes money from Appropriated Receipts generated from manufactured home statement of ownership fees would be deposited to the trust fund after all other MHD operations have been funded, as currently stipulated by Rider 12, Manufactured Homeowner Consumer

Claims, in the TDHCA bill pattern in Article VII of the 2016-17 General Appropriations Act. Based on the information provided by the Comptroller's office, it is assumed eliminating the requirement for \$10 from manufactured housing purchase or exchange related fees to be deposited to the trust fund would not result in a fiscal impact to the State.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts,
332 Department of Housing and Community Affairs

LBB Staff: UP, CL, EH, TG, SD, JSm, JGA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 19, 2017

TO: Honorable John Kuempel, Chair, House Committee on Licensing & Administrative Procedures

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2019 by King, Tracy O. (Relating to the regulation of manufactured homes.), As Introduced

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 1201 of the Occupations Code, relating to manufactured housing, to require the Texas Department of Housing and Community Affairs (TDHCA) - Manufactured Housing Division (MHD) to provide information to the public on its Internet website regarding manufactured home ownership records, lien records manufacturers' monthly shipment reports, and enforcement actions. The bill would require the Manufactured Housing Board to conduct a cost benefit analysis for any rule, process, or policy change that will increase a fee or other incurred cost by more than \$50 for license holders or consumers. The bill would amend Section 1201.403 to require that the amount reserved in the Manufactured Homeowners' Recovery Trust Fund be determined by a specific appropriation made to TDHCA and allocated to the fund by the operating budget of the department. The bill would specify that if any part of MHD's operating budget is funded by appropriated receipts, the trust fund shall be funded out of appropriated receipts only after all other department operations have been sufficiently funded. The bill would repeal the requirement that \$10 of the fee for each purchase or exchange of a manufactured home be deposited to the credit of the trust fund. The bill would repeal Section 1201.101(f-1), which prohibits a manufacture home retailer from operating more than one location under a single license.

The bill would take effect on September 1, 2018.

Based on the analysis of TDHCA and the Office of the Attorney General, it is assumed any costs or duties associated with implementing the provisions of the bill could be absorbed within existing resources. Based on the information provided by TDHCA, it is assumed the elimination of the provisions of Occupations Code, Section 1201.101(f-1), would not result in a significant operational or fiscal impact.

Based on the analysis of the Comptroller's office, the bill would recreate the currently inactive Manufactured Homeowners' Recovery Trust Fund as an account in the General Revenue Fund. Because appropriations to TDHCA for the MHD consist of Appropriated Receipts, this analysis assumes money from Appropriated Receipts generated from manufactured home statement of ownership fees would be deposited to the trust fund after all other MHD operations have been funded, as currently stipulated by Rider 12, Manufactured Homeowner Consumer Claims, in the TDHCA bill pattern in Article VII of the 2016-17 General Appropriations

Act. Based on the information provided by the Comptroller's office, it is assumed eliminating the requirement for \$10 from manufactured housing purchase or exchange related fees to be deposited to the trust fund would not result in a fiscal impact to the State.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts,
332 Department of Housing and Community Affairs

LBB Staff: UP, CL, EH, TG, JSm, JGA