

AN ACT

relating to the acquisition and regulation of manufactured homes; providing penalties.

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

SECTION 1. Section 1201.003, Occupations Code, is amended by adding Subdivisions (2-a) and (23-a) to read as follows:

(2-a) "Attached" in reference to a manufactured home means that the home has been:

(A) installed in compliance with the rules of the department; and

(B) connected to a utility, including a utility providing water, electric, natural gas, propane or butane gas, or wastewater service.

(23-a) "Statement of ownership and location" means a statement issued by the department and setting forth:

(A) the ownership and location of a manufactured home that has been sold at a retail sale or installed in this state as provided by Section 1201.205; and

(B) other information required by this chapter.

SECTION 2. Subsection (a), Section 1201.055, Occupations Code, is amended to read as follows:

(a) With guidance from the federal Housing and Community Development Act of 1974 (42 U.S.C. Section 5301 et seq.) and from the rules and regulations adopted under the National Manufactured

1 Housing Construction and Safety Standards Act of 1974 (42 U.S.C.
2 Section 5401 et seq.), the board shall establish fees as follows:

3 (1) if the department acts as a design approval
4 primary inspection agency, a schedule of fees for the review of
5 HUD-code manufactured home blueprints and supporting information,
6 to be paid by the manufacturer seeking approval of the blueprints
7 and supporting information;

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

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

15 (4) a fee for the inspection of the rebuilding of a
16 salvaged manufactured home, to be paid by the rebuilder;

17 (5) a fee for the inspection of a used manufactured
18 home [~~for which the title has been canceled,~~] to determine whether
19 the home is habitable for the issuance of a new statement of
20 ownership and location [~~title~~]; and

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

23 SECTION 3. Section 1201.059, Occupations Code, is amended
24 to read as follows:

25 Sec. 1201.059. [~~TITLE~~] FEES FOR STATEMENTS OF OWNERSHIP AND
26 LOCATION. (a) The board shall set fees for issuing statements of
27 ownership and location [~~and canceling titles to manufactured~~

1 ~~housing~~].

2 (b) Ten dollars of the fee for each purchase, exchange, or
3 lease-purchase of a manufactured home [~~title transaction~~] shall be
4 deposited to the credit of the trust fund and used for the
5 protection programs described by Subchapter I.

6 SECTION 4. Subsection (g), Section 1201.101, Occupations
7 Code, is amended to read as follows:

8 (g) A person may not make an announcement concerning the
9 sale, exchange, or lease-purchase of, or offer to sell, exchange,
10 or lease-purchase, a manufactured home to a consumer in this state
11 through an advertisement unless the person holds a manufacturer's,
12 retailer's, or broker's license. This subsection does not apply to:

13 (1) a person to whom a statement of ownership and
14 location [~~certificate or other document of title~~] has been issued
15 showing the person to be the owner of the home if the person does not
16 offer to sell, exchange, or lease-purchase two or more manufactured
17 homes in a 12-month period; or

18 (2) an advertisement concerning real property to which
19 a manufactured home has been permanently attached.

20 SECTION 5. Section 1201.113, Occupations Code, is amended
21 to read as follows:

22 Sec. 1201.113. CERTIFICATION AND CONTINUING EDUCATION
23 PROGRAMS. (a) The board shall [~~department may~~] recognize,
24 prepare, or administer [a] certification and continuing education
25 programs [~~program~~] for persons regulated under this chapter.
26 [~~Participation in a certification program is voluntary.~~]

27 (b) [~~The board shall recognize, prepare, or administer a~~

1 ~~continuing education program for its license holders.]~~ A license
2 holder must participate in certification and [a] continuing
3 education programs as provided by Subsection (e) [~~program to the~~
4 ~~extent required by the board to retain the person's license~~].

5 (c) To prepare or administer a certification or continuing
6 education program under this section, the board may contract with:

7 (1) a private, nonprofit organization that qualifies
8 for an exemption from federal income taxation under Section 501(a),
9 Internal Revenue Code of 1986, by being listed as an exempt
10 organization under Section 501(c)(3) of that code; or

11 (2) an educational institution.

12 (d) To be considered for a contract under Subsection (c), an
13 organization or institution must submit an application. The board
14 may charge an application fee to be set by the board in an amount
15 necessary to pay the costs of processing the application.

16 (e) Persons regulated under this chapter and directly
17 involved in the sale of manufactured housing must complete eight
18 hours of certification and continuing education programs each year.
19 The programs must address state and federal law applicable to all
20 manufactured housing retailer practices and relevant consumer
21 protection regulations and ethical standards.

22 (f) The department shall issue an appropriate certificate
23 to a person who completes a certification program and [ex]
24 participates in a continuing education program under this section.

25 (g) The board shall suspend the license of a person
26 regulated under this chapter who does not complete the programs as
27 required by this section. The board shall reinstate the license on

1 the person's completion of the programs.

2 SECTION 6. Subsection (a), Section 1201.153, Occupations
3 Code, is amended to read as follows:

4 (a) A retailer or manufacturer may not transfer ownership of
5 ~~[title to]~~ a HUD-code manufactured home or otherwise sell, assign,
6 or convey a HUD-code manufactured home to a consumer unless the
7 retailer or manufacturer delivers to the consumer a formaldehyde
8 health notice, subject to the director's rules concerning the
9 notice.

10 SECTION 7. Section 1201.159, Occupations Code, is amended
11 to read as follows:

12 Sec. 1201.159. BROKER. (a) A broker may but is not
13 required to be the agent of a party involved in the sale, exchange,
14 or lease-purchase of a manufactured home for which a statement of
15 ownership and location ~~[certificate or other document of title]~~ has
16 been issued and is outstanding.

17 (b) A person is not required to be a broker licensed under
18 this chapter but may be required to be a real estate broker or
19 salesperson licensed under Chapter 1101 if:

20 (1) the manufactured home is attached ~~[to a permanent~~
21 ~~foundation]~~; and

22 (2) ~~[the manufacturer's certificate or the document of~~
23 ~~title is canceled, and~~

24 ~~[(3)]~~ the home is offered as real property.

25 SECTION 8. If the Act of the 78th Legislature, Regular
26 Session, 2003, relating to nonsubstantive additions to and
27 corrections in enacted codes takes effect, Subsection (a), Section

1 1201.162, Occupations Code, is amended to read as follows:

2 (a) Before the completion of a credit application, the
3 retailer or agent must provide to the consumer the following
4 statement that is printed in at least 12-point [~~10-point~~] type and
5 not attached to or combined with any other written material:

6 "When buying a manufactured home, there are a number of
7 important considerations, including price, quality of
8 construction, features, floor plan, and financing alternatives.

9 "The United States Department of Housing and Urban
10 Development (HUD) helps protect consumers through regulation and
11 enforcement of HUD design and construction standards for
12 manufactured homes. Manufactured homes that meet HUD standards are
13 known as 'HUD-code manufactured homes.' The Texas Department of
14 Housing and Community Affairs regulates Texas manufacturers,
15 retailers, brokers, salespersons, installers, and rebuilders of
16 manufactured homes.

17 "If you plan to place a manufactured home on land that you own
18 or will buy, you should consider items such as:

19 "ZONING AND RESTRICTIVE COVENANTS. Municipalities [~~Some~~
20 ~~municipalities~~] or subdivisions may restrict placement of
21 manufactured homes on certain lots, may prohibit the placement of
22 homes within a certain distance from property lines, may require
23 that homes be a certain size, and may impose certain construction
24 requirements. You may need to obtain building permits and
25 homeowner association approval before you place a manufactured home
26 on a certain lot. Contact the local municipality, county, and
27 subdivision manager to find out if you can place the manufactured

1 home of your choice on a certain lot.

2 "WATER. [~~Not all lots have immediate access to water lines.~~
3 ~~You may have to drill a well.~~] Be sure that your lot has access to
4 water. If you must drill a well, contact several drillers for bids.
5 If water is available through [~~provided by~~] a municipality, utility
6 district, water district, or cooperative, you should inquire about
7 the rates you will have to pay and the costs necessary to join the
8 water system.

9 "SEWER. If your lot is not serviced by a municipal sewer
10 system or utility district, you will [~~may~~] have to install an
11 on-site sewer facility (commonly known as a septic system). There
12 are a number of concerns or restrictions that will determine if your
13 lot is adequate to support an on-site sewer facility. Check with
14 the local county or a licensed private installer to determine the
15 requirements that apply to your lot and the cost to install such a
16 system.

17 "HOMEOWNER ASSOCIATION FEES. Many subdivisions have
18 mandatory assessments and fees that lot owners must pay. Check with
19 the manager of the subdivision in which your lot is located to
20 determine if any fees apply to your lot.

21 "TAXES. Your home will be appraised and subject to ad
22 valorem taxes as are other single-family residential structures.
23 These taxes must be escrowed with your monthly payment, except that
24 your lender is not obligated to impose an escrow requirement in a
25 real property transaction involving a manufactured home if the
26 lender is a federally insured financial institution and does not
27 otherwise require the escrow of taxes, insurance premiums, fees, or

1 other charges in connection with loans secured by residential real
2 property. On closing, you will be notified of all provisions
3 pertaining to federal truth in lending disclosures.

4 "INSURANCE. Your lender may require you to obtain insurance
5 that meets lender requirements and protects your investment. You
6 should request quotes from the agent of your choice to obtain the
7 insurance.

8 "TYPES OF MORTGAGES AVAILABLE. The acquisition of a
9 manufactured home may be financed by a real estate mortgage or a
10 chattel mortgage. A real estate mortgage may have a lower interest
11 rate than a chattel mortgage.

12 "RIGHT OF RESCISSION. If you acquire a manufactured home, by
13 purchase, exchange, or lease-purchase, you may, not later than the
14 third day after the date the applicable contract is signed, rescind
15 the contract without penalty or charge." ~~(In Texas, real property~~
16 ~~is taxed annually based on its market value. Attaching a~~
17 ~~manufactured home to a lot improves the lot's value and will~~
18 ~~increase the taxes assessed on the lot. You are liable for the~~
19 ~~payment of all ad valorem taxes assessed against your home by the~~
20 ~~municipality, county, school district, and other tax authorities~~
21 ~~(utility district, community college, etc.). As with other~~
22 ~~residential structures, the applicable tax rate will apply to the~~
23 ~~market value of the home. You should contact the local chief~~
24 ~~appraiser or the county tax assessor-collector for specific tax~~
25 ~~information. They will need to know the price you paid for, and the~~
26 ~~specific location of, the home. If the manufactured home is your~~
27 ~~principal place of residence, you should be able to claim a~~

1 ~~HOMESTEAD EXEMPTION. You should also make certain that the lot or~~
2 ~~land you are purchasing is not subject to any rollback tax liability~~
3 ~~because of the change in use of the property."]~~

4 SECTION 9. If the Act of the 78th Legislature, Regular
5 Session, 2003, relating to nonsubstantive additions to and
6 corrections in enacted codes does not take effect, Subsection (a),
7 Section 21, Texas Manufactured Housing Standards Act (Article
8 5221f, Vernon's Texas Civil Statutes), is amended to read as
9 follows:

10 (a) Prior to the completion of a credit application, the
11 retailer or agent must provide to the consumer the following
12 statement that is printed in at least 12-point [~~10-point~~] type and
13 not attached to or combined with any other written material:

14 "When buying a manufactured home, there are a number of
15 important considerations, including price, quality of
16 construction, features, floor plan, and financing alternatives.

17 "The United States Department of Housing and Urban
18 Development (HUD) helps protect consumers through regulation and
19 enforcement of HUD design and construction standards for
20 manufactured homes. Manufactured homes that meet HUD standards are
21 known as 'HUD-code manufactured homes.' The Texas Department of
22 Housing and Community Affairs regulates Texas manufacturers,
23 retailers, brokers, salespersons, installers, and rebuilders of
24 manufactured homes.

25 "If you plan to place a manufactured home on land that you own
26 or will buy, you should consider items such as:

27 "ZONING AND RESTRICTIVE COVENANTS. Municipalities [~~Some~~

1 ~~municipalities]~~ or subdivisions may restrict placement of
2 manufactured homes on certain lots, may prohibit the placement of
3 homes within a certain distance from property lines, may require
4 that homes be a certain size, and may impose certain construction
5 requirements. You may need to obtain building permits and
6 homeowner association approval before you place a manufactured home
7 on a certain lot. Contact the local municipality, county, and
8 subdivision manager to find out if you can place the manufactured
9 home of your choice on a certain lot.

10 "WATER. [~~Not all lots have immediate access to water lines.~~
11 ~~You may have to drill a well.~~] Be sure that your lot has access to
12 water. If you must drill a well, contact several drillers for bids.
13 If water is available through [~~provided by~~] a municipality, utility
14 district, water district, or cooperative, you should inquire about
15 the rates you will have to pay and the costs necessary to join the
16 water system.

17 "SEWER. If your lot is not serviced by a municipal sewer
18 system or utility district, you will [~~may~~] have to install an
19 on-site sewer facility (commonly known as a septic system). There
20 are a number of concerns or restrictions that will determine if your
21 lot is adequate to support an on-site sewer facility. Check with
22 the local county or a licensed private installer to determine the
23 requirements that apply to your lot and the cost to install such a
24 system.

25 "HOMEOWNER ASSOCIATION FEES. Many subdivisions have
26 mandatory assessments and fees that lot owners must pay. Check with
27 the manager of the subdivision in which your lot is located to

1 determine if any fees apply to your lot.

2 "TAXES. Your home will be appraised and subject to ad
3 valorem taxes as are other single-family residential structures.
4 These taxes must be escrowed with your monthly payment, except that
5 your lender is not obligated to impose an escrow requirement in a
6 real property transaction involving a manufactured home if the
7 lender is a federally insured financial institution and does not
8 otherwise require the escrow of taxes, insurance premiums, fees, or
9 other charges in connection with loans secured by residential real
10 property. On closing, you will be notified of all provisions
11 pertaining to federal truth in lending disclosures.

12 "INSURANCE. Your lender may require you to obtain insurance
13 that meets lender requirements and protects your investment. You
14 should request quotes from the agent of your choice to obtain the
15 insurance.

16 "TYPES OF MORTGAGES AVAILABLE. The acquisition of a
17 manufactured home may be financed by a real estate mortgage or a
18 chattel mortgage. A real estate mortgage may have a lower interest
19 rate than a chattel mortgage.

20 "RIGHT OF RESCISSION. If you acquire a manufactured home, by
21 purchase, exchange, or lease-purchase, you may, not later than the
22 third day after the date the applicable contract is signed, rescind
23 the contract without penalty or charge." [~~In Texas, real property~~
24 ~~is taxed annually based on its market value. Attaching a~~
25 ~~manufactured home to a lot improves the lot's value and will~~
26 ~~increase the taxes assessed on the lot. You are liable for the~~
27 ~~payment of all ad valorem taxes assessed against your home by the~~

1 ~~municipality, county, school district, and other tax authorities~~
2 ~~(utility district, community college, etc.). As with other~~
3 ~~residential structures, the applicable tax rate will apply to the~~
4 ~~market value of the home. You should contact the local chief~~
5 ~~appraiser or the county tax assessor-collector for specific tax~~
6 ~~information. They will need to know the price you paid for, and the~~
7 ~~specific location of, the home. If the manufactured home is your~~
8 ~~principal place of residence, you should be able to claim a~~
9 ~~HOMESTEAD EXEMPTION. You should also make certain that the lot or~~
10 ~~land you are purchasing is not subject to any rollback tax liability~~
11 ~~because of the change in use of the property."]~~

12 SECTION 10. Subchapter D, Chapter 1201, Occupations Code,
13 is amended by adding Sections 1201.1505, 1201.1521, 1201.163,
14 1201.164, and 1201.165 to read as follows:

15 Sec. 1201.1505. DEPOSIT ON SPECIALLY ORDERED MANUFACTURED
16 HOMES. A retailer may require an earnest money deposit on a
17 specially ordered manufactured home only if:

18 (1) an earnest money contract has been signed by all
19 parties;

20 (2) if applicable, the original binding loan
21 commitment letter issued by the lender is delivered to the
22 consumer; and

23 (3) the consumer has not rescinded the contract under
24 Section 1201.1521.

25 Sec. 1201.1521. RESCISSION OF CONTRACT FOR SALE, EXCHANGE,
26 OR LEASE-PURCHASE OF HOME. A person who acquires a manufactured
27 home by purchase, exchange, or lease-purchase may, not later than

1 the third day after the date the applicable contract is signed,
2 rescind the contract without penalty or charge.

3 Sec. 1201.163. CHATTEL MORTGAGE TRANSACTION: CONSUMER
4 PROTECTION DISCLOSURES. (a) In addition to the disclosure
5 statement required by Section 1201.162, the department shall adopt
6 rules addressing consumer protection disclosures required in
7 chattel mortgage transactions and prescribe the form for the
8 disclosure statement. A consumer protection disclosure statement
9 under this subsection must include the following:

10 (1) a statement of the significant differences between
11 chattel mortgages and real estate mortgages;

12 (2) an itemization of estimated closing costs, if any;

13 (3) an estimate of the total amount of monthly
14 payments, including:

15 (A) principal and interest payments;

16 (B) costs of any required insurance; and

17 (C) costs for payment of ad valorem taxes, based
18 on the current tax rate of each taxing unit in which the
19 manufactured home will be located as applied to the sales price of
20 the manufactured home;

21 (4) a statement of the roles of the retailer and any
22 affiliated parties in the financing of the first retail sale, as
23 defined by Section 1201.201, and the estimated compensation that
24 they will receive for providing or arranging the financing; and

25 (5) any other disclosures required by state or federal
26 law, including the Real Estate Settlement Procedures Act of 1974
27 (12 U.S.C. Section 2601 et seq.) and the Truth in Lending Act (15

1 U.S.C. Section 1601 et seq.).

2 (b) A retailer shall provide the consumer protection
3 disclosure statement to the consumer at least 24 hours before the
4 installment contract is fully executed, as provided by Section
5 1201.164.

6 (c) On receipt of the consumer protection disclosure
7 statement, the consumer shall execute a written acknowledgment that
8 the consumer has received the statement.

9 (d) In addition to other rights of rescission provided by
10 this chapter, the installment contract is subject to rescission by
11 the consumer until the earlier of:

12 (1) the expiration of the two-year period following
13 the date the contract was fully executed; or

14 (2) the consumer's execution of a written
15 acknowledgment that the consumer has received the consumer
16 protection disclosure statement required by this section.

17 (e) If the payment was made under the contract, a consumer
18 who rescinds an installment contract as provided by this section is
19 entitled to receive a refund of all money paid to any person by the
20 consumer, except money paid to obtain a credit report.

21 (f) This section does not apply to a real estate
22 transaction.

23 Sec. 1201.164. ADVANCE COPY OF INSTALLMENT CONTRACT AND
24 DISCLOSURE STATEMENTS; OFFER BY RETAILER. (a) In a chattel
25 mortgage transaction involving an installment contract, a retailer
26 shall deliver to a consumer at least 24 hours before the contract is
27 fully executed the disclosure statements required by this

1 subchapter and the contract, with all required information
2 included, signed by the retailer. The delivery of the disclosure
3 statements and installment contract, with all required information
4 included, signed by the retailer constitutes a firm offer by the
5 retailer. The consumer may accept the offer not earlier than 24
6 hours after the delivery of the documents.

7 (b) A consumer may not waive the right to receive the
8 disclosure statements under this section.

9 Sec. 1201.165. NONBINDING ESTIMATE. In a chattel mortgage
10 transaction, if a retailer provides a nonbinding estimate regarding
11 the contract price of a manufactured home or the monthly payments or
12 interest rate applicable to a loan issued in connection with the
13 home, the estimate must be made in writing and in good faith.

14 SECTION 11. The heading to Subchapter E, Chapter 1201,
15 Occupations Code, is amended to read as follows:

16 SUBCHAPTER E. MANUFACTURED HOME STATEMENTS OF OWNERSHIP AND
17 LOCATION [TITLES]

18 SECTION 12. Subdivisions (2), (3), and (11), Section
19 1201.201, Occupations Code, are amended to read as follows:

20 (2) "Document of title" means a written instrument
21 issued solely by and under the authority of the director before
22 September 1, 2003, that provides the information required by
23 Section 1201.205, as that section existed before that date.
24 Beginning September 1, 2003, a document of title is considered to be
25 a statement of ownership and location and may be exchanged for a
26 statement of ownership and location as provided by Section
27 1201.214.

1 (3) "First retail sale" means a consumer's initial
2 acquisition of a new manufactured home from a retailer by purchase,
3 exchange, or lease-purchase. The term includes a bargain, sale,
4 transfer, or delivery of a manufactured home for which the director
5 has not previously issued a statement of ownership and location
6 [~~document of title~~], with intent to pass an interest in the home,
7 other than a lien.

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

13 SECTION 13. Sections 1201.203, 1201.204, and 1201.205,
14 Occupations Code, are amended to read as follows:

15 Sec. 1201.203. FORMS; RULES. (a) The director shall
16 prescribe forms and adopt rules relating to:

17 (1) the manufacturer's certificate;

18 (2) the statement of ownership and location;

19 (3) the application for a statement of ownership and
20 location [~~document of title~~]; and

21 (4) [~~(3)~~] the issuance of a statement of ownership and
22 location [~~document of title~~] at the first retail sale and for a
23 subsequent sale or transfer of a manufactured home.

24 (b) The director shall adopt rules for the documenting of
25 the ownership and location [~~titling~~] of a manufactured home that
26 has been previously owned [~~registered or titled~~] in this state or
27 another state. The rules must protect a lienholder recorded on a

1 statement of ownership and location, a certificate, or other
2 document of title.

3 Sec. 1201.204. MANUFACTURER'S CERTIFICATE. (a) A
4 manufacturer's certificate must show:

5 (1) on a form prescribed by the director or on another
6 document, the original transfer of a manufactured home from the
7 manufacturer to the retailer; and

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

14 (b) At the first retail sale of a manufactured home, a
15 manufacturer's certificate automatically converts to a document
16 that does not evidence any ownership interest in the manufactured
17 home described in the document. A security interest in inventory
18 evidenced by the manufacturer's certificate automatically converts
19 to a security interest in proceeds and cash proceeds.

20 (c) After the first retail sale of a manufactured home, the
21 retailer may submit the manufacturer's certificate for that home to
22 the department.

23 Sec. 1201.205. STATEMENT OF OWNERSHIP AND LOCATION
24 [~~DOCUMENT OF TITLE CONTENTS~~]. A statement of ownership and
25 location [~~document of title~~] must provide:

26 (1) the names and addresses of [+
27 [~~(A)~~] the purchaser and seller [~~at the first~~

1 ~~retail sale, or~~

2 [~~(B) the transferee and transferor at any~~
3 ~~subsequent sale or transfer];~~

4 (2) the manufacturer's name and address and any model
5 designation;

6 (3) in accordance with the director's rules:

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

11 (B) the approximate square footage of the home
12 when installed for occupancy;

13 (4) the identification number for each section or
14 module of the home;

15 (5) the county of this state in which the home is
16 installed for occupancy;

17 (6) in chronological order of recordation, the date of
18 each lien on the home and the name and address of each lienholder,
19 or, if a lien is not recorded, a statement of that fact;

20 (7) the signature of the owner in ink, given on receipt
21 of the document;

22 (8) a statement that if two or more eligible persons,
23 as determined by Section 1201.213, file with the application for
24 the issuance of a statement of ownership and location [~~document of~~
25 ~~title~~] an agreement signed by all the persons providing that the
26 home is to be held jointly with a right of survivorship, the
27 director shall issue the statement of ownership and location

1 ~~[document of title]~~ in all the names; ~~[and]~~

2 (9) the location of the home;

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

5 (11) statements of whether the home is a salvaged
6 manufactured home and whether the home is reserved for business use
7 only; and

8 (12) any other information the director requires.

9 SECTION 14. Subchapter E, Chapter 1201, Occupations Code,
10 is amended by adding Section 1201.2055 to read as follows:

11 Sec. 1201.2055. ELECTION BY OWNER. (a) In completing an
12 application for the issuance of a statement of ownership and
13 location, an owner of a manufactured home shall indicate whether
14 the owner elects to treat the home as personal property or real
15 property. An owner may elect to treat a manufactured home as real
16 property only if the home is attached to:

17 (1) real property that is owned by the owner of the
18 home; or

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

21 (b) A statement of election under Subsection (a) must be
22 made by affidavit.

23 (c) If the department issues a statement of ownership and
24 location to an owner who has elected to treat a manufactured home as
25 personal property, the statement of ownership and location on file
26 with the department is evidence of ownership of the home. A lien,
27 charge, or other encumbrance on a home treated as personal property

1 may be made only by filing the appropriate document with the
2 department.

3 (d) If the department issues a statement of ownership and
4 location to an owner who has elected to treat a manufactured home as
5 real property, the manufactured home is not considered to be real
6 property until a certified copy of the statement of ownership and
7 location has been filed in the real property records of the county
8 in which the home is located. After the certified copy has been
9 filed in the real property records of the county, the home is
10 considered to be real property in the form of an improvement to the
11 underlying real property on which the home is located. If a real
12 property election has been made but a certified copy of the
13 statement of ownership and location has not been filed as required
14 by this subsection, the home continues to be treated as personal
15 property until the certified copy is filed.

16 SECTION 15. Sections 1201.206 and 1201.207, Occupations
17 Code, are amended to read as follows:

18 Sec. 1201.206. APPLICATION FOR ISSUANCE OF STATEMENT OF
19 OWNERSHIP AND LOCATION [~~TITLE~~]. (a) Before the first retail sale
20 of a manufactured home, the retailer shall timely provide to the
21 consumer an application for the issuance of a statement of
22 ownership and location and any information necessary to complete
23 the application.

24 (b) At the first retail sale of a manufactured home, the
25 retailer shall provide for the installation of the home and ensure
26 that the application for the issuance of a statement of ownership
27 and location is properly completed. The consumer shall return the

1 completed application to the retailer.

2 (c) Not later than the 30th day after the date of the retail
3 sale, the retailer shall provide to the department the completed
4 application for the issuance of a statement of ownership and
5 location [~~and purchaser shall apply for the issuance of a document~~
6 ~~of title. As part of the application, the retailer must surrender~~
7 ~~the original manufacturer's certificate~~].

8 (d) [(b)] At a subsequent sale or transfer of the home, the
9 [~~seller and~~] purchaser or [~~the transferor and~~] transferee[, ~~as~~
10 ~~applicable,~~] shall apply for the issuance of a new statement of
11 ownership and location [~~document of title. As part of the~~
12 ~~application, the seller or transferor must surrender the original~~
13 ~~document of title~~].

14 (e) Ownership of a manufactured home does not pass or vest
15 at a sale or transfer of the home until a completed application for
16 the issuance of a statement of ownership and location is filed with
17 the department.

18 (f) If the owner of a manufactured home relocates the home,
19 the owner shall apply for the issuance of a new statement of
20 ownership and location not later than the 30th day after the date
21 the home is relocated. The department shall require that the owner
22 submit evidence that the home was relocated in accordance with the
23 requirements of the Texas Department of Transportation.

24 Sec. 1201.207. ISSUANCE OF STATEMENT OF OWNERSHIP AND
25 LOCATION [~~TITLE~~]. (a) The department shall process any completed
26 application for the issuance of a statement of ownership and
27 location not later than the 10th working day after the date the

1 application is received by the department. If the department
2 rejects an application, the department shall provide a clear and
3 complete explanation of the reason for the rejection and
4 instructions on how to cure any defects, if possible.

5 (b) If the department issues a statement of ownership and
6 location for a manufactured home, the department shall place in its
7 files the original statement of ownership and location and shall
8 mail a certified copy to the owner of the home and to any
9 lienholder.

10 (c) Except with respect to any change in use, but subject to
11 Section 1201.2075, if the department has issued a statement of
12 ownership and location for a manufactured home, the department may
13 issue a subsequent statement of ownership and location for the home
14 only if all parties reflected in the department's records as having
15 an interest in the manufactured home give their written consent or
16 release their interest, either in writing or by operation of law
17 ~~[Except as otherwise provided by this subchapter, if a lien is not~~
18 ~~recorded, the department shall~~

19 ~~[(1) issue a document of title marked "ORIGINAL" on~~
20 ~~the face of the document of title, and~~

21 ~~[(2) send the original by first class mail to the~~
22 ~~purchaser or transferee at the address on the application.~~

23 ~~[(b) Except as otherwise provided by this subchapter, if a~~
24 ~~lien is shown in the application or recorded with the department,~~
25 ~~the department shall~~

26 ~~[(1) issue a document of title marked "ORIGINAL" on~~
27 ~~the face of the document of title and send the original by first~~

1 ~~class mail to the first lienholder, and~~

2 ~~[(2) send a copy of the document of title~~
3 ~~conspicuously marked "NONTRANSFERABLE COPY" on the face of the~~
4 ~~document of title by first class mail to the purchaser or transferee~~
5 ~~and any other lienholder at the address on the application].~~

6 SECTION 16. Subchapter E, Chapter 1201, Occupations Code,
7 is amended by adding Section 1201.2075 to read as follows:

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

13 (1) each lien on the home is released by the
14 lienholder; or

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

17 (b) The department may issue a statement of ownership and
18 location before the release of any liens or the consent of any
19 lienholders as required by this section only if the department
20 releases a certified copy of the statement to:

21 (1) a licensed title insurance company that has issued
22 a title insurance policy covering all prior liens on the home; or

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

27 SECTION 17. The heading to Section 1201.208, Occupations

1 Code, is amended to read as follows:

2 Sec. 1201.208. PAYMENT OF TAXES REQUIRED FOR ISSUANCE OF
3 STATEMENT OF OWNERSHIP AND LOCATION [~~TITLE~~].

4 SECTION 18. Subsection (a), Section 1201.208, Occupations
5 Code, is amended to read as follows:

6 (a) The department may not issue a statement of ownership
7 and location [~~document of title~~] for a new manufactured home
8 installed for occupancy in this state unless the state sales and use
9 tax has been paid.

10 SECTION 19. Section 1201.209, Occupations Code, is amended
11 to read as follows:

12 Sec. 1201.209. GROUNDS FOR REFUSAL TO ISSUE OR FOR
13 SUSPENSION OR REVOCATION OF STATEMENT OF OWNERSHIP AND LOCATION
14 [~~TITLE~~]. The department may not refuse to issue a statement of
15 ownership and location [~~document of title~~] and may not suspend or
16 revoke a statement of ownership and location [~~document of title~~]
17 unless:

18 (1) the application for issuance of the statement of
19 ownership and location [~~document of title~~] contains a false or
20 fraudulent statement, the applicant failed to provide information
21 required by the director, or the applicant is not entitled to
22 issuance of the statement of ownership and location [~~document of~~
23 ~~title~~];

24 (2) the director has reason to believe that the
25 manufactured home is stolen or unlawfully converted, or the
26 issuance of a statement of ownership and location [~~document of~~
27 ~~title~~] would defraud the owner or a lienholder of the manufactured

1 home;

2 (3) the director has reason to believe that the
3 manufactured home is salvaged, and an application for the issuance
4 of a new statement of ownership and location that indicates that the
5 home is salvaged [~~salvage title~~] has not been filed;

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

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

9 (6) a local tax lien was filed before September 1,
10 2001, and recorded under Section 32.015, Tax Code, as that section
11 existed on the date the lien was filed, and the lien has not been
12 extinguished.

13 SECTION 20. The heading to Section 1201.210, Occupations
14 Code, is amended to read as follows:

15 Sec. 1201.210. PROCEDURE FOR REFUSAL TO ISSUE OR SUSPENSION
16 OR REVOCATION OF STATEMENT OF OWNERSHIP AND LOCATION [~~TITLE~~].

17 SECTION 21. Subsection (a), Section 1201.210, Occupations
18 Code, is amended to read as follows:

19 (a) If the director refuses to issue or suspends or revokes
20 a statement of ownership and location [~~document of title~~], the
21 director shall give, by certified mail, written notice of that
22 action to:

23 (1) the seller and purchaser or transferor and
24 transferee, as applicable; and

25 (2) the holder of a lien or security interest of
26 record.

27 SECTION 22. Section 1201.212, Occupations Code, is amended

1 to read as follows:

2 Sec. 1201.212. TRANSFER OF OWNERSHIP [~~TITLE~~] BY OPERATION
3 OF LAW. (a) If the ownership of a manufactured home in this state
4 is transferred by inheritance, devise, or bequest, by bankruptcy,
5 receivership, judicial sale, or other involuntary divestiture of
6 ownership, or by any other operation of law, the department shall
7 issue a new statement of ownership and location [~~document of title~~]
8 after receiving a certified copy of:

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

11 (2) the order appointing a temporary administrator;

12 (3) the probate proceedings;

13 (4) the letters testamentary or the letters of
14 administration; or

15 (5) if administration of an estate is not necessary,
16 an affidavit by all of the heirs at law showing:

17 (A) that administration is not necessary; and

18 (B) the name in which the statement of ownership
19 and location [~~certificate~~] should be issued.

20 (b) The department may issue a new statement of ownership
21 and location [~~document of title~~] in the name of the purchaser at a
22 foreclosure sale:

23 (1) for a lien or security interest foreclosed
24 according to law by nonjudicial means, if the lienholder or secured
25 party files an affidavit showing the nonjudicial foreclosure
26 according to law; or

27 (2) for a foreclosed constitutional or statutory lien,

1 if the person entitled to the lien files an affidavit showing the
2 creation of the lien and the resulting divestiture of title
3 according to law.

4 (c) The department shall issue a new statement of ownership
5 and location [~~document of title~~] to a survivor if:

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

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

11 SECTION 23. Subsection (b), Section 1201.213, Occupations
12 Code, is amended to read as follows:

13 (b) If the statement of ownership and location [~~title~~] is
14 being issued in connection with the sale of the home, the seller is
15 not eligible to sign a right of survivorship agreement under this
16 subchapter unless the seller is the child, grandchild, parent,
17 grandparent, or sibling of each other person signing the agreement.
18 A family relationship required by this subsection may be a
19 relationship established by adoption.

20 SECTION 24. Sections 1201.214, 1201.215, and 1201.216,
21 Occupations Code, are amended to read as follows:

22 Sec. 1201.214. [~~LOST OR DESTROYED~~] DOCUMENT OF TITLE.

23 (a) Effective September 1, 2003, all outstanding documents of
24 title are considered to be statements of ownership and location.

25 (b) An owner or lienholder may provide to the department the
26 document of title and any additional information required by the
27 department and request that the department issue a statement of

1 ownership and location to replace the document of title. The
2 department shall mail to the owner or lienholder a certified copy of
3 the statement of ownership and location issued under this
4 subsection.

5 (c) An owner or lienholder who applies for the issuance of a
6 statement of ownership and location to replace a [If an original
7 document of title is] lost or destroyed document of title must
8 execute [the owner or lienholder may obtain a certified copy of the
9 original from the department by making] an affidavit on a form
10 prescribed by the director. [The department may issue the
11 certified copy only to the first lienholder if a lien is disclosed
12 on the original. The certified copy must be conspicuously marked
13 "CERTIFIED COPY OF ORIGINAL" on the face of the copy.]

14 (d) [(b)] If the original document of title is recovered,
15 the owner or lienholder shall immediately surrender the original to
16 the department [with the certified copy of the original, and the
17 department shall issue a new original document of title].

18 Sec. 1201.215. PREVIOUS OWNER OR LIENHOLDER UNAVAILABLE.
19 If information establishing ownership [an original document of
20 title] is unavailable because a previous owner or lienholder cannot
21 be located or because a manufactured home has been abandoned, a
22 person may apply to the department for the issuance of a statement
23 of ownership and location and may receive a certified copy of that
24 statement only [replacement title] by presenting:

25 (1) evidence satisfactory to the department that the
26 effort to locate the previous owner or lienholder has been
27 unsuccessful; and

1 (2) an affidavit stating that to the best of the
2 applicant's knowledge, the applicant is entitled to a good and
3 marketable title to the manufactured home.

4 Sec. 1201.216. CHANGE IN USE. (a) The department shall
5 indicate on the statement of ownership and location for [~~cancel a~~
6 ~~title to~~] a manufactured home whether the home [~~that~~] has been sold,
7 exchanged, or lease-purchased to a purchaser for the purchaser's
8 business use. For a home sold, exchanged, or lease-purchased as
9 described by this subsection, the department shall issue a new
10 statement of ownership and location that indicates that the home is
11 reserved for business use.

12 (b) On application, the department may issue a new statement
13 of ownership and location for [~~title to~~] the home after an
14 inspection and determination that the home is habitable. The
15 statement must indicate that the home is no longer reserved for
16 business use.

17 (c) The department shall issue a statement of ownership and
18 location that indicates that a home is salvaged [~~salvage title~~] for
19 a salvaged manufactured home.

20 (d) For a salvaged manufactured home that is rebuilt
21 according to the director's rules, the department shall [~~and may~~]
22 issue a new statement of ownership and location, which must
23 indicate that the home is no longer salvaged [~~title for a new home~~
24 ~~rebuilt according to the director's rules~~].

25 SECTION 25. Subsection (d), Section 1201.219, Occupations
26 Code, is amended to read as follows:

27 (d) The department shall print on each statement of

1 ownership and location [~~document of title~~] issued under this
2 subchapter a notice that:

3 (1) the statement of ownership and location [~~document~~
4 ~~of title~~] may not reflect the existence of a tax lien notice filed
5 for the manufactured home after the date the statement of ownership
6 and location [~~document of title~~] was issued; and

7 (2) information about a tax lien for which notice has
8 been filed may be obtained from the department on written request.

9 SECTION 26. Subsection (a), Section 1201.220, Occupations
10 Code, is amended to read as follows:

11 (a) The department shall provide to each county tax
12 assessor-collector in this state a monthly report that, for each
13 manufactured home installed in the county during the preceding
14 month and for each manufactured home previously installed in the
15 county for which a transfer of ownership was recorded by the
16 issuance of a statement of ownership and location [~~document of~~
17 ~~title~~] during the preceding month, lists:

- 18 (1) the name of the owner of the home;
- 19 (2) the name of the manufacturer of the home;
- 20 (3) the model designation of the home;
- 21 (4) the identification number of each section or
22 module of the home;
- 23 (5) the address or location where the home is
24 installed; and
- 25 (6) the date of the installation of the home.

26 SECTION 27. Subsection (b), Section 1201.221, Occupations
27 Code, is amended to read as follows:

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

2 (1) the name of the owner of the home as reflected on
3 the statement of ownership and location [~~who has a document of~~
4 ~~title~~]; or

5 (2) the identification number of the home.

6 SECTION 28. If the Act of the 78th Legislature, Regular
7 Session, 2003, relating to nonsubstantive additions to and
8 corrections in enacted codes takes effect, Subsections (a), (b),
9 and (c), Section 1201.222, Occupations Code, are amended to read as
10 follows:

11 (a) A manufactured home [~~that~~] is treated [~~permanently~~
12 ~~attached to real property is classified and taxed~~] as real property
13 only if:

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

16 (2) a certified copy of the statement of ownership and
17 location for the home has been filed in the real property records of
18 the county in which the home is located [~~the real property to which~~
19 ~~the home is attached is titled in the name of the consumer under a~~
20 ~~deed or contract for sale. A manufactured home is considered~~
21 ~~permanently attached to real property if the home is secured to a~~
22 ~~foundation and connected to a utility, including a utility~~
23 ~~providing water, electric, natural gas, propane or butane gas, or~~
24 ~~wastewater service].~~

25 (b) The closing of a transaction for the acquisition of a
26 manufactured home considered to be real property under this chapter
27 [~~section~~] must occur at the office of a federally insured financial

1 institution, a title insurance company [~~insurer~~], or an attorney at
2 law. If the real property is purchased under a contract for deed
3 [~~of sale~~], the contract must be filed in the real property records
4 of the county in which the home is installed.

5 (c) Installation of a manufactured home considered to be
6 real property under this chapter [~~section~~] must occur in a manner
7 that satisfies the lending requirements of the Federal Housing
8 Administration (FHA), Fannie Mae, or Freddie Mac for long-term
9 mortgage loans or for FHA insurance. The installation of a new
10 manufactured home must meet, in addition to applicable state
11 standards, the manufacturer's specifications required to validate
12 the manufacturer's warranty.

13 SECTION 29. If the Act of the 78th Legislature, Regular
14 Session, 2003, relating to nonsubstantive additions to and
15 corrections in enacted codes does not take effect, Subsections (a)
16 and (b), Section 19A, Texas Manufactured Housing Standards Act
17 (Article 5221f, Vernon's Texas Civil Statutes), are amended to read
18 as follows:

19 (a) A manufactured home [~~that~~] is treated [~~permanently~~
20 ~~attached to real property is classified and taxed~~] as real property
21 only if:

22 (1) the owner of the home has elected to treat the home
23 as real property as provided by Section 1201.2055, Occupations
24 Code; and

25 (2) a certified copy of the statement of ownership and
26 location for the home has been filed in the real property records of
27 the county in which the home is located [~~the real property to which~~

1 ~~the home is attached is titled in the name of the consumer under a~~
2 ~~deed or contract for sale. A manufactured home is considered~~
3 ~~permanently attached to real property if the home is secured to a~~
4 ~~foundation and connected to a utility, including a utility~~
5 ~~providing water, electric, natural gas, propane or butane gas, or~~
6 ~~wastewater services].~~

7 (b) The closing of a transaction for the acquisition of a
8 manufactured home considered to be real property under this section
9 must occur at the office of a federally insured financial
10 institution, a title insurance company, or an attorney at law. If
11 the real property is purchased under a contract for deed [~~of sale~~],
12 the contract must be filed in the real property records of the
13 county in which the home is installed.

14 SECTION 30. Subsection (a), Section 1201.360, Occupations
15 Code, is amended to read as follows:

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

21 (1) the statement of ownership and location reflects
22 that the owner has elected to treat the home as real property [~~the~~
23 ~~manufacturer's certificate under Section 1201.204 is surrendered~~
24 ~~for cancellation]; [and]~~

25 (2) the home is actually located where the statement
26 of ownership and location reflects that it is located; and

27 (3) a certified copy of the statement of ownership and

1 location has been filed in the real property records for the county
2 in which the home is located [~~a notice of attachment or certificate~~
3 ~~of attachment is filed in the real property records of the county~~].

4 SECTION 31. Subsection (b), Section 1201.451, Occupations
5 Code, is amended to read as follows:

6 (b) Not later than the 30th day after the effective date of
7 the transfer of ownership or the date the seller or transferor
8 obtains possession of the necessary and properly executed
9 documents, the seller or transferor shall forward to the purchaser
10 or transferee the necessary, executed [~~department properly~~
11 ~~completed~~] documents. On receipt of the documents, the purchaser
12 or transferee shall apply for the issuance of a statement of
13 ownership and location [~~for the transfer of title~~].

14 SECTION 32. Section 1201.457, Occupations Code, is amended
15 to read as follows:

16 Sec. 1201.457. HABITABILITY: CHANGE TO OR FROM BUSINESS
17 USE. (a) If the sale, exchange, or lease-purchase of a used
18 manufactured home is to a purchaser for the purchaser's business
19 use, the home is not required to be habitable. The purchaser of the
20 home shall file with the department an application for the issuance
21 of a statement of ownership and location indicating that the home is
22 reserved for business use [~~The seller must surrender the title to~~
23 ~~the home to the department for cancellation~~].

24 (b) The purchaser of a used manufactured home for business
25 use may not sell, exchange, or lease-purchase the home for use as a
26 dwelling unless the director issues a new statement of ownership
27 and location indicating that the home is no longer reserved for

1 business use [~~title to the home~~]. On the purchaser's application to
2 the department for issuance of a new statement of ownership and
3 location [~~title~~], the department shall inspect the home and, if the
4 department determines that the home is habitable, issue the
5 statement of ownership and location [~~title~~].

6 SECTION 33. Subsection (c), Section 1201.459, Occupations
7 Code, is amended to read as follows:

8 (c) The seal issued to the tax collector is for
9 identification purposes only and does not imply that:

- 10 (1) the home is habitable; or
11 (2) a purchaser of the home at a tax sale may obtain a
12 new statement of ownership and location [~~document of title~~] from
13 the department without an inspection for habitability.

14 SECTION 34. Subsections (a) and (c), Section 1201.460,
15 Occupations Code, are amended to read as follows:

16 (a) A holder of a lien recorded on the statement of
17 ownership and location of a [~~department-issued~~] manufactured home
18 that has not been converted to real property [~~document of title~~] who
19 sells, exchanges, or lease-purchases a repossessed manufactured
20 home covered by that statement of ownership and location [~~document~~
21 ~~of title~~] is not required to comply with this chapter if the sale,
22 exchange, or lease-purchase is:

- 23 (1) to or through a licensed retailer; or
24 (2) to a purchaser for the purchaser's business use.

25 (c) If the sale, exchange, or lease-purchase of the
26 repossessed manufactured home is to a purchaser for the purchaser's
27 business use, the lienholder shall apply to the department for the

1 issuance of a new statement of ownership and location indicating
2 that the home is reserved for business use [~~surrender the title to~~
3 ~~the department for cancellation~~].

4 SECTION 35. Subsections (b), (c), (d), and (f), Section
5 1201.461, Occupations Code, are amended to read as follows:

6 (b) A person who owns [~~possesses the original document of~~
7 ~~title to~~] a used manufactured home that is salvaged shall apply
8 [~~surrender the document of title~~] to the director for the issuance
9 of a new statement of ownership and location that indicates that the
10 home is salvaged [~~cancellation of the title and issuance of a~~
11 ~~salvage title~~].

12 (c) If a new manufactured home is salvaged, the retailer
13 shall remove the label and surrender the label and the
14 manufacturer's certificate under Section 1201.204 to the director
15 for issuance of a statement of ownership and location that
16 indicates that the home is salvaged [~~salvage title~~].

17 (d) A person may not sell, convey, or otherwise transfer to
18 a consumer in this state a manufactured home that is salvaged [~~for~~
19 ~~which a salvage title has been issued~~]. A salvaged manufactured
20 home may be sold only to a licensed retailer or licensed rebuilder.

21 (f) If a salvaged manufactured home is rebuilt in accordance
22 with this chapter and the rules of the director, the director shall,
23 on application, issue a new statement of ownership and location
24 that indicates that the home is no longer salvaged [~~document of~~
25 ~~title to replace the salvage title~~].

26 SECTION 36. Section 1201.508, Occupations Code, is amended
27 by adding Subsection (d) to read as follows:

1 (d) The retailer may not require a consumer to make a down
2 payment on the acquisition of a manufactured home from the
3 retailer's inventory until the time the installment contract is
4 executed.

5 SECTION 37. Subsection (a), Section 1201.511, Occupations
6 Code, is amended to read as follows:

7 (a) This section applies to a transaction in which a
8 manufactured home is sold as personal property [~~and titled under~~
9 ~~Subchapter E. This section does not apply to a real estate~~
10 ~~transaction in which a manufactured home is real property under~~
11 ~~Section 2.001, Property Code].~~

12 SECTION 38. Subsection (a), Section 1201.551, Occupations
13 Code, is amended to read as follows:

14 (a) The director, after notice as provided for under Section
15 1201.054 and a hearing as provided by Sections 1201.054 and
16 1201.060, may deny, permanently revoke, or suspend for a definite
17 period and specified sales location or geographic area a license if
18 the director determines that the applicant or license holder:

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

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

24 (3) failed to timely provide to a consumer an
25 application for a statement of ownership and location and any
26 information necessary to complete the application [~~deliver a proper~~
27 ~~certificate or other document of title to a consumer];~~

1 (4) failed to give or breached a manufactured home
2 warranty required by this chapter or by the Federal Trade
3 Commission;

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

7 (6) failed to provide or file a report required by the
8 department for the administration or enforcement of this chapter;

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

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

14 (9) failed to file a bond or other security for each
15 location as required by Subchapter C.

16 SECTION 39. Section 1201.605, Occupations Code, is amended
17 to read as follows:

18 Sec. 1201.605. ADMINISTRATIVE PENALTY. (a) The director
19 may assess against a person who fails to obtain or maintain a
20 license as required by this chapter an administrative penalty in an
21 amount not to exceed \$10,000 for each violation of this chapter and:

- 22 (1) reasonable attorney's fees;
- 23 (2) administrative costs;
- 24 (3) witness fees;
- 25 (4) investigative costs; and
- 26 (5) deposition expenses.

27 (b) The director may assess against a retailer who fails to

1 provide information to a consumer as required by this chapter an
2 administrative penalty in an amount not to exceed:

- 3 (1) \$1,000 for the first violation;
4 (2) \$2,000 for the second violation; and
5 (3) \$4,000 for each subsequent violation.

6 SECTION 40. Section 347.254, Finance Code, is amended by
7 amending Subsection (a) and adding Subsection (c) to read as
8 follows:

9 (a) Except as provided by Subsection (c), a [A] creditor
10 shall [~~may~~] require a consumer to pay ad valorem taxes on the
11 manufactured home through the creditor.

12 (c) The escrow requirement of Subsection (a) does not apply
13 to a transaction involving a manufactured home if the creditor is a
14 federally insured financial institution and does not otherwise
15 require the escrow of taxes, insurance premiums, fees, or other
16 charges in connection with loans secured by residential real
17 property.

18 SECTION 41. Subsection (a), Section 2.001, Property Code,
19 is amended to read as follows:

20 (a) Except as provided by Subsection (b), a manufactured
21 home is personal [~~real~~] property.

22 SECTION 42. Subsection (b), Section 2.001, Property Code,
23 as amended by Chapters 899 and 1055, Acts of the 77th Legislature,
24 Regular Session, 2001, is reenacted and amended to read as follows:

25 (b) A manufactured home is real property if:

26 (1) the statement of ownership and location for the
27 home issued under Section 1201.207, Occupations Code, reflects that

1 the owner has elected to treat the home as real property; and

2 (2) a certified copy of the statement of ownership and
3 location has been filed in the real property records in the county
4 in which the home is located [~~home is permanently attached to real~~
5 ~~property, and~~

6 [~~(2) the manufacturer's certificate of origin or the~~
7 ~~original document of title is surrendered for cancellation and a~~
8 ~~notice of attachment or a certificate of attachment, as described~~
9 ~~by the Texas Manufactured Housing Standards Act (Article 5221f,~~
10 ~~Vernon's Texas Civil Statutes), is filed in the real property~~
11 ~~records of the county in which the home is located)].~~

12 SECTION 43. Subsections (c) and (i), Section 2.001,
13 Property Code, are amended to read as follows:

14 (c) In this section, "consumer," "document of title,"
15 "first retail sale," "manufactured home," and "mobile home" have
16 the meanings assigned by Chapter 1201, Occupations Code [~~the Texas~~
17 ~~Manufactured Housing Standards Act (Article 5221f, Vernon's Texas~~
18 ~~Civil Statutes)]].~~

19 (i) This section does not require a retailer or retailer's
20 agent to obtain a license under Chapter 1101, Occupations Code [~~The~~
21 ~~Real Estate License Act (Article 6573a, Vernon's Texas Civil~~
22 ~~Statutes)]].~~

23 SECTION 44. Section 11.432, Tax Code, is amended to read as
24 follows:

25 Sec. 11.432. HOMESTEAD EXEMPTION FOR MANUFACTURED HOME.

26 (a) For a manufactured home to qualify for an exemption under
27 Section 11.13 of this code, the application for the exemption must

1 be accompanied by a copy of the statement of ownership and location
2 for [a document of title to] the manufactured home issued by the
3 manufactured housing division of the Texas Department of Housing
4 and Community Affairs [Licensing and Regulation] under Section
5 1201.207, Occupations Code [19, Texas Manufactured Housing
6 Standards Act (Article 5221f, Vernon's Texas Civil Statutes)],
7 showing that the individual applying for the exemption is the owner
8 of the manufactured home or be accompanied by a verified copy of the
9 purchase contract showing that the applicant is the purchaser of
10 the manufactured home.

11 (b) The land on which a manufactured home is located
12 qualifies for an exemption under Section 11.13 only if:

13 (1) the manufactured home qualifies for an exemption
14 as provided by Subsection (a); and

15 (2) the manufactured home is listed together with the
16 land on which it is located under Section 25.08.

17 (c) In this section, "manufactured home" has the meaning
18 assigned by Section 1201.003, Occupations Code [Subsection (s),
19 Section 3, Texas Manufactured Housing Standards Act (Article 5221f,
20 Vernon's Texas Civil Statutes), however, the term does not apply to
21 any manufactured home which has been attached to real estate and for
22 which the document of title has been canceled pursuant to
23 Subsection (j) of Section 19 of said Act].

24 SECTION 45. Section 25.08, Tax Code, is amended by amending
25 Subsection (a) and adding Subsections (e) and (f) to read as
26 follows:

27 (a) Except as provided by Subsections (b) through (f) [~~(d)~~

1 ~~of this section]~~, an improvement may be listed in the name of the
2 owner of the land on which the improvement is located.

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

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

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

11 (f) A manufactured home shall be listed separately from the
12 land on which the home is located if either of the conditions
13 provided by Subsection (e) is not satisfied.

14 SECTION 46. Section 32.014, Tax Code, is amended by
15 amending Subsections (a) and (b) and adding Subsections (d) and (e)
16 to read as follows:

17 (a) If a manufactured home is listed together with the land
18 on which the manufactured home is located under Section 25.08, [the
19 ownership of the real property on which a manufactured home is
20 affixed and the manufactured home are the same, the manufactured
21 home shall be appraised and taxed as an improvement to the real
22 property, and] the tax lien attaches to the land [real property] on
23 which the manufactured home is located [regardless of the
24 classification of the manufactured home under the Property Code].

25 (b) If a manufactured home is listed separately from the
26 land on which the manufactured home is located, the [ownership of
27 the manufactured home, whether by deed or contract for sale, and the

1 ~~real property on which the manufactured home is affixed are not the~~
2 ~~same, the personal property manufactured home shall be separately~~
3 ~~appraised and taxed at the same rate and on the same ad valorem~~
4 ~~basis as other single-family residential structures. The] tax lien~~
5 on the manufactured home does not attach to the land on which the
6 home is located [~~real property when the ownership of the~~
7 ~~manufactured home and real property are different)].~~

8 (d) If a manufactured home is listed together with the land
9 on which the manufactured home is located, a taxing unit with
10 jurisdiction to impose taxes on the land may place a lien on the
11 manufactured home to secure payment of those taxes to the same
12 extent that it can place a lien on the land. If a home is moved from
13 its location and a new statement of ownership and location is not
14 issued under Section 1201.207, Occupations Code, a taxing unit with
15 jurisdiction to impose taxes on the land on which the manufactured
16 home was located retains the right to record and enforce liens on
17 that home to secure the payment of taxes, regardless of where the
18 home is currently located.

19 (e) This section prevails over Chapter 1201, Occupations
20 Code, to the extent of any conflict.

21 SECTION 47. Section 32.03, Tax Code, is amended by amending
22 Subsection (c) and adding Subsection (j) to read as follows:

23 (c) Except to the extent that tax liability for a year
24 exceeds the amount computed under Subsection (j)(2), a [A] bona
25 fide purchaser for value or the holder of a lien recorded on a
26 manufactured home document of title is not required to pay any taxes
27 imposed on the manufactured home in a tax year that begins on or

1 after January 1, 2001, or penalties or interest on those taxes, if
2 the chief appraiser of the appraisal district established for the
3 county in which the manufactured home is located, in connection
4 with an application for a permit to transport the manufactured home
5 under Section 623.093(d), Transportation Code, has issued a written
6 statement that no unpaid taxes have been reported on the
7 manufactured home due any taxing unit for which the appraisal
8 district appraises property.

9 (j) For purposes of this section, unpaid taxes due a taxing
10 unit include:

11 (1) all unpaid taxes and any penalty and interest due
12 that taxing unit for a tax year preceding the current tax year; and

13 (2) for a manufactured home that was located in the
14 taxing unit on January 1 of the current tax year:

15 (A) taxes due for the current tax year; or

16 (B) if taxes for the current tax year have not
17 been levied by the taxing unit, an estimated amount of taxes
18 computed by multiplying the taxable value of the manufactured home,
19 according to the most recent certified appraisal roll for the
20 taxing unit, by the taxing unit's adopted tax rate for the preceding
21 tax year.

22 SECTION 48. Section 623.104, Transportation Code, is
23 amended by amending Subsection (d) and adding Subsection (e) to
24 read as follows:

25 (d) Except as provided by Subsection (e), if [~~if~~] the
26 offense involves the movement of a manufactured house over a
27 highway, road, or street in this state without a permit issued by

1 the department, the offense is a misdemeanor punishable by a fine of
2 \$1,000 [~~\$500~~].

3 (e) If it is shown on the trial of an offense punishable
4 under Subsection (d) that the defendant has previously been
5 punished under Subsection (d):

6 (1) one time, the offense is punishable by a fine of
7 \$2,000; or

8 (2) two or more times, the offense is punishable by a
9 fine of \$4,000.

10 SECTION 49. Subchapter E, Chapter 623, Transportation Code,
11 is amended by adding Section 623.105 to read as follows:

12 Sec. 623.105. PENALTY FOR COMPENSATING CERTAIN UNLAWFUL
13 ACTIONS. (a) A person commits an offense if the person:

14 (1) provides compensation to another for the movement
15 of a manufactured home over a highway, road, or street in this
16 state; and

17 (2) knows the other person is not authorized by law to
18 move the home.

19 (b) An offense under this section is a misdemeanor
20 punishable by a fine of \$1,000.

21 SECTION 50. (a) In accordance with Subsection (c), Section
22 311.031, Government Code, which gives effect to a substantive
23 amendment enacted by the same legislature that codifies the amended
24 statute, the text of Sections 1201.113, 1201.209, 1201.220, and
25 1201.360, Occupations Code, as set out in this Act, gives effect to
26 changes made by Chapters 899, 988, and 1367, Acts of the 77th
27 Legislature, Regular Session, 2001.

1 (b) To the extent of any conflict, this Act prevails over
2 another Act of the 78th Legislature, Regular Session, 2003,
3 relating to nonsubstantive additions to and corrections in enacted
4 codes.

5 SECTION 51. If the Act of the 78th Legislature, Regular
6 Session, 2003, relating to nonsubstantive additions to and
7 corrections in enacted codes takes effect, Subsections (b) and (c),
8 Section 1201.162, Occupations Code, and Subsection (e), Section
9 1201.222, Occupations Code, are repealed. If that Act does not take
10 effect, Subsection (e), Section 19A, and Subsections (b) and (c),
11 Section 21, Texas Manufactured Housing Standards Act (Article
12 5221f, Vernon's Texas Civil Statutes), are repealed.

13 SECTION 52. The following laws are repealed:

14 (1) Sections 1201.211, 1201.217, and 1201.218,
15 Occupations Code; and

16 (2) Subsections (d) through (h), Section 2.001,
17 Property Code.

18 SECTION 53. (a) The change in law made by this Act in
19 amending Section 623.104, Transportation Code, applies only to an
20 offense committed on or after the effective date of this Act. An
21 offense committed before the effective date of this Act is governed
22 by the law in effect on the date the offense was committed, and the
23 former law is continued in effect for that purpose. For purposes of
24 this section, an offense was committed before the effective date of
25 this Act if any element of the offense occurred before that date.

26 (b) The changes in law made by this Act to Sections 25.08,
27 32.014, and 32.03, Tax Code, apply only to an ad valorem tax year

1 that begins on or after January 1, 2004. The changes in law made to
2 those sections do not affect a tax lien that attached to property
3 for a tax year that began before January 1, 2004, and the law in
4 effect immediately before January 1, 2004, is continued in effect
5 for purposes of the tax lien.

6 SECTION 54. (a) Except as provided by Subsection (b) of
7 this section:

8 (1) this Act takes effect June 1, 2003, if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution; and

11 (2) if this Act does not receive the vote necessary for
12 immediate effect, this Act takes effect September 1, 2003.

13 (b) The changes in law made by this Act to Section 1201.113,
14 Occupations Code, and Sections 11.432, 25.08, 32.014, and 32.03,
15 Tax Code, take effect January 1, 2004.

David Newburn

President of the Senate

Jim Cradick

Speaker of the House

I hereby certify that S.B. No. 521 passed the Senate on April 16, 2003, by a viva-voce vote; May 9, 2003, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 20, 2003, House granted request of the Senate; May 26, 2003, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0. _____

Patricia Spaul
Secretary of the Senate

I hereby certify that S.B. No. 521 passed the House, with amendments, on May 2, 2003, by the following vote: Yeas 139, Nays 0, three present not voting; May 20, 2003, House granted request of the Senate for appointment of Conference Committee; May 24, 2003, House adopted Conference Committee Report by the following vote: Yeas 138, Nays 0, two present not voting. _____

Robert Haney
Chief Clerk of the House

Approved:

18 JUN '03

Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
8:30 PM O'CLOCK

June 18 2003
Kevin Shea
Secretary of State