

1 AN ACT

2 relating to the operation of the Texas Residential Construction
3 Commission; providing penalties.

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

5 SECTION 1. Subchapter A, Chapter 5, Property Code, is
6 amended by adding Section 5.016 to read as follows:

7 Sec. 5.016. DISCLOSURE OF ABSENCE OF CERTAIN WARRANTIES.

8 (a) A seller of residential real property that is exempt from
9 Title 16 under Section 401.005 shall give to the purchaser of the
10 property a written notice that reads substantially similar to the
11 following:

12 NOTICE OF NONAPPLICABILITY OF CERTAIN WARRANTIES

13 AND BUILDING AND PERFORMANCE STANDARDS

14 The property that is subject to this contract is exempt from
15 Title 16, Property Code, including the provisions of that title
16 that provide statutory warranties and building and performance
17 standards.

18 (b) A notice required by this section shall be delivered by
19 the seller to the purchaser on or before the effective date of an
20 executory contract binding the purchaser to purchase the property.
21 If a contract is entered into without the seller providing the
22 notice, the purchaser may terminate the contract for any reason on
23 or before the seventh day after the date the purchaser receives the
24 notice.

1 (c) This section does not apply to a transfer:

2 (1) under a court order or foreclosure sale;

3 (2) by a trustee in bankruptcy;

4 (3) to a mortgagee by a mortgagor or successor in
5 interest or to a beneficiary of a deed of trust by a trustor or
6 successor in interest;

7 (4) by a mortgagee or a beneficiary under a deed of
8 trust who has acquired the land at a sale conducted under a power of
9 sale under a deed of trust or a sale under a court-ordered
10 foreclosure or has acquired the land by a deed in lieu of
11 foreclosure;

12 (5) by a fiduciary in the course of the administration
13 of a decedent's estate, guardianship, conservatorship, or trust;

14 (6) from one co-owner to another co-owner of an
15 undivided interest in the real property;

16 (7) to a spouse or a person in the lineal line of
17 consanguinity of the seller;

18 (8) to or from a governmental entity; or

19 (9) of only a mineral interest, leasehold interest, or
20 security interest.

21 SECTION 2. Section 27.002(b), Property Code, is amended to
22 read as follows:

23 (b) Except as provided by this subsection, to [T~~e~~] the
24 extent of conflict between this chapter and any other law,
25 including the Deceptive Trade Practices-Consumer Protection Act
26 (Subchapter E, Chapter 17, Business & Commerce Code) or a common law
27 cause of action, this chapter prevails. To the extent of conflict

1 between this chapter and Title 16, Title 16 prevails.

2 SECTION 3. Section 27.004(d), Property Code, is amended to
3 read as follows:

4 (d) The court or arbitration tribunal shall abate [~~dismiss~~]
5 an action governed by this chapter if Subsection (c) does not apply
6 and the court or tribunal, after a hearing, finds that the
7 contractor is entitled to abatement [~~dismissal~~] because the
8 claimant failed to comply with the requirements of Subtitle D,
9 Title 16, if applicable, failed to provide the notice or failed to
10 give the contractor a reasonable opportunity to inspect the
11 property as required by Subsection (a), or failed to follow the
12 procedures specified by Subsection (b). An action is automatically
13 abated [~~dismissed~~] without the order of the court or tribunal
14 beginning on the 11th day after the date a motion to abate [~~dismiss~~]
15 is filed if the motion:

16 (1) is verified and alleges that the person against
17 whom the action is pending did not receive the written notice
18 required by Subsection (a), the person against whom the action is
19 pending was not given a reasonable opportunity to inspect the
20 property as required by Subsection (a), or the claimant failed to
21 follow the procedures specified by Subsection (b) or Subtitle D,
22 Title 16; and

23 (2) is not controverted by an affidavit filed by the
24 claimant before the 11th day after the date on which the motion to
25 abate [~~dismiss~~] is filed.

26 SECTION 4. Section 27.007, Property Code, is amended by
27 adding Subsection (c) to read as follows:

1 (c) This section does not apply to a contract relating to a
2 home required to be registered under Section 426.003.

3 SECTION 5. Section 41.007, Property Code, is amended by
4 amending Subsection (a) and adding Subsections (c) and (d) to read
5 as follows:

6 (a) A contract for improvements to an existing residence
7 described by Section 41.001(b)(3) must contain:

8 (1) the contractor's certificate of registration
9 number from the Texas Residential Construction Commission if the
10 contractor is required to register as a builder with the
11 commission;

12 (2) the address and telephone number at which the
13 owner may file a complaint with the Texas Residential Construction
14 Commission about the conduct of the contractor if the contractor is
15 required to register as a builder with the commission; and

16 (3) the following warning conspicuously printed,
17 stamped, or typed in a size equal to at least 10-point bold type or
18 computer equivalent[~~, next to the owner's signature line on the~~
19 contract]:

20 "IMPORTANT NOTICE: You and your contractor are responsible
21 for meeting the terms and conditions of this contract. If you sign
22 this contract and you fail to meet the terms and conditions of this
23 contract, you may lose your legal ownership rights in your home.
24 KNOW YOUR RIGHTS AND DUTIES UNDER THE LAW."

25 (c) A provision of a contract for improvements to an
26 existing residence described by Section 41.001(b)(3) that requires
27 the parties to submit a dispute arising under the contract to

1 binding arbitration must be conspicuously printed or typed in a
2 size equal to at least 10-point bold type or the computer
3 equivalent.

4 (d) A provision described by Subsection (c) is not
5 enforceable against the owner unless the requirements of Subsection
6 (c) are met.

7 SECTION 6. Section 401.002, Property Code, is amended by
8 adding Subdivisions (7-a) and (8-a) to read as follows:

9 (7-a) "Improvement to the interior of an existing
10 home" means any modification to the interior living space of a home,
11 which includes the addition or installation of permanent fixtures
12 inside the home. An improvement to the interior of an existing home
13 does not include improvements to an existing home if the
14 improvements are designed primarily to repair or replace the home's
15 component parts.

16 (8-a) "Material improvement" means a modification to
17 an existing home that either increases or decreases the home's
18 total square footage of living space that also modifies the home's
19 foundation, perimeter walls, or roof. A material improvement does
20 not include modifications to an existing home if the modifications
21 are designed primarily to repair or replace the home's component
22 parts.

23 SECTION 7. Section 401.003, Property Code, is amended to
24 read as follows:

25 Sec. 401.003. DEFINITION OF BUILDER. (a) In this title,
26 "builder" means any person [~~business entity or individual~~] who, for
27 a fixed price, commission, fee, wage, or other compensation, sells,

1 constructs, or supervises or manages the construction of, or
2 contracts for the construction of or the supervision or management
3 of the construction of:

- 4 (1) a new home;
- 5 (2) a material improvement to a home, other than an
6 improvement solely to replace or repair a roof of an existing home;
7 or
- 8 (3) an improvement to the interior of an existing home
9 when the cost of the work exceeds \$10,000 [~~\$20,000~~].

10 (b) The term includes:

- 11 (1) an owner, officer, director, shareholder,
12 partner, affiliate, subsidiary, or employee of the builder;
- 13 (2) a risk retention group governed by Article 21.54,
14 Insurance Code, that insures all or any part of a builder's
15 liability for the cost to repair a residential construction defect;
16 and
- 17 (3) a third-party warranty company and its
18 administrator.

19 (c) The term does not include any person [~~business entity or~~
20 ~~individual~~] who:

- 21 (1) has been issued a license by this state or an
22 agency [~~or political subdivision~~] of this state to practice a trade
23 or profession related to or affiliated with residential
24 construction if the work being done by the entity or individual to
25 the home is solely for the purpose for which the license was issued;
26 or
- 27 (2) sells a new home and:

1 (A) does not construct or supervise or manage the
2 construction of the home; and

3 (B) holds a license issued under Chapter 1101,
4 Occupations Code, or is exempt from that chapter under Section
5 1101.005, Occupations Code.

6 SECTION 8. Section 401.005, Property Code, is amended by
7 amending Subsection (b) and adding Subsection (c) to read as
8 follows:

9 (b) This title does not apply to a homeowner or to a
10 homeowner's real estate broker, agent, interior designer
11 registered under Chapter 1053, Occupations Code, interior
12 decorator, or property manager who supervises or arranges for the
13 construction of an improvement to a home owned by the homeowner.

14 (c) An individual who builds a home or a material
15 improvement to a home and sells the home immediately following
16 completion of the building or remodeling and does not live in the
17 home for at least one year following completion of the building or
18 remodeling is responsible as a builder under the warranty
19 obligation created by this title for work completed by the
20 individual. Responsibility under this subsection does not
21 automatically require an individual to register under Section
22 416.001.

23 SECTION 9. Chapter 401, Property Code, is amended by adding
24 Section 401.007 to read as follows:

25 Sec. 401.007. INJUNCTION; APPEAL. (a) If the commission
26 has reasonable cause to believe that a person is violating a statute
27 to which this chapter applies, the commission, in addition to any

1 other authorized action, may issue an order to cease and desist from
2 the violation or an order to take affirmative action, or both, to
3 enforce compliance. A person may appeal the order directly to
4 district court in accordance with Chapter 2001, Government Code.

5 (b) Before issuing an order under this section, the
6 commission shall set and give notice of a hearing before a hearings
7 officer. The hearing is governed by Chapter 2001, Government Code.
8 Based on the findings of fact, conclusions of law, and
9 recommendations of the hearings officer, the commission by order
10 may find whether a violation has occurred.

11 (c) The commission, after providing notice and an
12 opportunity to appear for a hearing, may impose against a person who
13 violates a cease and desist order an administrative penalty in an
14 amount not to exceed \$1,000 for each day of violation. In addition
15 to any other remedy provided by law, the attorney general or the
16 commission may institute in district court a suit for injunctive
17 relief and to collect an administrative penalty. A bond is not
18 required of the commission with respect to injunctive relief
19 granted under this section. In the action, the court may enter as
20 proper an order awarding a preliminary or final injunction.

21 (d) A suit by the attorney general under this section must
22 be brought in Travis County.

23 (e) The attorney general and the commission may recover
24 reasonable expenses incurred in obtaining injunctive relief under
25 this section, including court costs, reasonable attorney's fees,
26 investigative costs, witness fees, and deposition costs.

27 (f) If a party seeks review of the order by the commission,

1 the party shall file a petition initiating judicial review not
2 later than the 30th day after the date of the issuance of the
3 decision.

4 SECTION 10. Section 406.001, Property Code, is amended by
5 adding Subsections (a-1) and (c) to read as follows:

6 (a-1) In making appointments under Subsection (a)(2), the
7 governor shall consider individuals who can represent the interests
8 of homeowners, including individuals who have experience
9 representing consumer or homeowner interests.

10 (c) A person may not be a public member of the commission if
11 the person or the person's spouse:

12 (1) is a builder registered with the commission, or is
13 otherwise registered, certified, or licensed by a regulatory agency
14 in the field of residential construction;

15 (2) is employed by or participates in the management
16 of a business entity or other organization regulated by or
17 receiving money from the commission;

18 (3) owns or controls, directly or indirectly, more
19 than a 10 percent interest in a business entity or other
20 organization regulated by or receiving money from the commission;
21 or

22 (4) uses or receives a substantial amount of tangible
23 goods, services, or money from the commission other than
24 compensation or reimbursement authorized by law for commission
25 membership, attendance, or expenses.

26 SECTION 11. Sections 406.004(b) and (c), Property Code, are
27 amended to read as follows:

1 (b) A person may not be a member of the commission and may
2 not be a commission employee employed in a "bona fide executive,
3 administrative, or professional capacity," as that phrase is used
4 for purposes of establishing an exemption to the overtime
5 provisions of the federal Fair Labor Standards Act of 1938 (29
6 U.S.C. Section 201 et seq.) and its subsequent amendments, if:

7 (1) the person is an officer, employee, manager, or
8 paid consultant of a Texas trade association or consumer
9 association in the field of residential construction; or

10 (2) the person's spouse is an officer, [a] manager, or
11 paid consultant of a Texas trade association or consumer
12 association in the field of residential construction.

13 (c) A person may not be a member of the commission or act as
14 the general counsel to the commission if the person is required to
15 register as a lobbyist under Chapter 305, Government Code [~~because~~
16 ~~of the person's activities for compensation on behalf of a~~
17 ~~profession related to the operation of the commission)].~~

18 SECTION 12. Section 408.002, Property Code, is amended to
19 read as follows:

20 Sec. 408.002. FEES. (a) The commission shall adopt fees
21 as required by this title in amounts that are reasonable and
22 necessary to provide sufficient revenue to cover the costs of
23 administering this title.

24 (b) The commission may charge a late fee for late payment of
25 any fee due to the commission. The late fee may be any amount that
26 does not exceed the amount of the fee due.

27 (c) The commission may charge a reasonable fee for:

1 (1) a homeowner to submit a request for
2 state-sponsored inspection under Subtitle D;

3 (2) providing public information requested under
4 Chapter 552, Government Code, excluding information requested from
5 the commission under Section 409.001; or

6 (3) producing, mailing, and distributing special
7 printed materials and publications generated in bulk by the
8 commission for use and distribution by builders.

9 (d) The commission may waive or reduce the fee for an
10 inspection under Subtitle D for a homeowner who demonstrates an
11 inability to pay the fee.

12 SECTION 13. Section 408.003, Property Code, is amended by
13 adding Subsection (c) to read as follows:

14 (c) The commission may procure and distribute to consumers
15 informational materials and promotional items that contain
16 commission contact details and outreach information.

17 SECTION 14. Chapter 408, Property Code, is amended by
18 adding Section 408.005 to read as follows:

19 Sec. 408.005. COLLECTION OF AMOUNTS DUE. The commission
20 may seek reimbursement of any amounts due to the commission and
21 restitution for any dishonored payment instrument presented for
22 payment to the commission.

23 SECTION 15. Chapter 409, Property Code, is amended by
24 adding Section 409.0011 to read as follows:

25 Sec. 409.0011. BUILDER LIST. (a) In this section, "volume
26 builder" means a builder who registers at least 100 homes each year
27 as provided by Section 426.003.

1 (b) The commission shall create and make accessible to the
2 public an electronic list and a hard-copy list of builders who:

3 (1) are registered with the commission; and

4 (2) provide in this state building services, including
5 accessible floor plans, to persons with mobility-related special
6 needs.

7 (c) The electronic list required under Subsection (b) shall
8 provide, if available, the following information with respect to
9 each listed builder:

10 (1) a link to the builder's website; and

11 (2) contact information for the builder, including the
12 municipalities where the builder provides building services
13 described by Subsection (b)(2).

14 (d) The commission shall contact all volume builders in this
15 state and encourage those builders to develop floor plans that are
16 designed to be accessible for persons with mobility-related special
17 needs.

18 (e) The Veterans' Land Board shall make accessible to the
19 public on its Internet website and in hard-copy format the
20 electronic list required under Subsection (b).

21 SECTION 16. Section 409.003, Property Code, is amended by
22 adding Subsections (d), (e), and (f) to read as follows:

23 (d) The commission shall make available to the public
24 information about each complaint that resulted in disciplinary
25 action by the commission.

26 (e) The commission may not disclose the address of any
27 individual home registered with the commission when making

1 information available to the public under this title, except as
2 necessary to implement this title.

3 (f) Notwithstanding Subsections (d) and (e), the commission
4 may not disclose the address of an individual home registered with
5 the commission:

6 (1) on the commission's Internet website; or

7 (2) in connection with an open records request under
8 Chapter 552, Government Code.

9 SECTION 17. Chapter 409, Property Code, is amended by
10 adding Section 409.004 to read as follows:

11 Sec. 409.004. DIRECTORY OF BUILDERS. The commission shall
12 make available to the public a list of each builder who holds a
13 certificate of registration issued under Chapter 416.

14 SECTION 18. Section 416.002, Property Code, is amended by
15 adding Subsection (e) to read as follows:

16 (e) Based on a commission investigation of an alleged
17 violation of Sections 418.001(a)(14)-(20), the commission may
18 require an applicant for renewal of a certificate of registration
19 to disclose to the commission every person with an ownership
20 interest in the applicant's business as a builder. This subsection
21 does not apply to a publicly traded company.

22 SECTION 19. Section 416.004, Property Code, is amended by
23 amending Subsection (a) and adding Subsection (c) to read as
24 follows:

25 (a) The commission shall charge and collect:

26 (1) a filing fee for an application for an original
27 certificate of registration that does not exceed \$500; ~~and~~

1 (2) a fee for renewal of a certificate of registration
2 that does not exceed \$300; and

3 (3) a late fee that does not exceed the amount of the
4 fee due if payment of a registration application or renewal fee due
5 under this title is late.

6 (c) All fees paid to the commission under this section are
7 nonrefundable.

8 SECTION 20. Sections 416.008(d) and (e), Property Code, are
9 amended to read as follows:

10 (d) The hearings officer may grant a motion for continuance
11 of the hearing on the request of the commission or either party
12 ~~[hearing may be continued from time to time with the consent of the~~
13 ~~applicant].~~

14 (e) The hearing shall be held before a hearings officer
15 appointed by the commission. After the hearing, the hearings
16 officer shall enter an appropriate order. ~~[The order of the~~
17 ~~hearings officer under this subsection is a final decision.]~~

18 SECTION 21. Section 416.010, Property Code, is amended by
19 adding Subsection (e) to read as follows:

20 (e) A builder may designate a United States Postal Service
21 postal box for use in correspondence. The builder may not use the
22 box as the builder's principal place of business for purposes of
23 this section.

24 SECTION 22. Section 416.011(d), Property Code, is amended
25 to read as follows:

26 (d) The certification issued by the commission as a "Texas
27 Star Builder" is valid for at most one year and renewable on a date

1 to be determined at the commission's discretion [~~shall be for the~~
2 ~~same period of time as the builder's registration under this~~
3 ~~chapter~~].

4 SECTION 23. Chapter 416, Property Code, is amended by
5 adding Section 416.012 to read as follows:

6 Sec. 416.012. CONTINUING EDUCATION PROGRAMS. (a) The
7 commission shall recognize or administer continuing education
8 programs for builders registered by the commission. A registered
9 builder must participate in the programs to the extent required by
10 this section to maintain the builder's registration.

11 (b) A builder who registers for the first time on or after
12 September 1, 2007, must complete, during the first year the builder
13 is registered with the commission, five hours of continuing
14 education, one hour of which must address ethics.

15 (c) A builder who is registered before September 1, 2007,
16 and all other builders who register for the first time on or after
17 September 1, 2007, and satisfy the requirements of Subsection (b),
18 must complete five hours of continuing education every five years,
19 one hour of which must address ethics.

20 (d) The commission shall permit a registered builder to
21 receive continuing education credit for educational, technical,
22 ethical, or professional management activities related to the
23 practice of residential construction, including:

24 (1) successfully completing or auditing a course
25 sponsored by an institution of higher education;

26 (2) successfully completing a course certified by a
27 professional or trade organization;

1 (3) attending a seminar, tutorial, short course,
2 correspondence course, videotaped course, or televised course on
3 the practice of residential construction;

4 (4) participating in an in-house course sponsored by a
5 corporation or other business entity;

6 (5) teaching a course described by Subdivisions
7 (1)-(4);

8 (6) publishing an article, paper, or book on the
9 practice of residential construction;

10 (7) making or attending a presentation at a meeting of
11 a residential or builder association or organization or writing a
12 paper presented at the meeting;

13 (8) participating in the activities of a residential
14 or builder association, including serving on a committee of the
15 organization; and

16 (9) engaging in self-directed study on the practice of
17 residential construction.

18 (e) A registered builder may not receive more than two
19 continuing education credit hours during each five-year period for
20 engaging in self-directed study.

21 (f) At least two hours of the continuing education
22 requirement under this section must address:

23 (1) limited statutory warranties;

24 (2) building and performance standards; and

25 (3) requirements of the International Residential
26 Code as adopted under Section 430.001 and other statutes and rules
27 that apply to builders under this title.

1 (g) A builder's agent or other designated individual may
2 satisfy the requirements of this section for the builder if the
3 builder is a corporation or other business entity.

4 SECTION 24. Section 417.003, Property Code, is amended to
5 read as follows:

6 Sec. 417.003. FEES. (a) The commission shall charge and
7 collect:

8 (1) a filing fee for an application for certification
9 under this chapter that does not exceed \$100; ~~and~~

10 (2) a fee for renewal of a certification under this
11 chapter that does not exceed \$50; and

12 (3) a late fee that does not exceed the amount of the
13 fee due if payment of a registration or application fee due under
14 this title is late.

15 (b) All fees paid to the commission under this section are
16 nonrefundable.

17 SECTION 25. Sections 418.001 and 418.002, Property Code,
18 are amended to read as follows:

19 Sec. 418.001. GROUNDS FOR DISCIPLINARY ACTION. A person,
20 including a builder or a person who is designated as a builder's
21 agent under Section 416.006, or a person who owns or controls a
22 majority ownership interest in the builder is subject to
23 disciplinary action under this chapter for:

24 (1) fraud or deceit in obtaining a registration or
25 certification under this subtitle;

26 (2) misappropriation or misapplication of trust funds
27 in the practice of residential construction, including a violation

1 of Chapter 32, Penal Code, or Chapter 162, if found by a final
2 nonappealable court judgment;

3 (3) naming false consideration in a contract to sell a
4 new home or in a construction contract;

5 (4) discriminating on the basis of race, color,
6 religion, sex, national origin, or ancestry;

7 (5) publishing a false or misleading advertisement;

8 (6) failure to honor, within a reasonable time, a
9 check issued to the commission, or any other instrument of payment,
10 including a credit or debit card or electronic funds transfer,
11 after the commission has sent by certified mail a request for
12 payment to the person's last known business address, according to
13 commission records;

14 (7) failure to pay an administrative penalty assessed
15 by the commission under Chapter 419 or a fee due under Chapter 426;

16 (8) failure to pay [~~nonpayment of~~] a final
17 nonappealable court judgment arising from a construction defect or
18 other transaction between the person and a homeowner;

19 (9) failure to register a home as required by Section
20 426.003;

21 (10) failure to remit the fee for registration of a
22 home under Section 426.003; [~~or~~]

23 (11) failure to reimburse a homeowner the amount
24 ordered by the commission as provided by [~~in~~] Section 428.004(d);

25 (12) engaging in statutory or common-law fraud or
26 misappropriation of funds, as determined by the commission after a
27 hearing under Section 418.003;

1 (13) a repeated failure to participate in the
2 state-sponsored inspection and dispute resolution process if
3 required by this title;

4 (14) failure to register as a builder as required
5 under Chapter 416;

6 (15) using or attempting to use a certificate of
7 registration that has expired or that has been revoked;

8 (16) falsely representing that the person holds a
9 certificate of registration issued under Chapter 416;

10 (17) acting as a builder using a name other than the
11 name or names disclosed to the commission;

12 (18) aiding, abetting, or conspiring with a person who
13 does not hold a certificate of registration to evade the provisions
14 of this title or rules adopted under this title, if found by a final
15 nonappealable court judgment;

16 (19) allowing the person's certificate of registration
17 to be used by another person;

18 (20) acting as an agent, partner, or associate of a
19 person who does not hold a certificate of registration with the
20 intent to evade the provisions of this title or rules adopted under
21 this title;

22 (21) a failure to reasonably perform on an accepted
23 offer to repair or a repeated failure to make an offer to repair
24 based on:

25 (A) the recommendation of a third-party
26 inspector under Section 428.004; or

27 (B) the final holding of an appeal under Chapter

1 429;

2 (22) a repeated failure to respond to a commission
3 request for information;

4 (23) a failure to obtain a building permit required by
5 a political subdivision before constructing a new home or an
6 improvement to an existing home;

7 (24) abandoning, without justification, any home
8 improvement contract or new home construction project engaged in or
9 undertaken by the person, if found to have done so by a final,
10 nonappealable court judgment;

11 (25) a repeated failure to comply with the
12 requirements of Subtitle F; or

13 (26) otherwise violating this title or a commission
14 rule adopted under this title.

15 Sec. 418.002. DISCIPLINARY POWERS OF COMMISSION. (a) On a
16 determination that a ground for disciplinary action under Section
17 418.001 exists, the commission may:

18 (1) revoke or suspend a registration or certification
19 in the event of repeated prior violations that have resulted in
20 disciplinary action;

21 (2) probate the suspension of a registration or
22 certification; [~~or~~]

23 (3) formally or informally reprimand a registered or
24 certified person; or

25 (4) impose an administrative penalty under Chapter
26 419.

27 (b) The commission must consider the factors described by

1 Section 419.002(b) before taking disciplinary action under this
2 chapter.

3 (c) For purposes of Section 418.001(12), the commission may
4 not conduct a hearing or revoke or suspend a registration or
5 certification unless the determination of statutory or common-law
6 fraud or misappropriation of funds has been made in a final
7 nonappealable judgment by a court.

8 (d) Prior to imposing disciplinary action under Subsection
9 (a)(1) based upon grounds that involve a transaction between a
10 builder and a homeowner, there must be repeated prior violations
11 that have resulted in disciplinary action that involve the greater
12 of:

13 (1) at least three homes registered by the builder
14 under Section 426.003; or

15 (2) at least one percent of the homes registered by the
16 builder under Section 426.003 during the preceding 12 months.

17 (e) When the commission has information that a matter may be
18 criminal in nature, the commission may refer the matter to a local
19 district attorney or county attorney for investigation.

20 SECTION 26. Section 418.004, Property Code, is amended by
21 adding Subsection (c) to read as follows:

22 (c) An appeal to a district court of a final decision of the
23 commission under this section regarding a revocation or suspension
24 of a registration or certification is determined by substantial
25 evidence.

26 SECTION 27. Chapter 418, Property Code, is amended by
27 adding Section 418.005 to read as follows:

1 Sec. 418.005. RESPONSIBILITY FOR ADMINISTRATIVE ACTIONS.

2 (a) The commission may simultaneously take administrative action
3 under this chapter against:

4 (1) a builder; and

5 (2) a person who owns or controls a majority ownership
6 interest in the builder.

7 (b) A builder and a person who owns or controls a majority
8 ownership interest in the builder are jointly and severally liable
9 for any amounts due to the commission under this title.

10 SECTION 28. Section 419.001, Property Code, is amended to
11 read as follows:

12 Sec. 419.001. IMPOSITION OF ADMINISTRATIVE PENALTY. The
13 ~~[In a contested case involving disciplinary action, the]~~ commission
14 may~~[, as part of the commission's order,]~~ impose an administrative
15 penalty on a ~~[registered or certified]~~ person who violates this
16 title or a rule adopted or order issued by the commission under this
17 title.

18 SECTION 29. Section 419.002, Property Code, is amended by
19 amending Subsection (a) and adding Subsection (c) to read as
20 follows:

21 (a) Except as provided by Subsection (c), an ~~[An]~~
22 administrative penalty imposed under this chapter may not exceed
23 \$10,000 ~~[\$5,000]~~ for each violation.

24 (c) A violation of Section 418.001(2) or (12) is punishable
25 by a penalty not to exceed \$100,000.

26 SECTION 30. Subtitle C, Title 16, Property Code, is amended
27 by adding Chapter 420 to read as follows:

1 CHAPTER 420. BUILDING CONTRACT PROVISIONS

2 Sec. 420.001. REQUIRED WRITTEN DISCLOSURE. In a contract
3 for the construction of a new home or an improvement to an existing
4 home required to be registered under Section 426.003, the contract
5 must contain a notice to the consumer in at least 10-point bold type
6 or the computer equivalent that gives the telephone number of the
7 commission and states:

8 STATE LAW REQUIRES THAT A PERSON HOLD A CERTIFICATE OF
9 REGISTRATION FROM THE TEXAS RESIDENTIAL CONSTRUCTION COMMISSION IF
10 THE PERSON CONTRACTS TO CONSTRUCT A NEW HOME OR IF THE PERSON
11 CONTRACTS TO CONSTRUCT A MATERIAL IMPROVEMENT TO AN EXISTING HOME
12 OR CERTAIN IMPROVEMENTS TO THE INTERIOR OF AN EXISTING HOME AND THE
13 TOTAL COST OF THE IMPROVEMENT IS \$10,000 OR MORE (INCLUDING LABOR
14 AND MATERIALS).

15 YOU MAY CONTACT THE COMMISSION AT [insert commission's
16 telephone number] TO FIND OUT WHETHER THE BUILDER HAS A VALID
17 CERTIFICATE OF REGISTRATION. THE COMMISSION HAS INFORMATION
18 AVAILABLE ON THE HISTORY OF BUILDERS, INCLUDING SUSPENSIONS,
19 REVOCATIONS, COMPLAINTS, AND RESOLUTION OF COMPLAINTS.

20 THIS CONTRACT IS SUBJECT TO CHAPTER 426, PROPERTY CODE. THE
21 PROVISIONS OF THAT CHAPTER GOVERN THE PROCESS THAT MUST BE FOLLOWED
22 IN THE EVENT A DISPUTE ARISES OUT OF AN ALLEGED CONSTRUCTION
23 DEFECT. IF YOU HAVE A COMPLAINT CONCERNING A CONSTRUCTION DEFECT
24 YOU MAY CONTACT THE COMMISSION AT THE TOLL-FREE TELEPHONE NUMBER TO
25 LEARN HOW TO PROCEED UNDER THE STATE-SPONSORED INSPECTION AND
26 DISPUTE RESOLUTION PROCESS.

27 Sec. 420.002. REQUIRED CONTRACT PROVISIONS. In a contract

1 for the construction of a new home or an improvement to an existing
2 home required to be registered under Section 426.003, the contract
3 is not enforceable against a homeowner unless the contract:

4 (1) contains the builder's name and certificate of
5 registration number; and

6 (2) contains the notice required by Section 420.001.

7 Sec. 420.003. BINDING ARBITRATION CONTRACT PROVISION.

8 (a) In a contract for the construction of a new home or the
9 improvement of an existing home required to be registered under
10 Section 426.003 and that contains a provision requiring the parties
11 to submit a dispute arising under the contract to binding
12 arbitration, the provision must be conspicuously printed or typed
13 in a size equal to at least 10-point bold type or the computer
14 equivalent.

15 (b) A provision described by Subsection (a) is not
16 enforceable against the homeowner unless the requirements of
17 Subsection (a) are met.

18 SECTION 31. Section 426.003(b), Property Code, is amended
19 to read as follows:

20 (b) A builder who enters [~~into~~] a transaction governed by
21 this title, other than the transfer of title of a new home from the
22 builder to the seller, shall register the home involved in the
23 transaction with the commission. The registration must:

24 (1) include the information required by the commission
25 by rule;

26 (2) be accompanied by the fee required by Subsection
27 (c); and

1 (3) be delivered to the commission not later than the
2 15th day after the earlier of:

3 (A) the date of the substantial completion of the
4 home or other residential construction project [~~of the agreement~~
5 ~~that describes the transaction between the homeowner and the~~
6 ~~builder~~]; [~~or~~]

7 (B) the date the new home is occupied; or

8 (C) the date of issuance of a certificate of
9 occupancy or a certificate of completion [~~commencement of the work~~
10 ~~on the home~~].

11 SECTION 32. Section 426.001(a), Property Code, is amended
12 to read as follows:

13 (a) This subtitle applies to a dispute between a builder and
14 a homeowner if:

15 (1) the dispute arises out of an alleged construction
16 defect, other than a claim solely for:

17 (A) personal injury, survival, or wrongful
18 death; or

19 (B) damage to goods; and

20 (2) a request is submitted to the commission not later
21 than the 30th day after [~~on or before~~] the 10th anniversary of:

22 (A) the date of the initial transfer of title
23 from the builder to the initial owner of the home or the improvement
24 that is the subject of the dispute; or

25 (B) [~~if~~] if there is not a closing in which title is
26 transferred, the date on which the [~~contract for~~] construction of
27 the improvement was substantially completed [~~entered into~~].

1 SECTION 33. Section 426.004, Property Code, is amended by
2 amending Subsection (c) and adding Subsection (d) to read as
3 follows:

4 (c) If the transfer of the title of the home from the builder
5 to the initial homeowner occurred before January 1, 2004, or if the
6 contract for improvements or additions between the builder and
7 homeowner was entered into before January 1, 2004, the commission
8 shall register the home and the builder [~~the person who submits a~~
9 ~~request involving the home~~] shall pay[, ~~in addition to the~~
10 ~~inspection expenses required by this section,~~] the registration fee
11 required by Section 426.003.

12 (d) The commission may reimburse an inspector for travel
13 expenses incurred to complete an inspection regardless of whether
14 the expenses exceed the amount collected under this section.

15 SECTION 34. Section 426.005, Property Code, is amended by
16 amending Subsection (a) and adding Subsection (f) to read as
17 follows:

18 (a) A homeowner or builder must comply with this subtitle
19 before initiating an action for damages or other relief arising
20 from an alleged construction defect.

21 (f) A homeowner is not required to comply with this subtitle
22 if:

23 (1) at the time a homeowner and a builder enter into a
24 contract covered by this title the builder was not registered; or

25 (2) the certificate of registration of the builder has
26 been revoked.

27 SECTION 35. Section 426.006, Property Code, is amended to

1 read as follows:

2 Sec. 426.006. TIME FOR REQUESTING INSPECTION AND DISPUTE
3 RESOLUTION. (a) For an alleged defect discovered during an
4 applicable warranty period, the [The] state-sponsored inspection
5 and dispute resolution process must be requested on or before the
6 second anniversary of the date of discovery of the conditions
7 claimed to be evidence of the construction defect but not later than
8 the 90th [30th] day after the date the applicable warranty period
9 expires.

10 (b) If the alleged defect would violate the statutory
11 warranty of habitability and was not discoverable by a reasonable,
12 prudent inspection or examination of the home or improvement within
13 the applicable warranty period, the state-sponsored inspection and
14 dispute resolution process must be requested:

15 (1) on or before the second anniversary of the date of
16 discovery of the conditions claimed to be evidence of the
17 construction defect; and

18 (2) not later than the 10th anniversary of the date of
19 the initial transfer of title from the builder to the initial owner
20 of the home or improvement that is the subject of the dispute or, if
21 there is not a closing, the date on which the contract for
22 construction of the improvement is entered into.

23 SECTION 36. Section 426.007, Property Code, is amended to
24 read as follows:

25 Sec. 426.007. ADMISSIBILITY OF CERTAIN EVIDENCE. A person
26 who submits a request for state-sponsored inspection and dispute
27 resolution or responds to a request under Chapter 428 must disclose

1 in the request or response the name of any expert [~~person~~] who,
2 before the request is submitted, inspected the home on behalf of the
3 requestor or respondent in connection with the construction defect
4 alleged in the request or response. If an expert's [~~a person's~~]
5 name is known to the requestor or respondent at the time of the
6 request or response and is not disclosed as required by this
7 section, the requestor or respondent may not designate the person
8 as an expert or use materials prepared by that person in:

9 (1) the state-sponsored inspection and dispute
10 resolution process arising out of the request; or

11 (2) any action arising out of the construction defect
12 that is the subject of the request or response.

13 SECTION 37. Section 426.008, Property Code, is amended by
14 adding Subsection (c) to read as follows:

15 (c) For the purposes of admissibility of a third-party
16 inspector's recommendation or a ruling by a panel of state
17 inspectors, the recommendation or ruling shall be considered a
18 business record under Rule 902, Texas Rules of Evidence.

19 SECTION 38. Section 427.001, Property Code, is amended by
20 amending Subsections (b), (c), and (d) and adding Subsection (c-1)
21 to read as follows:

22 (b) A third-party inspector who inspects an issue involving
23 workmanship and materials must:

24 (1) have a minimum of three [~~five~~] years' experience in
25 the residential construction industry; and

26 (2) be certified as a residential combination
27 inspector by the International Code Council.

1 (c) A third-party inspector who inspects an issue involving
2 a structural matter or involving workmanship, materials, and a
3 structural matter must:

4 (1) be an approved structural engineer or approved
5 architect; and

6 (2) have a minimum of five [~~10~~] years' experience in
7 residential construction.

8 (c-1) A third-party inspector who inspects an issue
9 involving a structural matter and an unrelated issue involving
10 workmanship and materials matters must meet the requirements of
11 Subsections (b) and (c).

12 (d) Each third-party inspector [~~who inspects an issue~~
13 ~~involving a structural matter~~] must receive, in accordance with
14 commission rules:

15 (1) initial training regarding the state-sponsored
16 inspection and dispute resolution process and this subtitle; and

17 (2) annual continuing education in the inspector's
18 area of practice.

19 SECTION 39. Chapter 427, Property Code, is amended by
20 adding Section 427.003 to read as follows:

21 Sec. 427.003. NO CIVIL LIABILITY. (a) A person who
22 performs services for the commission as a third-party inspector or
23 a state inspector who does not act with wanton and wilful disregard
24 for the rights, safety, or property of another is not liable for
25 civil damages for any act or omission within the course and scope of
26 carrying out the person's duties or functions as a third-party
27 inspector or state inspector.

1 (b) This section does not apply to an intentional act of
2 misconduct or gross negligence.

3 SECTION 40. Sections 428.001(d) and (g), Property Code, are
4 amended to read as follows:

5 (d) At the time a [A] person [who] submits a request under
6 this section, the person must send by certified mail, return
7 receipt requested, a copy of the request, including evidence
8 submitted with the request, to each other party involved in the
9 dispute.

10 (g) The commission by rule shall establish a standard form
11 for submitting a request under this section [~~and provide a means to~~
12 ~~submit a request electronically~~].

13 SECTION 41. Section 428.003(a), Property Code, is amended
14 to read as follows:

15 (a) On or before the 30th [~~15th~~] day after the date the
16 commission receives a request, the commission shall appoint the
17 next available third-party inspector from the applicable lists of
18 third-party inspectors maintained by the commission under
19 Subsection (c).

20 SECTION 42. Section 428.004, Property Code, is amended by
21 amending Subsection (a) and adding Subsections (e) and (f) to read
22 as follows:

23 (a) If the dispute involves workmanship and materials in the
24 home of a nonstructural matter, the third-party inspector shall
25 issue a recommendation not later than the 30th [~~15th~~] day after the
26 date the third-party inspector receives the appointment from the
27 commission.

1 (e) The commission may not require a builder to reimburse
2 fees or inspection expenses under this section if, before the
3 inspection, the builder offered to make repairs or have repairs
4 made substantially equivalent to those required by the findings of
5 the final report confirming the defect requiring repair.

6 (f) If, before the inspection, the builder has made or
7 offered to make repairs substantially equivalent to those required
8 by the findings of the final report confirming the defect, the
9 agency may not list the finding on the commission's Internet
10 website.

11 SECTION 43. Section 429.001(c), Property Code, is amended
12 to read as follows:

13 (c) The panel shall:

14 (1) review the recommendation for compliance with this
15 title as [~~without a hearing unless a hearing is otherwise~~] required
16 by rules adopted by the commission;

17 (2) approve, reject, or modify the recommendation of
18 the third-party inspector or remand the dispute for further action
19 by the third-party inspector; and

20 (3) issue written findings of fact and a ruling on the
21 appeal not later than the 30th day after the date the notice of
22 appeal is filed with the commission.

23 SECTION 44. Section 430.005, Property Code, is amended to
24 read as follows:

25 Sec. 430.005. ALTERNATIVE STANDARDS FOR CERTAIN
26 CONSTRUCTION. (a) For the purpose of this title, the only
27 statutory warranty and building and performance standards that

1 apply to residential construction in unincorporated areas of
2 counties that are considered economically distressed areas as
3 defined by Section 15.001(11) of the Water Code and located within
4 50 miles of an international border are the standards established
5 for colonia housing programs administered by the Texas Department
6 of Housing and Community Affairs, unless a county commissioners
7 court has adopted other building and performance standards
8 authorized by statute.

9 (b) This section does not exempt a builder in an area
10 described by Subsection (a) from the registration requirements
11 imposed by this title, including the requirements of Sections
12 416.001 and 426.003.

13 (c) An allegation of a postconstruction defect in a
14 construction project in an area described by Subsection (a) is
15 subject to the state-sponsored inspection and dispute resolution
16 process described by this subtitle.

17 SECTION 45. Section 430.006, Property Code, is amended to
18 read as follows:

19 Sec. 430.006. STATUTORY WARRANTIES EXCLUSIVE. The
20 warranties established under this chapter supersede all implied
21 warranties. The only warranties that exist for residential
22 construction or residential improvements are:

23 (1) warranties created by this chapter;

24 (2) warranties created [~~or~~] by other statutes
25 expressly referring to residential construction or residential
26 improvements;

27 (3) [~~or~~] any express, written warranty acknowledged

1 by the homeowner and the builder; and

2 (4) warranties that apply to an area described by
3 Section 430.005(a) as described by that section.

4 SECTION 46. Subtitle D, Title 16, Property Code, is amended
5 by adding Chapter 431 to read as follows:

6 CHAPTER 431. ENERGY-EFFICIENT BUILDING ACCREDITATION PROGRAM

7 Sec. 431.001. ENERGY-EFFICIENT BUILDING ACCREDITATION
8 PROGRAM. (a) In this section, "National Housing Act" means
9 Section 203(b), (i), or (k) of the National Housing Act (12 U.S.C.
10 Sections 1709(b), (i), and (k)).

11 (b) The commission, in consultation with the Energy Systems
12 Laboratory at the Texas Engineering Experiment Station of The Texas
13 A&M University System, the Texas Commission on Environmental
14 Quality, and an advisory committee appointed by the commission, may
15 establish an energy-efficient building accreditation program for
16 buildings that exceed the building energy performance standards
17 under Section 388.003, Health and Safety Code, by 15 percent or
18 more.

19 (c) If the commission establishes a program under this
20 chapter, the commission, in consultation with the Energy Systems
21 Laboratory, shall update the program on or before December 1 of each
22 even-numbered year using the best available energy-efficient
23 building practices.

24 (d) If the commission establishes a program under this
25 chapter, the program must include a checklist system to produce an
26 energy-efficient building scorecard to help:

27 (1) home buyers compare potential homes and, by

1 providing a copy of the completed scorecard to a mortgage lender,
2 qualify for energy-efficient mortgages under the National Housing
3 Act; and

4 (2) communities qualify for emissions reduction
5 credits by adopting codes that meet or exceed the energy-efficient
6 building or energy performance standards established under Chapter
7 388, Health and Safety Code.

8 Sec. 431.002. PUBLIC INFORMATION PROGRAM. The commission
9 may establish a public information program to inform homeowners,
10 sellers, buyers, and others regarding energy-efficient building
11 ratings.

12 Sec. 431.003. MEASUREMENT SYSTEM FOR REDUCTION IN ENERGY
13 AND EMISSIONS. If the commission establishes a program under this
14 chapter, the Energy Systems Laboratory shall establish a system to
15 measure the reduction in energy and emissions produced under the
16 energy-efficient building program and report those savings to the
17 commission.

18 Sec. 431.004. CERTIFICATION FEE. If the commission
19 establishes a program under this chapter, the commission may set a
20 certification fee sufficient to cover the cost of administering the
21 program and pay for any education efforts conducted under this
22 chapter.

23 SECTION 47. Title 16, Property Code, is amended by adding
24 Subtitle F to read as follows:

25 SUBTITLE F. INSPECTION OF NEW RESIDENTIAL CONSTRUCTION
26 CHAPTER 446. RESIDENTIAL CONSTRUCTION IN UNINCORPORATED AREAS AND
27 OTHER AREAS NOT SUBJECT TO MUNICIPAL INSPECTIONS

1 Sec. 446.001. APPLICABILITY OF CHAPTER. This chapter
2 applies to residential construction described by Sections
3 401.003(a)(1), (2), and (3) in an unincorporated area and to other
4 areas not subject to municipal inspections.

5 Sec. 446.002. INSPECTION REQUIRED. (a) A builder shall
6 have a new home or other improvement to which this chapter applies
7 inspected by a fee inspector.

8 (b) For new construction subject to this chapter, there
9 shall be a minimum of three inspections performed during the
10 project to ensure code compliance, as applicable, at the following
11 stages of construction:

12 (1) foundation, prior to the placement of concrete;

13 (2) framing and mechanical systems prior to being
14 covered with sheetrock or other interior wall covering; and

15 (3) final inspection when the home is completed.

16 (c) For improvements other than new construction, the
17 inspections described in Subsection (b) shall occur as necessary
18 based upon the scope of work of the project.

19 (d) The builder shall be responsible for contracting with a
20 fee inspector authorized by this chapter to perform the inspections
21 required by this section.

22 (e) The commission may establish fees necessary to
23 administer this subtitle. Such fees may be included in the home
24 registration fee required by and described in Section 426.003(c).

25 Sec. 446.003. ELECTRONIC REPORTING SYSTEM. (a) The
26 commission shall establish an Internet-based process to implement
27 this subtitle. The process shall be password protected.

1 Inspectors will use the Internet-based process to report the
2 satisfactory completion of the inspections required by Section
3 446.002 to the commission. Upon reporting of satisfactory
4 completion of the inspections, the commission shall issue a
5 certificate of completion which shall be forwarded to the homeowner
6 within 30 days following the registration of a home, as required by
7 Section 426.003.

8 (b) The commission shall allow for an alternative reporting
9 system for persons who demonstrate to the commission an inability
10 to comply with the electronic reporting requirements of Subsection
11 (a).

12 Sec. 446.004. FEE INSPECTOR. A fee inspector must be either
13 a licensed engineer, a registered architect, a professional
14 inspector licensed by the Texas Real Estate Commission, or a
15 third-party inspector qualified under Section 427.001(b). A
16 builder may use the same or a different fee inspector for
17 inspections required under this chapter.

18 Sec. 446.005. ELEMENTS OF INSPECTION. The commission by
19 rule shall:

20 (1) establish the elements of the construction that
21 must be inspected under this chapter in accordance with Section
22 446.002 to ensure compliance with the applicable code provisions as
23 required by Section 430.001(d); and

24 (2) prescribe the form and the manner in which the
25 results of the inspection will be reported in writing.

26 Sec. 446.006. CONSTRUCTION IN CERTAIN AREAS: ELIGIBILITY
27 FOR CERTAIN WINDSTORM AND HAIL INSURANCE. (a) This section applies

1 only to construction in an unincorporated area in which windstorm
2 and hail insurance coverage is available under Chapter 2210,
3 Insurance Code.

4 (b) In addition to an inspection required pursuant to
5 Section 446.002, the builder must, if required by statute, obtain a
6 certificate of compliance for the structure in the manner provided
7 under Section 2210.251, Insurance Code.

8 SECTION 48. Subchapter Z, Chapter 214, Local Government
9 Code, is amended by adding Section 214.906 to read as follows:

10 Sec. 214.906. VERIFICATION OF BUILDER REGISTRATION. A
11 municipality may not issue a building permit to a builder, as
12 defined by Section 401.003, Property Code, for construction
13 described by Section 401.003(a), Property Code, unless the
14 municipality has verified that the builder is registered with the
15 Texas Residential Construction Commission under Chapter 416,
16 Property Code, or is exempt from registration under Section
17 401.005, Property Code.

18 SECTION 49. Section 388.009, Health and Safety Code, is
19 repealed.

20 SECTION 50. On or before June 1, 2008, the Texas Residential
21 Construction Commission shall adopt all rules necessary to
22 implement Subtitle F, Title 16, Property Code, as added by this Act.

23 SECTION 51. Subtitle F, Title 16, Property Code, as added
24 by this Act, applies only to construction commenced on or after
25 September 1, 2008. For the purposes of Subtitle F, Title 16,
26 Property Code, as added by this Act, construction commenced before
27 September 1, 2008, is governed by the law in effect immediately

1 before the effective date of this Act and the former law is
2 continued in effect for such construction.

3 SECTION 52. (a) The House Committee on State Affairs shall
4 conduct an interim study regarding the feasibility of creating a
5 fund designed to reimburse aggrieved persons who experience actual
6 damages from a builder's actions in violation of Title 16, Property
7 Code. The speaker of the house of representatives shall appoint two
8 additional members of the house of representatives who have
9 expressed an interest in this issue as voting adjunct members of the
10 committee for the purpose of participating in the study.

11 (b) The committee shall investigate:

12 (1) potential methods for payments into the fund,
13 procedures for managing the fund, and methods for making claims to
14 the fund; and

15 (2) similar funds created by other states and
16 jurisdictions of the United States and the relative successes or
17 failures of those funds.

18 (c) Not later than September 1, 2008, the committee shall
19 submit to the speaker of the house of representatives and the
20 members of the house of representatives:

21 (1) the results of the study; and

22 (2) any recommendations for statutory changes
23 resulting from the findings of the study.

24 (d) This section expires October 1, 2008.

25 SECTION 53. (a) This Act applies only to the following
26 that are filed on or after September 1, 2007:

27 (1) an application for a building permit or

1 certification as a builder or a Texas Star Builder; or

2 (2) a request for state-sponsored inspection and
3 dispute resolution.

4 (b) An application for a building permit or for
5 certification as a builder or a Texas Star Builder or a request for
6 state-sponsored inspection and dispute resolution that was filed
7 before September 1, 2007, is governed by the law as it existed
8 immediately before September 1, 2007, and that law is continued in
9 effect for that purpose.

10 SECTION 54. Section 5.016, Property Code, as added by this
11 Act, applies only to a transfer of residential property in which the
12 improvements to the property commenced on or after September 1,
13 2007. A transfer of residential property in which the improvements
14 commenced before September 1, 2007, is governed by the law in effect
15 at the time the improvements were commenced, and the former law is
16 continued in effect for that purpose.

17 SECTION 55. Section 416.012, Property Code, as added by
18 this Act, applies only to work performed by a builder on or after
19 September 1, 2007. Work performed by a builder before that date is
20 governed by the law in effect when the work is performed, and the
21 former law is continued in effect for that purpose.

22 SECTION 56. The changes in law made by this Act by the
23 amendment of Section 418.001, Property Code, apply only to conduct
24 that occurs on or after September 1, 2007. Conduct that occurs
25 before that date is governed by the law in effect when the conduct
26 occurs, and the former law is continued in effect for that purpose.

27 SECTION 57. This Act takes effect September 1, 2007.

David Beuhner

President of the Senate

Tom Caddick

Speaker of the House

I certify that H.B. No. 1038 was passed by the House on April 25, 2007, by the following vote: Yeas 135, Nays 1, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1038 on May 24, 2007, by the following vote: Yeas 136, Nays 2, 3 present, not voting.

Robert Haney
Chief Clerk of the House

I certify that H.B. No. 1038 was passed by the Senate, with amendments, on May 21, 2007, by the following vote: Yeas 31, Nays 0.

Patsey Saw
Secretary of the Senate

APPROVED: 15 JUN 07

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
6 PM O'CLOCK

JUN 15 2007
Roger Williams
Secretary of State