OCCUPATIONS CODE

TITLE 7. PRACTICES AND PROFESSIONS RELATED TO REAL PROPERTY AND HOUSING

SUBTITLE C. REGULATION OF CERTAIN TYPES OF HOUSING AND BUILDINGS

CHAPTER 1201. MANUFACTURED HOUSING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1201.001. SHORT TITLE. This chapter may be cited as the Texas Manufactured Housing Standards Act.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.002. LEGISLATIVE FINDINGS AND PURPOSES; LIBERAL CONSTRUCTION. (a) The legislature finds that:

(1) there is a growing need to provide state residents with safe, affordable, and well-constructed housing;

(2) manufactured housing has become a primary housing source for many state residents;

(3) statutes and rules in effect before September 1, 1969, were inadequate to:

(A) fully protect the consumer; and

(B) prevent certain discrimination in this state regarding manufactured housing;

(4) the state is responsible for:

(A) protecting state residents who want to purchase manufactured housing by regulating the construction and installation of manufactured housing;

(B) providing economic stability to manufactured housing manufacturers, retailers, installers, and brokers; and

(C) providing fair and effective consumer remedies; and

(5) the expansion of certain regulatory powers is:

(A) necessary to address the problems described by Subdivisions (1)-(4); and

(B) the most economical and efficient means to address those problems and serve the public interest.

(b) The purposes of this chapter are to:

(1) encourage the construction of housing for state residents; and

(2) improve the general welfare and safety of purchasers of manufactured housing in this state.

(c) This chapter shall be liberally construed to promote its policies and accomplish its purposes.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.003. DEFINITIONS. In this chapter:

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

(2) "Affiliate" means a person who is under common control.

(3) "Alteration" means the replacement, addition, modification, or removal of equipment in a new manufactured home after sale by a manufacturer to a retailer but before sale and installation by a retailer to a purchaser in a manner that may affect the home's construction, fire safety, occupancy, or plumbing, heating, or electrical system. The term includes the modification of a manufactured home in a manner that may affect the home's compliance with the appropriate standards but does not include:

(A) the repair or replacement of a component or appliance that requires plug-in to an electrical receptacle, if the replaced item is of the same configuration and rating as the replacement; or

(B) the addition of an appliance that requires plug-in to an electrical receptacle and that was not provided with the manufactured home by the manufacturer, if the rating of the appliance does not exceed the rating of the receptacle to which the appliance is connected.

(4) "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.

(5) "Board" means the Manufactured Housing Board within the Texas Department of Housing and Community Affairs.

(6) "Broker" means a person engaged by one or more other persons to negotiate or offer to negotiate a bargain or contract for the sale or exchange of a manufactured home for which a certificate or other document of title has been issued and is outstanding. The term does not include a person who maintains a location for the display of manufactured homes.

(7) "Business use" means the use of a manufactured home in conjunction with operating a business, for a purpose other than as a permanent or temporary residential dwelling.

(8) "Consumer" means a person, other than a person licensed under this chapter, who seeks to acquire or acquires by purchase or exchange a manufactured home.

(9) "Control" means, with respect to another person, the possession of the power, directly or indirectly, to vote an interest of 25 percent or more.

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

(10) "Department" means the Texas Department of Housing and Community Affairs operating through its manufactured housing division.

(11) "Director" means the executive director of the manufactured housing division of the Texas Department of Housing and Community Affairs.

(12) "HUD-code manufactured home" has the meaning assigned by 42 U.S.C. Section 5402(6). The term does not include a recreational vehicle as defined by 24 C.F.R. Section 3282.15(b).

(13) "Installation" means the temporary or permanent construction of the foundation system and the placement of a

manufactured home or manufactured home component on the foundation. The term includes supporting, blocking, leveling, securing, anchoring, and properly connecting multiple or expandable sections or components and making minor adjustments.

(14) "Installer" means a person, including a retailer or manufacturer, who contracts to perform or performs an installation function on manufactured housing.

(15) "Label" means a device or insignia that is:

(A) issued by the director to indicate compliance with the standards, rules, and regulations established by the United States Department of Housing and Urban Development; and

(B) permanently attached to each transportable section of each HUD-code manufactured home constructed after June 15, 1976, for sale to a consumer.

(16) Repealed by Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 85(1), eff. September 1, 2017.

(17) "License holder" or "licensee" means a person who holds a department-issued license as a manufacturer, retailer, broker, salesperson, or installer.

(18) "Manufactured home" or "manufactured housing" means a HUD-code manufactured home or a mobile home.

(19) "Manufacturer" means a person who constructs or assembles manufactured housing for sale or exchange in this state.

(20) "Mobile home":

(A) means a structure:

(i) constructed before June 15, 1976;

(ii) built on a permanent chassis;

(iii) designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities;

(iv) transportable in one or more sections; and

(v) in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet; and

(B) includes the plumbing, heating, air conditioning, and electrical systems of the home.

(21) "New manufactured home" means a manufactured home that is not a used manufactured home, regardless of its age.

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

(22) "Person" means an individual or a partnership, company, corporation, association, or other group, however organized.

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

(A) directly participates in management or policy decisions; and

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

(24) "Retailer" means a person who:

(A) is engaged in the business of buying for resale, selling, or exchanging manufactured homes or offering manufactured homes for sale or exchange to consumers, including a person who maintains a location for the display of manufactured homes; and

(B) sells or exchanges at least two manufactured homes to consumers in a 12-month period.

(25) "Rules" means the rules of the department.

(26) "Salesperson" means a person who, as an employee or agent of a retailer or broker, sells or offers to sell manufactured housing to a consumer.

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

(27) "Salvaged manufactured home" means a manufactured home determined to be salvaged under Section 1201.461.

(28) "Seal" means a device or insignia issued by the director that, for title purposes, is to be attached to a used manufactured home as required by the director.

(29) "Standards code" means the Texas Manufactured Housing Standards Code.

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

(A) the ownership of a manufactured home in this state as provided by Section 1201.205; and

(B) other information required by this chapter.

(31) Repealed by Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 85(1), eff. September 1, 2017.

(32) "Used manufactured home" means a manufactured home which has been occupied for any use or for which a statement of ownership has been issued. The term does not include:

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

(B) a manufactured home that:

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

(ii) had a statement of ownership; and

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 1, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.251(a), eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 1, eff. January 1, 2008.

Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 3.03, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 85(1), eff. September 1, 2017.

Acts 2025, 89th Leg., R.S., Ch. 56 (S.B. 1341), Sec. 2, eff. September 1, 2025.

Sec. 1201.004. DEFINITIONS BINDING. The definitions of "mobile home," "HUD-code manufactured home," and "manufactured

housing" provided by Section 1201.003 are binding as a matter of law on each person and agency in this state, including a home-rule municipality or other political subdivision. A mobile home is not a HUD-code manufactured home and a HUD-code manufactured home is not a mobile home for any purpose under state law. Those terms may not be defined in a manner that is not identical to the definitions provided by Section 1201.003.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.005. CONSUMER WAIVER VOID. A waiver by a consumer of this chapter is contrary to public policy and void.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.006. APPLICABILITY OF BUSINESS & COMMERCE CODE. The Business & Commerce Code applies to transactions relating to manufactured housing except to the extent that it conflicts with this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.007. EXCEPTION FOR REAL ESTATE BROKERS AND SALESPERSONS. This chapter does not:

(1) modify or amend Chapter 1101 or 1102; or

(2) apply to a person who is licensed as a real estate broker or salesperson under Chapter 1101 and who, as agent of a buyer or seller, negotiates the sale or lease of a manufactured home and the real property to which the home is attached if:

(A) the same person is the record owner of both the manufactured home and the real property; and

(B) the sale or lease occurs in a single real estate transaction.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.008. REGULATION BY MUNICIPALITY. (a) A municipality may prohibit the installation of a mobile home for use as a dwelling in the municipality. The prohibition must be prospective and may not apply to a mobile home previously legally permitted by and used as a dwelling in the municipality. If a

mobile home is replaced by a HUD-code manufactured home in the municipality, the municipality shall grant a permit for use of the manufactured home as a dwelling in the municipality.

(b) Subject to Subsection (g), on application, the municipality shall permit the installation of a HUD-code manufactured home for use as a dwelling in any area determined appropriate by the municipality, including a subdivision, planned unit development, single lot, and rental community or park. An application to install a new HUD-code manufactured home for use as a dwelling is considered to be granted unless the municipality in writing denies the application and states the reason for the denial not later than the 45th day after the date the application is received.

(c) Subsections (a) and (b) do not affect the validity of an otherwise valid deed restriction.

(d) Except as approved by the department and subject to Subsection (d-1), a local governmental unit may not require a permit, a fee, a bond, or insurance for the transportation and installation of manufactured housing by a licensed retailer or installer. This subsection does not prohibit the collection of actual costs incurred by a local governmental unit that result from the transportation of a manufactured home.

(d-1) A municipality may not require a specific use permit or other permit that serves a similar purpose to a specific use permit for a new HUD-code manufactured home if:

(1) the home has been constructed in accordance with federal law and this chapter; and

(2) the municipality does not require a specific use permit for other residential property in the same zoning classification.

(e) Notwithstanding any zoning or other law, in the event that a manufactured home occupies a lot in a municipality, the owner of the manufactured home may remove the manufactured home from its location and place another manufactured home on the same property, provided that the replacement is a newer manufactured home and is at least as large in living space as the prior manufactured home.

(f) An owner's ability to replace the home as a result of a

fire or natural disaster cannot be restricted. Other than in the case of a fire or natural disaster, a general-rule or home-rule municipality by an ordinance or charter may limit the ability of the owner to replace his home to a single replacement.

(g) Except as provided by Subsection (h), a municipality with zoning regulations or zoning district boundaries:

(1) shall permit the installation, by right, of a new HUD-code manufactured home for use as a dwelling within the municipality's boundaries under at least one:

(A) residential zoning classification;

(B) type of residential zoning district; or

(C) dedicated zoning classification for residential HUD-code manufactured homes;

(2) shall ensure at least one of the residential zoning classifications or districts described by Subdivision (1) has been adopted and applies to an area of land within the municipality's boundaries; and

(3) if the municipality has a comprehensive zoning classification map, shall indicate on the map the areas within the municipality's boundaries that comply with Subdivision (2).

(h) Subsection (g) does not:

(1) limit the authority of a municipality to adopt or enforce an ordinance, rule, or other measure to protect historic landmarks or include properties within the boundaries of a local historic district;

(2) affect deed restrictions established before January 2, 2025; or

(3) apply to a municipality:

(A) in which all areas zoned for residential use have deed restrictions on September 1, 2025, prohibiting the placement of manufactured homes; or

(B) that does not have any areas or districts zoned for business or industrial use.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 2, eff. January 1, 2008.

Acts 2025, 89th Leg., R.S., Ch. 1181 (S.B. 785), Sec. 1, eff. September 1, 2026.

Sec. 1201.009. ELECTRONIC MEANS AUTHORIZED. If feasible, any action required under this chapter may be accomplished by electronic means.

Added by Acts 2009, 81st Leg., R.S., Ch. 77 (H.B. 2238), Sec. 1, eff. September 1, 2009.

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

Added by Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 2, eff. September 1, 2017.

SUBCHAPTER B. DEPARTMENT POWERS AND DUTIES

Sec. 1201.051. ADMINISTRATION AND ENFORCEMENT OF CHAPTER. The director shall administer and enforce this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.052. GENERAL RULEMAKING AUTHORITY. (a) The director shall adopt rules, issue orders, and otherwise act as necessary to ensure compliance with the purposes of this chapter to implement and provide for uniform enforcement of this chapter and the standards code.

(b) To protect the public health, safety, and welfare and to ensure the availability of low cost manufactured housing for all consumers, the director shall adopt rules to:

(1) protect the interests of consumers who occupy or want to purchase or install manufactured housing; and

(2) govern the business conduct of license holders.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.053. RULES RELATING TO COMPLIANCE WITH NATIONAL

STANDARDS FOR MANUFACTURED HOUSING CONSTRUCTION AND SAFETY; STATE PLAN. (a) The board shall adopt rules and otherwise act as necessary to:

(1) comply with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.), including adopting and enforcing rules reasonably required to implement the notification and correction procedures provided by 42 U.S.C. Section 5414; and

(2) provide for the effective enforcement of all HUD-code manufactured housing construction and safety standards in order to have the state plan authorized by the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.) approved by the secretary of housing and urban development.

(b) The state plan described by Subsection (a)(2) must provide for a third-party inspection agency approved by the United States Department of Housing and Urban Development to act as an in-plant inspection agency.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 3, eff. January 1, 2008.

Sec. 1201.054. PROCEDURE FOR ADOPTING RULES. (a) Rules must be adopted in accordance with Chapter 2001, Government Code, and with this section.

(b) If requested, the board shall, after at least 10 days' notice, hold a hearing on any rule that it proposes to adopt, other than a rule that is to be adopted under emergency rulemaking, in which case only the requirements of Chapter 2001, Government Code, shall apply.

(c) A rule takes effect on the 30th day after the date of publication of notice that the rule has been adopted, except that a rule relating to installation standards may not take effect earlier than the 60th day after the date of publication of notice unless the board has determined that an earlier effective date is required to meet an emergency and the standard was adopted under the emergency

rulemaking provisions of Chapter 2001, Government Code.

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

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

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 4, eff. January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 3, eff. September 1, 2017.

Sec. 1201.055. INSPECTION, REVIEW, AND RELATED FEES. (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 Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.), the board shall establish fees as follows:

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

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

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

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

(5) a fee for the inspection of a used manufactured

home to determine whether the home is habitable for the issuance of a new statement of ownership; and

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

(b) In addition to the fees imposed under Subsections (a)(2), (3), and (4), a manufacturer or a person making an alteration, as appropriate, shall be charged for the actual cost of travel of a department representative to and from:

(1) the manufacturing facility, for an inspection described by Subsection (a)(2); or

(2) the place of inspection, for an inspection described by Subsection (a)(3) or (4).

(c) The board shall establish a fee for the inspection of the installation of a mobile or HUD-code manufactured home, to be paid by the installer of the home.

(c-1) The department may permit the use of any device or procedure that has been reviewed and approved by a licensed engineer provided that such use or procedure complies with any instructions, conditions, or other requirements specified by that engineer.

(d) The board shall charge a fee for a consumer complaint home inspection requested by a manufacturer or retailer under Section 1201.355(b), to be paid by the manufacturer or retailer.

(e) The fee described by Subsection (a)(2) does not apply if an inspection agency authorized by the United States Department of Housing and Urban Development, other than the department, acts as the in-plant inspection agency.

(f) The fee described by Subsection (c) must accompany notice to the department of the exact location of the mobile or HUD-code manufactured home. The department shall make an appropriate fee distribution to a local governmental unit that performs an inspection under a contract or other official designation if that unit does not collect a local inspection fee.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 2, eff. June 18, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 5, eff. January 1, 2008.

Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 3.04, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 4, eff. September 1, 2017.

Sec. 1201.056. LICENSE FEES. (a) The board shall establish fees for the issuance and renewal of licenses for:

(1) manufacturers;

(2) retailers;

(3) brokers;

(4) salespersons; and

(5) installers.

(b) The board by rule may establish a fee for reprinting a license issued under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 3.05, eff. September 1, 2013.

Sec. 1201.057. INSTRUCTION FEE. The board shall charge a fee to each person attending a course of instruction described by Section 1201.104.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.058. AMOUNT OF FEES. (a) The board shall establish reasonable fees for all matters under this chapter providing for fees. If the department's rules provide an option to file a document electronically, the department may charge a discounted fee for the electronic filing.

(b) Repealed by Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 85(2), eff. September 1, 2017.

(c) All fees established by this chapter or the rules are deemed to be earned and not subject to refund after receipt by the department.

(d) Notwithstanding Subsection (c), the director may, in

limited and appropriate circumstances and in accordance with rules adopted by the board, approve the refund of fees.

(e) If the governor by executive order or proclamation declares a state of disaster under Chapter 418, Government Code, the director, in accordance with rules adopted by the board, may waive the imposition of any fee under this chapter in the affected area.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 6, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 77 (H.B. 2238), Sec. 2, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 85(2), eff. September 1, 2017.

Sec. 1201.060. VENUE FOR HEARING. A hearing under this chapter shall be held in Travis County unless all parties agree to another location.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.061. COOPERATION WITH LOCAL GOVERNMENTAL UNITS. The department shall cooperate with all local governmental units in this state.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.062. SEAL PROPERTY OF DEPARTMENT. A seal is the property of the department.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

SUBCHAPTER C. LICENSING

Sec. 1201.101. LICENSE REQUIRED. (a) A person may not construct or assemble in this state or ship into this state a new HUD-code manufactured home unless the person holds, at the time the home is constructed or assembled, a manufacturer's license.

(b) Except as otherwise provided by this chapter, a person

may not sell or exchange, or offer to sell or exchange, two or more manufactured homes to consumers in this state in a 12-month period unless the person holds a retailer's license.

(c) A person may not offer to negotiate or negotiate for others a bargain or contract for the sale or exchange of two or more manufactured homes to consumers in this state in a 12-month period unless the person holds a broker's license.

(d) A person may not act as an installer in this state unless the person holds an installer's license.

(e) A person may not repair, rebuild, or otherwise alter a salvaged manufactured home unless the person holds a retailer's license.

(f) A person may not act as a salesperson of manufactured housing unless the person holds a salesperson's license. A retailer or broker may not employ or otherwise use the services of a salesperson who is not licensed. A licensed salesperson may not participate in a sale of a manufactured home unless the sale is through the retailer or broker who sponsored the salesperson's application as required by Section 1201.103(d).

(f-1) A retailer may not be licensed to operate more than one location under a single license.

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

(1) a person exempt from licensing; or

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 4, eff. June 18, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 1, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 7, eff.

January 1, 2008.

Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 3.06, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 5, eff. September 1, 2017.

Sec. 1201.102. EXCEPTIONS TO LICENSE REQUIREMENT. (a) A licensed installer may employ unlicensed persons to assist in performing installation functions provided that the licensed installer maintains a list of the persons so employed. The director may issue an order to prohibit a person who is not licensed as an installer from performing installation functions under the oversight of a licensed installer.

(b) A licensee may engage another person who is not licensed under this chapter but possesses another license issued by the State of Texas to provide goods and services subject to that other license. Without limiting the generality of the foregoing, this includes engaging others to install, connect, or otherwise work on air conditioning, plumbing, and electrical systems.

(c) An individual who holds a retailer's license or broker's license or who is a related person of such a licensee is not required to apply for a salesperson's license.

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

(d) A person who holds a real estate broker's or salesperson's license under Chapter 1101 may act as a broker or salesperson under this chapter without holding a license or filing a bond or other security as required by this chapter if negotiations for the sale or exchange of a manufactured home are conducted for a consumer for whom the person is also acting as a real estate broker or salesperson under Chapter 1101 consistent with Section 1201.007.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.252(a), eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 8, eff. January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 6, eff. September 1, 2017.

Sec. 1201.1025. EXEMPTION FROM RETAILER'S LICENSE REQUIREMENT. (a) Notwithstanding any other law, in any 12-month period a person is exempt from holding a retailer's license as required by Section 1201.101(b) if during that period the person sells or offers to sell not more than three manufactured homes.

(a-1) A person is exempt from holding a retailer's license as required by Section 1201.101(b) if all manufactured homes sold or offered for sale by the person are:

(1) located in a manufactured home community, as defined by Section 94.001, Property Code; and

(2) sold or offered for sale to the same purchaser in connection with a sale of the real property of the community.

(b) The department by rule shall develop a form necessary for a person to establish eligibility for the exemption provided by this section.

(c) A person who is eligible for an exemption under this section remains subject to the other applicable provisions of this subchapter and department rules regarding the sale or transfer of manufactured homes.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1270 (H.B. 944), Sec. 1, eff. September 1, 2013.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 731 (H.B. 2706), Sec. 1, eff. September 1, 2023.

Sec. 1201.103. LICENSE APPLICATION. (a) An applicant for a license as a manufacturer, retailer, broker, or installer must file with the director a license application containing:

(1) the legal name, address, and telephone number of the applicant and each person who will be a related person at the time the requested license is issued;

(2) all trade names, and the names of all other business organizations, under which the applicant does business subject to this chapter, the name of each such business organization registered with the secretary of state, and the address of such business organization;

(3) the dates on which the applicant became the owner and operator of the business; and

(4) the location to which the license will apply.

(a-1) All required records of a licensee under Subsection (a) are to be maintained at the licensee's principal office or such other location as the licensee may designate. A licensee may maintain required records under this subsection electronically if the licensee can produce the record on request by the department for review.

(b) A license application must be accompanied by:

(1) proof of the security required by this subchapter;

(2) payment of the fee required for issuance of the license; and

(3) the information and the cost required under Section 1201.1031.

(c) If a change occurs in the information filed with the director under Subsection (a), the applicant shall amend the application to state the correct information.

(d) An applicant for a salesperson's license must:

(1) file with the director an application that provides any information the director considers necessary and that is sponsored by a currently licensed retailer or broker; and

(2) pay the required fee.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 2, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 9, eff. January 1, 2008.

Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 3.07, eff. September 1, 2013.

Acts 2025, 89th Leg., R.S., Ch. 56 (S.B. 1341), Sec. 3, eff. September 1, 2025.

Sec. 1201.1031. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE. (a) The department shall require that an applicant for a license or renewal of an unexpired license submit a complete and legible set of fingerprints, on a form prescribed by the board, to the department or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation. The applicant is required to submit a set of fingerprints only once under this section unless a replacement set is otherwise needed to complete the criminal history check required by this section.

(b) The department shall refuse to issue a license to or renew the license of a person who does not comply with the requirement of Subsection (a).

(c) The department shall conduct a criminal history check of each applicant for a license or renewal of a license using information:

(1) provided by the individual under this section; and

(2) made available to the department by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d) The department may enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section.

(e) The applicant shall pay the cost of a criminal history check under this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 3.08, eff. September 1, 2013.

Sec. 1201.104. QUALIFICATIONS FOR LICENSE. (a) Except as provided by Subsection (g), as a requirement for a manufacturer's, retailer's, broker's, installer's, or salesperson's license, a

person who was not licensed or registered with the department or a predecessor agency on September 1, 1987, must, not more than 12 months before applying for the person's first license under this chapter, attend and successfully complete eight hours of instruction in the law, including instruction in consumer protection regulations.

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

(a-2) An applicant for a retailer's license must complete four hours of specialized instruction relevant to the sale and exchange of manufactured homes. The instruction under this subsection is in addition to the instruction required under Subsection (a).

(a-3) An applicant for an installer's license must complete four hours of specialized instruction relevant to the installation of manufactured homes. The instruction under this subsection is in addition to the instruction required under Subsection (a).

(a-4) An applicant for a joint installer-retailer license must comply with Subsections (a-2) and (a-3), for a total of eight hours of specialized instruction. The instruction under this subsection is in addition to the instruction required under Subsection (a).

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

(c) An applicant for a salesperson's license may apply for a license without having completed the course of instruction if the person successfully completes the course not later than the 90th day after the date of the person's licensure. If the person fails to complete such course successfully and in a timely manner, the person's license is automatically suspended until the person successfully completes the course.

(d) The course of instruction must be offered at least

quarterly.

(e) The board shall adopt rules relating to course content and approval.

(f) An applicant for an initial installer's license shall receive a license on a provisional basis. The person's provisional status remains in effect until a sufficient number of installations completed by the person have been inspected by the department and found not to have any identified material violations of the department's rules. The board, with the advice of the advisory committee to be established under Section 1201.251, shall adopt rules to establish what constitutes a sufficient number of installations under this subsection.

(g) Subsections (a), (a-2), (a-3), and (a-4) do not apply to a license holder who applies:

(1) for a license for an additional business location; or

(2) to renew or reinstate a license.

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

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

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 10, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 77 (H.B. 2238), Sec. 3, eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 74.06, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 3.09, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 7, eff. September 1, 2017.

Sec. 1201.105. SECURITY REQUIRED. (a) The department may not issue or renew a license unless a bond or other security in a form prescribed by the director is filed with the department as provided by this subchapter. The bond or other security is payable to the manufactured homeowner consumer claims program.

(b) If a bond is filed, the bond must be issued by a company authorized to do business in this state and must conform to applicable provisions of the Insurance Code. If other security is filed, that security must be maintained in or by a federally insured depository institution located in this state.

(c) If the department experiences significant problems in obtaining timely reimbursements from a surety or the surety has experienced a deterioration in its financial condition, the board may direct the director to stop accepting bonds issued by the surety.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 10, eff. January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 8, eff. September 1, 2017.

Sec. 1201.106. SECURITY: AMOUNT.

(a) An applicant for a license or a license holder shall file a bond or other security under Section 1201.105 for the issuance or renewal of a license in the following amount:

(1) $100,000 for a manufacturer;

(2) $50,000 for a retailer;

(3) $50,000 for a broker; or

(4) $25,000 for an installer.

(a-1) Notwithstanding the provisions of Subsection (a), the director may require additional security for the licensing, renewal, or relicensing of a person, or the sponsoring of a salesperson, who, either directly, as a related person, or through

a related person, has been the subject of a license revocation, has caused the manufactured homeowner consumer claims program to incur unreimbursed costs or liabilities in excess of available surety bond coverage, or has failed to pay an administrative penalty that has been assessed by final order.

(b) To ensure the availability of prompt and satisfactory warranty service, a manufacturer that does not have a licensed manufacturing plant or other facility in this state from which warranty service and repairs can be provided shall file a bond or other security in the additional amount of $100,000.

(c) The bond or other security is open to successive claims up to the face value of the bond or other security. The surety is not liable for successive claims in excess of the face value of the bond, regardless of the number of years the bond remains in force.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 3, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 11, eff. January 1, 2008.

Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 3.10, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 9, eff. September 1, 2017.

Sec. 1201.107. SECURITY: LOCATION. (a) A manufacturer, retailer, broker, or installer who maintains a place of business at one or more locations shall file with the department a separate bond or other security for each location.

(b) Property used for the business that is not contiguous to, or located within 300 feet of, a bonded location requires a separate bond. A location at which a manufactured home is shown to the public or at which the home is offered for sale or exchange by a retailer to consumers requires a bond.

(c) A manufactured home installed on a permanent foundation system and offered for sale as real property does not require a bond. A temporary location for a bona fide trade show sponsored by

a nonprofit corporation that qualifies for an exemption from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization under Section 501(c) of that code does not require a bond.

(d) If a retailer or broker offers for sale or participates in any way in the sale of a manufactured home at a location other than an undivided parcel of real property where more than one manufactured home is located and offered for sale or exchange by a retailer or broker to the public, the retailer or broker must:

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

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 4, eff. June 18, 2005.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 10, eff. September 1, 2017.

Sec. 1201.108. SECURITY: CHANGE IN OWNERSHIP OR LOCATION. (a) A new bond is not required for a change in:

(1) ownership of a licensee or a business entity under which a license holder conducts business; or

(2) location.

(b) A licensee shall notify the department of a change described by Subsection (a) not later than the 10th day before the date the change occurs.

(c) After a change described by Subsection (a), the licensee shall provide to the department a proper endorsement to the original bond showing that the bond continues to apply to the license without interruption.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 12, eff. January 1, 2008.

Sec. 1201.109. SECURITY: CANCELLATION OR OTHER IMPAIRMENT. (a) If a bond required by this subchapter is canceled, the license for which the security is filed is suspended on the effective date of cancellation. The surety shall provide written notice to the director before the 60th day preceding the effective date of cancellation.

(b) If a surety files for liquidation or reorganization in bankruptcy or is placed in receivership, the license holder shall obtain other security not later than the 60th day after the date that notice of the filing or receivership is received.

(c) If the required face amount of a security is impaired by the payment of a claim, the license holder shall restore the security to the required face amount not later than the 60th day after the date of impairment.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.110. SECURITY: DURATION. The department shall maintain on file a security other than a bond canceled as provided by Section 1201.109(a) until the later of:

(1) the second anniversary of the date the manufacturer, retailer, broker, or installer ceases doing business; or

(2) the date the director determines that a claim does not exist against the security.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 3.11, eff. September 1, 2013.

Sec. 1201.111. EXCEPTIONS TO SECURITY AND INSTRUCTION REQUIREMENTS. (a) Notwithstanding any other provision of this chapter, a state or national bank, state or federal savings and loan association, federal savings bank, or state or federal credit union engaged in the business of selling or exchanging, or offering for sale or exchange, manufactured homes that the institution has acquired through repossession of collateral is not required to attend a course of instruction or file a bond or other security to

be licensed as a retailer.

(b) A licensed retailer is not required to file a bond or other security to be licensed as a broker or installer.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 11, eff. September 1, 2017.

Sec. 1201.113. CONTINUING EDUCATION PROGRAMS. (a) The board shall approve continuing education programs for licensees under this chapter. A continuing education program must be at least eight hours long and must include the current rules of the department and such other matters as the board may deem relevant.

(b) Completion of an approved continuing education program described by Subsection (a) is a prerequisite to renewal of a license.

Text of subsection as amended by Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 13

Without reference to the amendment of this subsection, this subsection was repealed by Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 73(a)(3), eff. January 1, 2008.

(c) No test shall be given in relation to any continuing education program.

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

(e) Repealed by Acts 2007, 80th Leg., R.S., Ch. 863, Sec. 73(a)(3), eff. January 1, 2008.

(f) Repealed by Acts 2007, 80th Leg., R.S., Ch. 863, Sec. 73(a)(3), eff. January 1, 2008.

(g) Repealed by Acts 2007, 80th Leg., R.S., Ch. 863, Sec. 73(a)(3), eff. January 1, 2008.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 5, eff. Jan. 1, 2004.
Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 5, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 13, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 73(a)(3), eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 77 (H.B. 2238), Sec. 4, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 12, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 13, eff. September 1, 2017.

Sec. 1201.114. LICENSE EXPIRATION. Any license under this chapter is valid for two years. A license may be renewed as provided by the director. A person whose license has been suspended or revoked or whose license has expired may not engage in activities that require a license until the license has been reinstated or renewed.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.254(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 6, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 14, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 77 (H.B. 2238), Sec. 5, eff. September 1, 2009.

Sec. 1201.115. NOTICE OF LICENSE EXPIRATION. Not later than the 30th day before the date a person's license is scheduled to expire, the department shall send written notice of the impending expiration to the person at the person's last known address

according to the records of the department.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.254(a), eff. Sept. 1, 2003.

Sec. 1201.116. PROCEDURE FOR LICENSE RENEWAL. (a) The department shall renew a license if, before the expiration date of the license, the department receives the renewal application and payment of the required fee as well as the cost required under Section 1201.1031.

(b) If the department needs additional information for the renewal application or verification of continuing insurance or bond coverage, the license holder must provide the requested information or verification not later than the 20th day after the date of receipt of notice from the department.

(c) The renewal license expires on the second anniversary of the date the license was renewed.

(d) A person whose license has been expired for 90 days or less may renew the license by paying to the department a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(e) A person whose license has been expired for more than 90 days but less than one year may renew the license by paying to the department a renewal fee that is equal to two times the normally required renewal fee.

(f) A person whose license has been expired for one year or more may not renew the license. The person may obtain a new license by complying with the requirements and procedures for obtaining an original license.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.254(a), eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 77 (H.B. 2238), Sec. 6, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 3.12, eff. September 1, 2013.

Sec. 1201.117. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE PRACTITIONER. (a) A person who was licensed in this state, moved

to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date of application may obtain a new license without fulfilling the instruction requirements of Section 1201.104(a).

(b) The person must pay to the department a fee that is equal to two times the normally required renewal fee for the license.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.254(a), eff. Sept. 1, 2003.

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

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

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

(3) caused the manufactured homeowner consumer claims program to incur unreimbursed payments or claims; or

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

Added by Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 15, eff. January 1, 2008.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 14, eff. September 1, 2017.

SUBCHAPTER D. PRACTICE

Sec. 1201.1505. DEPOSIT ON SPECIALLY ORDERED MANUFACTURED HOMES. A retailer may require a deposit on a specially ordered manufactured home.

Added by Acts 2003, 78th Leg., ch. 338, Sec. 10, eff. June 18, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 16, eff. January 1, 2008.

Sec. 1201.151. REFUNDS. (a) Except as otherwise provided by this section, a retailer must refund a consumer's deposit not later than the 15th day after the date that a written request for the refund is received from the consumer.

(b) The deposit may be retained only if:

(1) the consumer specially orders from the manufacturer a manufactured home that is not in the retailer's inventory;

(2) the home conforms to the specifications of the special order and any representations made to the consumer;

(3) the consumer fails or refuses to accept delivery and installation of the home by the retailer; and

(4) the consumer was given conspicuous written notice of the requirements for retaining the deposit.

(c) The retailer may not retain more than five percent of the estimated cash price of the specially ordered home and must refund any amount that exceeds five percent.

(d) This section does not apply to:

(1) a deposit held in escrow in a real estate transaction; or

(2) money stated to be a down payment in an executed retail sales contract.

(e) A deposit becomes a down payment upon execution of a sales purchase contract. Thereafter, if the consumer exercises the consumer's three-day right of rescission in accordance with Section 1201.1521, the retailer shall, not later than the 15th day after the date of the rescission, refund to the consumer all money and other consideration received from the consumer, with only the allowable deduction for real property appraisal and title work expenses in accordance with Section 1201.1511.

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 7, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 17, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 18, eff. January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 15, eff. September 1, 2017.

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

(1) contracts with the retailer to arrange for services that are performed by an appraiser of real property or a title company in connection with real property that will be included in the purchase or exchange or is intended to be pledged by the consumer as collateral for the consumer's purchase or exchange of a manufactured home;

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

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

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

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

Added by Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 16, eff. September 1, 2017.

Sec. 1201.152. VOIDABLE CONTRACT. (a) If a retailer purchases a new manufactured home from an unlicensed manufacturer in violation of Section 1201.505, a consumer's contract with the retailer for the purchase or exchange of the home is voidable until the second anniversary of the date of purchase or exchange of the home.

(b) If an unlicensed retailer, broker, or installer enters into a contract with a consumer concerning a manufactured home, the consumer may void the contract until the second anniversary of the date of purchase of the home.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 17, eff. September 1, 2017.

Sec. 1201.1521. RESCISSION OF CONTRACT FOR SALE OR EXCHANGE OF HOME. (a) A person who acquires a manufactured home from or through a licensee by purchase or exchange may, in a cash transaction occurring not later than the third day after the date the sales purchase contract is signed, rescind the contract without penalty or charge other than the real property appraisal and title work expenses incurred in accordance with Section 1201.1511.

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

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

Added by Acts 2003, 78th Leg., ch. 338, Sec. 10, eff. June 18, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 19, eff. January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 18, eff. September 1, 2017.

Sec. 1201.153. FORMALDEHYDE HEALTH NOTICE. (a) A retailer or manufacturer may not transfer ownership of a HUD-code manufactured home or otherwise sell, assign, or convey a HUD-code manufactured home to a consumer unless the retailer or manufacturer delivers to the consumer a formaldehyde health notice, subject to the director's rules concerning the notice.

(b) The notice must be delivered before the execution of a mutually binding sales agreement or retail installment sales contract.

(c) The notice must:

(1) contain the information required by:

(A) the United States Department of Housing and Urban Development; or

(B) the board; and

(2) be of the type, size, and format required by the director.

(d) A retailer or manufacturer may not vary the content or form of the notice.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 6, eff. June 18, 2003.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 731 (H.B. 2706), Sec. 2, eff. September 1, 2023.

Sec. 1201.154. SUFFICIENCY OF FORMALDEHYDE HEALTH NOTICE; RETAILER AND MANUFACTURER COMPLIANCE. (a) The formaldehyde health notice required by Section 1201.153 is sufficient, as a matter of law, to advise a consumer of the risks of occupying a HUD-code manufactured home.

(b) The consumer's written acknowledgement of the receipt of the notice is conclusive proof of the delivery of the notice and the posting of the notice in compliance with federal regulations.

(c) A retailer's or manufacturer's compliance with United States Department of Housing and Urban Development regulations and the director's rules concerning the notice is conclusive proof that:

(1) the consumer received sufficient notice of the risks of occupying the home; and

(2) the home is habitable with respect to formaldehyde emissions.

(d) A retailer's or manufacturer's compliance, from September 1, 1981, to September 1, 1985, with Section 1201.153 and the revised formaldehyde warning as adopted by the department is conclusive proof that:

(1) the consumer received sufficient notice of the risks of occupying the home; and

(2) the home is habitable with respect to formaldehyde emissions.

(e) A retailer's or manufacturer's knowing and wilful failure to comply with the regulations and rules described by Subsection (c) is conclusive proof that:

(1) the retailer or manufacturer breached the duty to notify the consumer about formaldehyde; and

(2) the home is not habitable.

(f) A retailer's or manufacturer's knowing and wilful failure, from September 1, 1981, to September 1, 1985, to comply with Section 1201.153 and the revised formaldehyde warning as adopted by the department is conclusive proof that:

(1) the retailer or manufacturer breached the duty to notify the consumer about formaldehyde; and

(2) the home is not habitable.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.155. DISCLAIMER OF IMPLIED WARRANTY. The seller's proper provision of the warranties and notices as required by Subchapter H or J is a valid disclaimer of an implied warranty of

fitness for a particular purpose or of merchantability as described by Chapter 2, Business & Commerce Code.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.156. ADVERTISEMENT AS OFFER. An advertisement relating to manufactured housing is an offer to sell or exchange manufactured housing to consumers.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 19, eff. September 1, 2017.

Sec. 1201.157. RETAILER AS WAREHOUSE. (a) With respect to the storage of manufactured homes for hire, a licensed retailer is:

(1) a "warehouse" as defined by Section 7.102, Business & Commerce Code; and

(2) a "warehouseman" under Chapter 24, Property Code.

(b) The provisions of the Business & Commerce Code relating to the storage of goods for hire apply to a licensed retailer acting as a warehouse.

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

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 20, eff. September 1, 2017.

Sec. 1201.158. SALESPERSON. A licensed salesperson may work only for the salesperson's sponsoring retailer or broker.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 20, eff. January 1, 2008.

Sec. 1201.159. BROKER. (a) Except as provided by Section 1201.456, a broker shall ensure that the seller gives the buyer the applicable disclosures and warranties that the buyer would have received if the buyer had purchased the manufactured home through a licensed retailer.

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

(1) the manufactured home is attached; and

(2) the home is offered as real property.

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

(d) If the seller is required to possess a license by this chapter, a broker may assist in the sale of a manufactured home only if that seller has a current license.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 338, Sec. 7, eff. June 18, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 8, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 21, eff. January 1, 2008.

Sec. 1201.161. TRANSPORTATION OF MANUFACTURED HOUSING.

(a) Notwithstanding any other statute or rule or ordinance, a licensed retailer or licensed installer is not required to obtain a permit, certificate, or license or pay a fee to transport manufactured housing to the place of installation except as

required by the Texas Department of Motor Vehicles under Subchapter E, Chapter 623, Transportation Code.

(b) The department shall cooperate with the Texas Department of Motor Vehicles by providing current lists of licensed manufacturers, retailers, and installers.

(c) The Texas Department of Motor Vehicles shall provide to the department monthly a list of the permits issued in the preceding month and the information on the permits.

(d) Unless the information provided for in Subsection (c) is provided electronically, the department shall pay the reasonable cost of providing the list and information under Subsection (c).

(e) The lists to be provided under this section may be provided electronically.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 22, eff. January 1, 2008.

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 98, eff. September 1, 2011.

Acts 2021, 87th Leg., R.S., Ch. 410 (S.B. 1814), Sec. 1, eff. September 1, 2021.

Sec. 1201.162. DISCLOSURE BY RETAILER AND LENDER. (a) Before the completion of a credit application or before entering into any agreement for a sale or exchange that will not be financed, the retailer must provide to the consumer a written disclosure in the form promulgated by the board. The disclosure shall be in at least 12-point type and must address matters of concern relating to costs and obligations that may be associated with home ownership, matters to be considered in making financing decisions, related costs that may arise when purchasing a manufactured home, and such other matters as the board may deem appropriate to promote informed purchase, financing, and related decisions regarding the acquisition and ownership of a manufactured home. The form shall also conspicuously disclose the consumer's right of rescission.

(b) A federally insured financial institution or lender

approved or authorized by the United States Department of Housing and Urban Development as a mortgagee with direct endorsement underwriting authority that fully complies with federal Truth in Lending disclosures concerning the terms of a manufactured housing transaction is exempt from the disclosure provisions of this section.

(c) The right of rescission described in Subsection (a) shall apply only to the sale transaction between the retailer and the consumer. Failure by the retailer to comply with the disclosure provisions of this section does not affect the validity of a subsequent conveyance or transfer of title of a manufactured home or otherwise impair a title or lien position of a person other than the retailer. The consumer shall continue to have the right of rescission with regard to the retailer until the end of the third day after the retailer delivers a copy of the disclosure required by Subsection (a). The consumer's execution of a signed receipt of a copy of the disclosure required by Subsection (a) shall constitute conclusive proof of the delivery of the disclosure. If the consumer grants a person other than the retailer a lien on the manufactured home, the right of rescission shall immediately cease on the filing of the lien with the department.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.255(a), eff. Sept. 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 8, 51, eff. June 18, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 23, eff. January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 21, eff. September 1, 2017.

Acts 2025, 89th Leg., R.S., Ch. 56 (S.B. 1341), Sec. 4, eff. September 1, 2025.

Sec. 1201.164. CONSUMER MODIFICATION OR WAIVER OF RIGHT OF RESCISSION. Before the execution of the sales purchase contract, the consumer may modify or waive the right to rescind if the consumer determines that the purchase of the manufactured home is needed to meet a bona fide personal emergency. If the consumer has

a bona fide personal emergency that necessitates the immediate purchase of the manufactured home, the consumer shall give the retailer a dated written statement that describes the emergency, specifically modifies or waives the right of rescission, and bears the signature of all of the consumers entitled to the right of rescission. In such event the retailer shall immediately give the consumer all of the disclosures required by this code and sell the manufactured home without the right of rescission. The department shall verify with the consumer the consumer's bona fide personal emergency before issuing the statement of ownership.

Added by Acts 2003, 78th Leg., ch. 338, Sec. 10, eff. June 18, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 10, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 34(1), eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 24, eff. January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 22, eff. September 1, 2017.

Acts 2025, 89th Leg., R.S., Ch. 56 (S.B. 1341), Sec. 5, eff. September 1, 2025.

SUBCHAPTER E. MANUFACTURED HOME STATEMENTS OF OWNERSHIP

Sec. 1201.201. DEFINITIONS.

In this subchapter:

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

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

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

(3) "First retail sale" means a consumer's initial acquisition of a new manufactured home from a retailer by purchase or exchange. The term includes a bargain, sale, transfer, or delivery of a manufactured home for which the director has not previously issued a statement of ownership, with intent to pass an interest in the home, other than a lien.

(4) "Identification number" means the number permanently attached to or imprinted on a manufactured home or section of the home as prescribed by department rule.

(5) "Inventory":

(A) has the meaning assigned by Section 9.102, Business & Commerce Code; and

(B) does not include manufactured homes used by a retailer as equipment, as defined by Section 9.102(a)(33), Business & Commerce Code.

(6) "Lien" means:

(A) a security interest created by a lease, conditional sales contract, deed of trust, chattel mortgage, trust receipt, reservation of title, or other security agreement if an interest other than an absolute title is sought to be held or given in a manufactured home; or

(B) a lien on a manufactured home created by the constitution or a statute.

(7) "Manufacturer's certificate" means a document that meets the requirements prescribed by Section 1201.204.

(8) "Secured party" has the meaning assigned by Section 9.102, Business & Commerce Code.

(9) "Security agreement" has the meaning assigned by Section 9.102, Business & Commerce Code.

(10) "Security interest" has the meaning assigned by

Section 1.201, Business & Commerce Code.

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 12, eff. June 18, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 24, eff. September 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 731 (H.B. 2706), Sec. 3, eff. September 1, 2023.

Sec. 1201.202. APPLICATION OF CHAPTER TO CERTAIN CERTIFICATES OF TITLE OR LIENS. (a) This chapter applies to a certificate of title to a manufactured home issued before March 1, 1982, under Chapter 501, Transportation Code.

(b) A lien recorded before March 1, 1982, with the Texas Department of Transportation or a predecessor agency of that department is recorded with the department for the purposes of this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

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

(1) the manufacturer's certificate;

(2) the statement of ownership;

(3) the application for a statement of ownership; and

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

(b) The board shall adopt rules for the documenting of the ownership of a manufactured home that has been previously owned in this state or another state. The rules must protect a lienholder recorded with the department.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 338, Sec. 13, eff. June 18, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 25, eff. January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 25, eff. September 1, 2017.

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

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

(2) on a form prescribed by the director, each subsequent transfer of a manufactured home between retailers and from retailer to owner, if the transfer from retailer to owner involves a completed application for the issuance of a statement of ownership.

(b) At the first retail sale of a manufactured home, a manufacturer's certificate automatically converts to a document that does not evidence any ownership interest in the manufactured home described in the document. A security interest in inventory evidenced by a properly recorded inventory finance lien automatically converts to a security interest in proceeds and cash proceeds.

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

ownership free and clear of any liens other than liens created by or consented to by the consumer.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 13, eff. June 18, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 25, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 77 (H.B. 2238), Sec. 7, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 26, eff. September 1, 2017.

Sec. 1201.205. STATEMENT OF OWNERSHIP FORM. A statement of ownership must be evidenced by a board-approved form issued by the department setting forth:

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

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

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

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

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

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

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

(6) in chronological order of recordation, the date of each lien, other than a tax lien, on the home and the name and address of each lienholder, or, if a lien is not recorded, a

statement of that fact;

(7) a statement regarding tax liens as follows:

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

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

(9) the location of the home;

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

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

(12) any other information the board requires.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 13, eff. June 18, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 25, eff. January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 27, eff. September 1, 2017.

Sec. 1201.2055. ELECTION BY OWNER. (a) In completing an application for the issuance of a statement of ownership, an owner of a manufactured home shall indicate whether the owner elects to

treat the home as real property. An owner may elect to treat a manufactured home as real property only if the home is attached to:

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

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

(b) Repealed by Acts 2009, 81st Leg., R.S., Ch. 77, Sec. 15(2), eff. September 1, 2009.

(c) If the department issues a statement of ownership to an owner of a manufactured home treated as personal property, the statement of ownership on file with the department is evidence of ownership of the home. A lien, charge, or other encumbrance on a home treated as personal property may be made only by filing the appropriate document with the department.

(d) If an owner elects to treat a manufactured home as real property, the department shall issue to the owner a copy of the statement of ownership that on its face reflects that the owner has elected to treat the manufactured home as real property at the location listed on the statement. Not later than the 60th day after the date the department issues a copy of the statement of ownership to the owner, the owner must:

(1) file the copy in the real property records of the county in which the home is located; and

(2) notify the department and the chief appraiser of the applicable appraisal district that the copy has been filed.

(e) A real property election for a manufactured home is not considered to be perfected until a copy of the statement of ownership has been filed and the department and the chief appraiser of the applicable appraisal district have been notified of the filing as provided by Subsection (d).

(f) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 46, Sec. 8(1), eff. September 1, 2011.

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

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

(2) no additional issuance of a statement of ownership

is required with respect to the manufactured home, unless:

(A) the home is moved from the location specified on the statement of ownership;

(B) the real property election is changed; or

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

(h) The provisions of this chapter relating to the construction or installation of a manufactured home or to warranties for a manufactured home apply to a home regardless of whether the home is considered to be real or personal property.

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

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

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

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

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

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

subsection.

Added by Acts 2003, 78th Leg., ch. 338, Sec. 14, eff. June 18, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 11, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 26, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 77 (H.B. 2238), Sec. 15(2), eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 46 (H.B. 1510), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 46 (H.B. 1510), Sec. 8(1), eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 28, eff. September 1, 2017.

Sec. 1201.206. APPLICATION FOR ISSUANCE OF STATEMENT OF OWNERSHIP. (a) At the first retail sale of a manufactured home, the retailer shall provide for the installation of the home and ensure that the application for the issuance of a statement of ownership is properly completed. The consumer shall return the completed application to the retailer. In accordance with Section 1201.204, the retailer shall surrender to the department the original manufacturer's statement of origin at the same time that the retailer applies for the first statement of ownership.

(b) Not later than the 60th day after the date of the retail sale, the retailer shall provide to the department the completed application for the issuance of a statement of ownership. If for any reason the retailer does not timely comply with the requirements of this subsection, the consumer may apply for the issuance of the statement.

(c) Not later than the 60th day after the date of each subsequent sale or transfer of a home that is considered to be personal property, the seller or transferor shall provide to the department a completed application for the issuance of a new statement of ownership. If for any reason the seller or transferor does not timely comply with the requirements of this subsection,

the consumer may apply for the issuance of the statement.

(d) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 46, Sec. 8(2), eff. September 1, 2011.

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

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

(g) When an application is filed for the issuance of a statement of ownership for a used manufactured home that is not in a retailer's inventory or is being converted from personal property to real property in accordance with Section 1201.2075, a statement from the tax assessor-collector for the taxing unit having power to tax the manufactured home shall also be filed with the department. The statement from the tax assessor-collector must indicate that, with respect to each January 1 occurring in the 18-month period preceding the date of the sale, there are no perfected and enforceable tax liens on the manufactured home that have not been extinguished and canceled in accordance with Section 32.015, Tax Code, or personal property taxes due on the manufactured home.

(h) If a person selling a manufactured home to a consumer for residential use fails to file with the department the application for the issuance of a statement of ownership and the appropriate filing fee before the 61st day after the date of the sale, the department may assess a fee of at least $100 against the seller. The department shall have the authority to enforce the collection of any fee from the seller through judicial means. The department shall place on the application for the issuance of a statement of ownership the following legend in a clear and conspicuous manner:

"THE FILING OF AN APPLICATION FOR THE ISSUANCE OF A STATEMENT

OF OWNERSHIP LATER THAN SIXTY (60) DAYS AFTER THE DATE OF A SALE TO A CONSUMER FOR RESIDENTIAL USE MAY RESULT IN A FEE OF UP TO ONE HUNDRED DOLLARS ($100.00). ANY SUCH APPLICATION THAT IS SUBMITTED LATE MAY BE DELAYED UNTIL THE FEE IS PAID IN FULL."

(i) Repealed by Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 85(3), eff. September 1, 2017.

(i-1) Repealed by Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 85(3), eff. September 1, 2017.

(j) Repealed by Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 85(3), eff. September 1, 2017.

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 15, eff. June 18, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 12, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 34(1), eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 27, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 77 (H.B. 2238), Sec. 8, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 46 (H.B. 1510), Sec. 8(2), eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 4, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 29, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 30, eff.

September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 85(3), eff. September 1, 2017.

Sec. 1201.207. ISSUANCE OF STATEMENT OF OWNERSHIP. (a) Except as provided for in Subsection (a-1), the department shall process any completed application for the issuance of a statement of ownership not later than the 15th working day after the date the application is received by the department. If the department rejects an application, the department shall provide a clear and complete explanation of the reason for the rejection and instructions on how to cure any defects, if possible.

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

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

(c) Except with respect to any change in use, servicing of a loan on a manufactured home, release of a lien on a manufactured home by an authorized lienholder, or change in ownership of a lien on a manufactured home, but subject to Section 1201.2075, if the department has issued a statement of ownership for a manufactured home, the department may issue a subsequent statement of ownership for the home only if all parties reflected in the department's records as having an interest in the manufactured home give their

written consent or release their interest, either in writing or by operation of law, or the department has followed the procedures provided by Section 1201.206(k) to document ownership and lien status. Once the department issues a statement of ownership, the department shall not alter the record of the ownership or lien status, other than to change the record to accurately reflect the proper owner's or lienholder's identity or to release a lien if an authorized lienholder files with the department a request for that release, of a manufactured home for any activity occurring before the issuance of the statement of ownership without either the written permission of the owner of record for the manufactured home, their legal representative, or a court order.

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

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 15, eff. June 18, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 13, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 27, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 77 (H.B. 2238), Sec. 9, eff.

September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 46 (H.B. 1510), Sec. 2, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 31, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 32, eff. September 1, 2017.

Sec. 1201.2071. EXEMPTION FOR CERTAIN EMERGENCY HOUSING. (a) Sections 1201.204, 1201.205, 1201.206, and 1201.207 do not apply to the purchase of a manufactured home that is purchased by a federal governmental agency and used to provide temporary housing in response to a natural disaster or other declared emergency.

(b) The department shall adopt rules for the application for and automatic issuance of a statement of ownership of a manufactured home described by Subsection (a).

Added by Acts 2019, 86th Leg., R.S., Ch. 811 (H.B. 2315), Sec. 1, eff. September 1, 2019.

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

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

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

(b) The department may issue a statement of ownership before the release of any liens or before receiving the consent of any lienholders as required by this section, or without receiving the statement required by Section 1201.206(g), if the department releases a copy of the statement to:

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

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

Added by Acts 2003, 78th Leg., ch. 338, Sec. 16, eff. June 18, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 27, eff. January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 33, eff. September 1, 2017.

Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL PROPERTY. (a) The department may not issue a statement of ownership for a manufactured home that is being converted from real property to personal property until the department has inspected the home and determined that it is habitable and:

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

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

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

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

Added by Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 14, eff. June 18, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 27, eff. January 1, 2008.

Acts 2011, 82nd Leg., R.S., Ch. 46 (H.B. 1510), Sec. 3, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 34, eff. September 1, 2017.

Sec. 1201.208. PAYMENT OF TAXES REQUIRED FOR ISSUANCE OF STATEMENT OF OWNERSHIP. (a) Any licensee who sells or exchanges a new manufactured home to any consumer is responsible for the payment of all required sales and use tax on such home.

(b) If it is determined that a new manufactured home was sold or exchanged without the required sales and use tax being paid, the payment shall be made from the fund, up to the available penal amount of the licensee's bond or the remaining balance of the security for the license, and a claim for reimbursement shall be filed with the licensee's surety or the amount deducted from the security for the license.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 17, 18, eff. June 18, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 27, eff. January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 35, eff. September 1, 2017.

Sec. 1201.209. GROUNDS FOR REFUSAL TO ISSUE OR FOR SUSPENSION OR REVOCATION OF STATEMENT OF OWNERSHIP. The department may not refuse to issue a statement of ownership and may not suspend or revoke a statement of ownership unless:

(1) the application for issuance of the statement of ownership contains a false or fraudulent statement, the applicant failed to provide information required by the director, or the applicant is not entitled to issuance of the statement of ownership;

(2) the director has reason to believe that the manufactured home is stolen or unlawfully converted, or the issuance of a statement of ownership would defraud the owner or a lienholder of the manufactured home;

(3) the director has reason to believe that the

manufactured home is salvaged, and an application for the issuance of a new statement of ownership that indicates that the home is salvaged has not been filed;

(4) the required fee has not been paid;

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

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 19, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.256(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 15, eff. June 18, 2005.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 36, eff. September 1, 2017.

Sec. 1201.210. PROCEDURE FOR REFUSAL TO ISSUE OR SUSPENSION OR REVOCATION OF STATEMENT OF OWNERSHIP. (a) If the director refuses to issue or suspends or revokes a statement of ownership, the director shall give, by certified mail, written notice of that action to:

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

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

(b) An action by the director under Subsection (a) is a contested case under Chapter 2001, Government Code.

(c) A notice of appeal and request for hearing must be filed with the director not later than the 30th day after the date of notice of the director's action. If appeal is not timely made, the revocation or suspension described in the notice of the director's action becomes final.

(d) Repealed by Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 85(4), eff. September 1, 2017.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 338, Sec. 20, 21, eff. June 18, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 28, eff. January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 37, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 38, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 85(4), eff. September 1, 2017.

Sec. 1201.212. TRANSFER OF OWNERSHIP BY OPERATION OF LAW. (a) If the ownership of a manufactured home in this state is transferred by inheritance, devise, or bequest, by bankruptcy, receivership, judicial sale, or other involuntary divestiture of ownership, or by any other operation of law, the department shall issue a new statement of ownership after receiving a copy of:

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

(2) the order appointing a temporary administrator;

(3) the probate proceedings;

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

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

(A) that administration is not necessary; and

(B) the name in which the statement of ownership should be issued.

(b) The department may issue a new statement of ownership in the name of the purchaser at a foreclosure sale:

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

(2) for a foreclosed constitutional or statutory lien, if the person entitled to the lien files an affidavit showing the

creation of the lien and the resulting divestiture of title according to law.

(c) The department shall issue a new statement of ownership to a survivor if:

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

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 22, eff. June 18, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 39, eff. September 1, 2017.

Sec. 1201.213. ELIGIBILITY TO SIGN RIGHT OF SURVIVORSHIP AGREEMENT. (a) A person is eligible to sign a right of survivorship agreement under this subchapter if the person:

(1) is married and the spouse of the signing person is the only other party to the agreement;

(2) is unmarried and attests to that unmarried status by affidavit; or

(3) is married and provides the department with an affidavit from the signing person's spouse that attests that the signing person's interest in the manufactured home is the signing person's separate property.

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 23, eff. June 18, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 40, eff. September 1, 2017.

Sec. 1201.2135. BENEFICIARY DESIGNATION. (a) The owner of a manufactured home may designate one or more beneficiaries to whom the owner's interest in the home transfers on the owner's death as provided by Chapter 116, Estates Code, by submitting an application for the issuance of a new statement of ownership under Section 1201.206 with the designation. To be effective, the designation must state that the transfer of an interest in the home to one or more designated beneficiaries is to occur at the transferor's death.

(b) The legal name of each beneficiary designated under this section must be included on the statement of ownership.

(c) The department shall transfer ownership of a manufactured home to the beneficiary or beneficiaries, as applicable, designated under this section for the home if the sole beneficiary submits or all beneficiaries jointly submit, as applicable:

(1) an application for the issuance of a statement of ownership under Section 1201.206 not later than the 365th day after the date of the owner's death or, if the home is owned by joint owners, the last surviving owner's death, as applicable; and

(2) satisfactory proof of the death of the owner or owners, as applicable.

(c-1) A beneficiary designation made under this section for a manufactured home is void if an application and proof described by Subsection (c) are not submitted to the department before the 366th day after the date of the owner's death, or if the home is owned by joint owners, the last surviving owner's death.

(d) A beneficiary designation may be changed or revoked by submitting a new application for the issuance of a statement of ownership under Section 1201.206.

(e) A beneficiary designation or a change or revocation of a beneficiary designation made on an application for the issuance of a statement of ownership for a manufactured home that has not been

submitted to the department before the death of a home's owner or owners who made, changed, or revoked the designation, as applicable, is invalid.

(f) An application for issuance of a statement of ownership designating a beneficiary in accordance with this section that is mailed to the department must be mailed by certified or registered mail, return receipt requested. The application is considered submitted to the department on the date the certified or registered mail is postmarked.

(g) The department may adopt rules to administer this section.

Added by Acts 2025, 89th Leg., R.S., Ch. 865 (S.B. 1940), Sec. 3, eff. September 1, 2025.

Sec. 1201.214. DOCUMENT OF TITLE; CERTIFICATE OF ATTACHMENT. (a) Effective September 1, 2003, all outstanding documents of title or certificates of attachment are considered to be statements of ownership.

(b) An owner or lienholder may provide to the department a document of title or certificate of attachment and any additional information required by the department and request that the department issue a statement of ownership to replace the document of title or certificate of attachment. The department shall mail to the owner or lienholder a copy of the statement of ownership issued under this subsection.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 24, eff. June 18, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 29, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 73(a)(5), eff. January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 41, eff. September 1, 2017.

Sec. 1201.216. CHANGE IN USE. (a) If the owner of a

manufactured home notifies the department that the owner intends to treat the home as real property or intends to treat the home as a salvaged manufactured home or reserve the home for a business use or another nonresidential use, the department shall indicate on the statement of ownership for the home that:

(1) the owner of the home has elected to treat the home as described by this subsection; and

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

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 24, eff. June 18, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 16, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 34(1), eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 30, eff. January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 42, eff. September 1, 2017.

Sec. 1201.217. MANUFACTURED HOME ABANDONED. (a) The owner of real property on which a manufactured home owned by another is located may declare the home abandoned as provided by this section if:

(1) the home has been continuously unoccupied for at least four months; and

(2) any indebtedness secured by the home or related to a lease agreement between the owner of the real property and the

owner of the home is considered delinquent.

(b) Before declaring a manufactured home abandoned, the owner of real property on which the home is located must send a notice of intent to declare the home abandoned to the record owner of the home, all lienholders at the addresses listed on the home's statement of ownership on file with the department, the tax collector for each taxing unit that imposes ad valorem taxes on the real property where the home is located, and any intervening owners of liens or equitable interests. The notice must include the address where the home is currently located. If the person giving such notice knows that a person to whom the notice is being given no longer resides and is no longer receiving mail at a known address, a reasonable effort shall be made to locate the person and give the person notice at an address where the person is receiving mail. Mailing of the notice by certified mail, return receipt requested, postage prepaid, to the persons required to be notified by this subsection constitutes conclusive proof of compliance with this subsection.

(c) On receipt of a notice of intent to declare a manufactured home abandoned, the record owner of the home, a lienholder, a tax assessor-collector for a taxing unit that imposes ad valorem taxes on the real property on which the home is located, or an intervening owner of a lien or equitable interest may enter the real property on which the home is located to remove the home. The real property owner must disclose to the record owner, lienholder, tax assessor-collector, or intervening owner seeking to remove the home the location of the home and grant the person reasonable access to the home. A person removing a home is responsible to the real property owner for any damage to the real property resulting from the removal of the home.

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

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

(2) the real property owner may declare the home abandoned and may apply to the department for a statement of ownership listing the real property owner as the owner of the manufactured home.

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

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

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

(e) A new statement of ownership issued by the department under this section transfers, free of any liens, if there is evidence of United States Postal Service return receipt from all lienholders, title to the manufactured home to the real property owner.

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

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

Added by Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 17, eff. June 18, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 31, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 77 (H.B. 2238), Sec. 10, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 46 (H.B. 1510), Sec. 4, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 43, eff. September 1, 2017.

Sec. 1201.219. PERFECTION, EFFECT, AND RELEASE OF LIENS. (a) A lien on manufactured homes in inventory is perfected only by

filing a financing statement in accordance with Section 9.310, Business & Commerce Code, and the other provisions of that code related to security interests for inventory. Once perfected, the lien applies to the manufactured homes in the inventory as well as to any proceeds from the sale of those homes. The department may suspend or revoke the license of a retailer who fails to satisfy a perfected inventory lien.

(b) Except as provided by Subsection (a) and subject to Subsection (d), a lien on a manufactured home is perfected only by filing with the department the notice of lien on a form provided by the department. The department shall disclose on its website the date of each lien filing. A lien recorded with the department has priority, according to the chronological order of recordation, over another lien or claim against the manufactured home.

(b-1) Notwithstanding any other law, a lien perfected with the department may be released only by filing a request for the release with the department on the form provided by the department or by following the department's procedures for electronic lien release on the department's Internet website. This subsection does not apply to the release of a tax lien perfected with the department.

(c) Notwithstanding any other provision of this section or any other law, the filing of a financing statement to perfect a lien on the inventory of a retailer as described by Subsection (a) does not prevent a buyer in the ordinary course of business, as defined by Section 1.201, Business & Commerce Code, from acquiring good and marketable title free of that lien, and the department may not consider that lien for the purpose of title issuance.

(d) A tax lien on a manufactured home not held in a retailer's inventory is perfected only by filing with the department the notice of the tax lien on a form provided by the department in accordance with the requirements of Chapter 32, Tax Code. The form must require the disclosure of the original dollar amount of the tax lien and the name and address of the person in whose name the manufactured home is listed on the tax roll. The department shall disclose on its Internet website the date of each tax lien filing, the original amount of the tax lien claimed by each

filing, and the fact that the amount shown does not include additional sums, including interest, penalties, and attorney's fees. The statement required by Section 1201.205(7) is notice to all persons that the tax lien exists. A tax lien recorded with the department has priority over another lien or claim against the manufactured home. Tax liens shall be filed by the tax collector for any taxing unit having the power to tax the manufactured home. A single filing by a tax collector is a filing for all the taxing units for which the tax collector is empowered to collect.

(e) A tax lien perfected with the department may be released only by:

(1) filing with the department a tax certificate or tax paid receipt in accordance with Section 32.015, Tax Code;

(2) filing a request for the release with the department on the form provided by the department;

(3) following the department's procedures for electronic tax lien release on the department's Internet website;

(4) a tax collector filing a tax lien release with the department as provided by Subsection (f); or

(5) the department in the manner provided by Subsection (h).

(f) On request by any person, a tax collector shall file a tax lien release with the department if the four-year statute of limitations to file a suit for collection of personal property taxes in Section 33.05(a)(1), Tax Code, has expired.

(g) The department may request that a tax collector confirm that no tax suit has been timely filed on any manufactured home tax lien more than four years in delinquency. The department may make a request under this subsection electronically, and a taxing authority may provide notice of the existence or absence of a timely filed tax suit electronically.

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

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

(2) the department:

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

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 25, eff. June 18, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 18, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 34(1), eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 32, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 77 (H.B. 2238), Sec. 11, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 46 (H.B. 1510), Sec. 5, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1095 (H.B. 3613), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1095 (H.B. 3613), Sec. 3, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 44, eff. September 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 731 (H.B. 2706), Sec. 4, eff. September 1, 2023.

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

lists:

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

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

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

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

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

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

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 26, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.257(b), eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 32, eff. January 1, 2008.

Acts 2011, 82nd Leg., R.S., Ch. 46 (H.B. 1510), Sec. 6, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 45, eff. September 1, 2017.

Sec. 1201.221. INFORMATION ON OWNERSHIP AND TAX LIEN. (a) On written request, the department shall provide information held by the department on:

(1) the current ownership and location of a manufactured home; and

(2) the existence of all tax liens on that home for which notice has been filed with the department.

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

(1) the name of the owner of the home as reflected on the statement of ownership; or

(2) the identification number of the home.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 338, Sec. 27, eff. June 18, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 19, eff. June 18, 2005.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 46, eff. September 1, 2017.

Sec. 1201.222. CERTAIN MANUFACTURED HOMES CONSIDERED REAL PROPERTY. (a) A manufactured home is treated as real property only if:

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

(2) a copy of the statement of ownership for the home has been filed in the real property records of the county in which the home is located.

(b) Repealed by Acts 2005, 79th Leg., Ch. 1284, Sec. 34(1), eff. June 18, 2005.

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

(d) A civil action to enjoin a violation of this section may be brought by:

(1) a purchaser in the county in which the violation occurs; or

(2) the county in which the violation occurs.

(e) Repealed by Acts 2003, 78th Leg., ch. 338, Sec. 51.

(f) This section does not require a retailer or retailer's agent to obtain a license under Chapter 1101.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.258(a), eff. Sept. 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 28, 51, eff. June 18, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 34(1), eff. June 18, 2005.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 47, eff. September 1, 2017.

SUBCHAPTER F. STANDARDS

Sec. 1201.251. STANDARDS AND REQUIREMENTS ADOPTED BY BOARD. (a) The board shall adopt standards and requirements for:

(1) the installation and construction of manufactured housing that are reasonably necessary to protect the health, safety, and welfare of the occupants and the public; and

(2) the construction of HUD-code manufactured homes in compliance with the federal standards and requirements established under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.).

(b) The standards and requirements adopted under Subsection (a)(1) are the standards code.

(c) The standards adopted under Subsection (a)(1) must ensure that manufactured housing installed on both permanent and nonpermanent foundation systems resists overturning and lateral movement, according to the design loads for the particular wind zone for which the housing was constructed.

(d) In order to ensure that the determinations required by this section are properly made by qualified persons:

(1) the board's rules may provide for the approval of foundation systems and devices that have been approved by licensed engineers; and

(2) any generic installation standards promulgated by rule shall first be reviewed by an advisory committee established by the board comprised of representatives of manufacturers, installers, and manufacturers of stabilization systems or devices, including one or more licensed engineers.

(e) The advisory committee established by Subsection (d) shall make a report to the board setting forth each comment and concern over any proposed rules. The members of the committee

shall have no personal liability for providing this advice.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 33, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 34, eff. January 1, 2008.

Sec. 1201.252. POWER OF LOCAL GOVERNMENTAL UNIT TO ADOPT DIFFERENT STANDARD. (a) A local governmental unit of this state may not adopt a standard for the construction or installation of manufactured housing in the local governmental unit that is different from a standard adopted by the board unless, after a hearing, the board expressly approves the proposed standard.

(b) To adopt a different standard under this section, the local governmental unit must demonstrate that public health and safety require the different standard.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 35, eff. January 1, 2008.

Sec. 1201.253. HEARING ON STANDARD OR REQUIREMENT. The director shall publish notice and conduct a public hearing before:

(1) adopting a standard or requirement authorized by this subchapter;

(2) amending a standard authorized by this subchapter; or

(3) approving a standard proposed by a local governmental unit under Section 1201.252.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 36, eff. January 1, 2008.

Sec. 1201.254. EFFECTIVE DATE OF REQUIREMENT OR STANDARD. Each requirement or standard that is adopted, modified, amended, or

repealed by the board must state its effective date.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 36, eff. January 1, 2008.

Sec. 1201.255. INSTALLATION OF MANUFACTURED HOUSING. (a) Except as authorized under Section 1201.252, manufactured housing that is installed must be installed in compliance with the standards and rules adopted and orders issued by the department. An uninstalled manufactured home may not be occupied for any purpose other than to view the home on a retailer's sales lot.

(b) An installer may not install a used manufactured home at a location on a site that has evidence of ponding, runoff under heavy rains, or bare uncompacted soil unless the installer first obtains the owner's signature on a form promulgated by the board disclosing that such conditions may contribute to problems with the stabilization system for that manufactured home, including possible damage to that home, and the owner accepts that risk.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 36, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 77 (H.B. 2238), Sec. 12, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 48, eff. September 1, 2017.

Sec. 1201.256. WIND ZONE REGULATIONS. (a) Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Orange, Refugio, San Patricio, and Willacy counties are in Wind Zone II. All other counties are in Wind Zone I.

(b) To be installed in a Wind Zone II county, a manufactured home constructed on or after September 1, 1997, must meet the Wind Zone II standards adopted by the United States Department of

Housing and Urban Development.

(c) A manufactured home constructed before September 1, 1997, may be installed in a Wind Zone I or II county without restriction.

(d) A retailer who sells a manufactured home constructed on or after September 1, 1997, to Wind Zone I standards must, before the execution of a mutually binding sales agreement or retail installment sales contract, give the consumer notice that:

(1) the home was not designed or constructed to withstand a hurricane force wind occurring in a Wind Zone II or III area;

(2) installation of the home is not permitted in a Wind Zone II county in this state; and

(3) another state may prohibit installation of the home in a Wind Zone II or III area.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

SUBCHAPTER G. INSPECTIONS AND MONITORING

Sec. 1201.301. STATE INSPECTORS. (a) The director may employ state inspectors to:

(1) carry out the functions the department is required to perform under this chapter;

(2) implement this chapter; and

(3) enforce the rules adopted and orders issued under this chapter.

(b) In enforcing this chapter, the director may authorize a state inspector to travel inside or outside of the state to inspect a licensee.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 37, eff. January 1, 2008.

Sec. 1201.302. INSPECTION BY LOCAL GOVERNMENTAL UNITS. (a) To ensure that a manufactured home sold or installed in this state complies with the standards code, the director may by contract

provide for a federal agency or an agency or political subdivision of this state or another state to perform an inspection or inspection program under this chapter or under rules adopted by the board.

(b) On request, the department shall authorize a local governmental unit in this state to perform an inspection or enforcement activity related to the construction of a foundation system or the erection or installation of manufactured housing at a homesite under a contract or other official designation and rules adopted by the board. The department may withdraw the authorization if the local governmental unit fails to follow the rules, interpretations, and written instructions of the department.

(c) The department:

(1) shall advise each local governmental unit biennially in writing of the program for contracting installation inspections;

(2) shall encourage local building inspection officials to perform enforcement and inspection activities for manufactured housing installed in the local governmental unit; and

(3) may establish cooperative inspection training programs.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 38, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 39, eff. January 1, 2008.

Sec. 1201.303. INSPECTIONS. (a) The director may inspect manufactured homes at the state border and adopt rules necessary for the inspection of manufactured homes entering this state to ensure:

(1) compliance with:

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

(B) the standards code; and

(C) the rules adopted by the director; and

(2) payment of any use tax owed to the state.

(b) The department shall establish an installation inspection program in which at least 75 percent of installed manufactured homes are inspected on a sample basis for compliance with the standards and rules adopted and orders issued by the director. The program must place priority on inspecting multisection homes and homes installed in Wind Zone II counties.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 85(5), eff. September 1, 2017.

(d) Repealed by Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 85(5), eff. September 1, 2017.

(e) Repealed by Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 85(5), eff. September 1, 2017.

(f) Repealed by Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 85(5), eff. September 1, 2017.

(g) Repealed by Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 85(5), eff. September 1, 2017.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 74.07, eff. September 28, 2011.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 85(5), eff. September 1, 2017.

Sec. 1201.304. INSPECTION SEARCH WARRANTS. If required by law or otherwise necessary, the director may obtain an inspection search warrant.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.305. PROGRAM MONITORING. The director may enter into a contract with the United States Department of Housing and Urban Development or its designee to monitor the programs of that department.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.351. MANUFACTURER'S WARRANTY. (a) The manufacturer of a new HUD-code manufactured home shall warrant, in a separate written document, that:

(1) the home is constructed or assembled in accordance with all building codes, standards, requirements, and regulations prescribed by the United States Department of Housing and Urban Development under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.); and

(2) the home and all appliances and equipment included in the home are free from defects in materials or workmanship except for cosmetic defects.

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

(c) At the time the manufacturer delivers the home to the retailer, the manufacturer shall also deliver to the retailer:

(1) the manufacturer's warranty; and

(2) the warranties given by the manufacturers of appliances or equipment installed in the home.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 40, eff. January 1, 2008.

Sec. 1201.352. RETAILER'S WARRANTY ON A NEW HUD-CODE MANUFACTURED HOME. (a) The retailer of a new HUD-code manufactured home shall warrant to the consumer in writing that:

(1) installation of the home at the initial homesite was or will be, as applicable, completed in accordance with all department standards, rules, orders, and requirements; and

(2) appliances and equipment included with the sale of the home and installed by the retailer are or will be:

(A) installed in accordance with the instructions or specifications of the manufacturers of the appliances or equipment; and

(B) free from defects in materials or workmanship.

The warranty may expressly disclaim or limit any warranty regarding cosmetic defects.

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

(c) Before the signing of a binding retail installment sales contract or other binding purchase agreement on a new HUD-code manufactured home, the retailer must give the consumer a copy of:

(1) the manufacturer's warranty;

(2) the retailer's warranty;

(3) the warranties given by the manufacturers of appliances or equipment included with the home; and

(4) the name and address of the manufacturer or retailer to whom the consumer is to give notice of a warranty service request.

(d) Not later than the 30th day after the installation of a new HUD-code manufactured home, the retailer shall deliver to the consumer a copy of the warranty given by the licensed installer.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 20, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 41, eff. January 1, 2008.

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

(b) Written notice to the department is deemed to be notice

to the manufacturer, retailer, or installer commencing three business days after receipt and forwarding of the notice by the department to the licensee by regular mail or electronic mail of a scanned copy of the notice.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 41, eff. January 1, 2008.

Sec. 1201.354. CORRECTIVE ACTION REQUIRED. The manufacturer, retailer, or installer, as applicable, shall take appropriate corrective action within a reasonable period as required by department rules to fulfill the written warranty obligation.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 41, eff. January 1, 2008.

Sec. 1201.355. CONSUMER COMPLAINT HOME INSPECTION. (a) If the manufacturer, retailer, or installer does not provide the consumer with proper warranty service, the consumer may, at any time, request the department to perform a consumer complaint home inspection. The department may not charge a fee for the inspection.

(b) On payment of the required inspection fee, the manufacturer, retailer, or installer may request the department to perform a consumer complaint home inspection if the manufacturer, retailer, or installer:

(1) believes the consumer's complaints are not covered by the warranty of the manufacturer, retailer, or installer, as applicable;

(2) believes that the warranty service was properly provided; or

(3) disputes responsibility concerning the warranty obligation.

(c) The department shall perform a consumer complaint home

inspection not later than the 30th day after the date of receipt of a request for the inspection.

(d) Notwithstanding any other provision of this section, the department may make an inspection at any time if it believes that there is a reasonable possibility that a condition exists that would present an imminent threat to health or safety.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 41, eff. January 1, 2008.

Sec. 1201.356. REPORT AND ORDER; AMENDMENT; COMPLIANCE. (a) Not later than the 10th day after the date of a consumer complaint home inspection, the department shall send a written report and any order to the consumer, manufacturer, retailer, and installer by certified mail, return receipt requested.

(b) The report shall specify:

(1) each of the consumer's complaints; and

(2) whether the complaint is covered by the manufacturer's, retailer's, or installer's warranty and, if so, which of those warranties.

(c) The director shall issue to the manufacturer, retailer, or installer an appropriate order for corrective action by the manufacturer, retailer, or installer specifying a reasonable period for completion of the corrective action. With regard to new manufactured homes, both the installer and the retailer are responsible for the warranty of installation. If the department determines that a complaint is covered by the installation warranty, the director shall issue the order to the installer for the corrective action. If the installer fails to perform the corrective action, the installer shall be subject to the provisions of Section 1201.357. In that instance, the director shall issue the same order for corrective action to the retailer with a new time frame not to exceed 10 days unless additional time is needed for compliance upon a showing of good cause. If the retailer is compelled to perform corrective action because of the failure of the installer to comply with the director's order, the retailer may

seek reimbursement from the installer. The period for the performance of any required warranty work may be shortened by the director as much as is feasible if the warranty work is believed necessary to address a possible imminent threat to health or safety.

(d) The department may issue an amended report and order if all parties receive notice of and are given an opportunity to respond to that report and order. The amended report and order supersede the initial report and order.

(e) The manufacturer, retailer, or installer shall comply with the report and order of the director.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 42, eff. January 1, 2008.

Sec. 1201.357. FAILURE TO PROVIDE WARRANTY SERVICE. (a) If the manufacturer, retailer, or installer, as applicable, fails to provide warranty service within a period specified by the director, the manufacturer, retailer, or installer must show good cause in writing as to why the manufacturer, retailer, or installer failed to provide the service.

(b) If the manufacturer, retailer, or installer, as applicable, fails or refuses to provide warranty service in accordance with the department order under Section 1201.356, the director may hold an informal meeting at which the manufacturer, retailer, or installer must show cause as to why the manufacturer's, retailer's, or installer's license should not be suspended or revoked and at which the consumer may express the person's views. Following the meeting, the director shall either resolve the matter by agreed order, dismiss the matter if no violation is found to have occurred, or institute an administrative action, which may include license suspension or revocation, the assessment of administrative penalties, or a combination of such actions.

(b-1) As authorized by Section 1201.6041, the director may order a manufacturer, retailer, or installer, as applicable, to pay

a refund directly to a consumer as part of an agreed order described by Subsection (b) instead of or in addition to instituting an administrative action under this chapter.

(c) If the manufacturer, retailer, or installer is unable to provide warranty service in accordance with the department order under Section 1201.356 as a result of an action of the consumer, the manufacturer, retailer, or installer must make that allegation in the written statement required by Subsection (a). The department shall investigate the allegation, and if the department determines that the allegation is credible, the department shall issue a new order specifying the date and time of the proposed corrective action. The department shall send the order to the consumer and the manufacturer, retailer, or installer, as applicable, by certified mail, return receipt requested. If the consumer refuses to comply with the department's new order, the manufacturer, retailer, or installer, as applicable:

(1) is discharged from the obligations imposed by the relevant department orders;

(2) has no liability to the consumer with regard to that warranty; and

(3) is not subject to an action by the department for failure to provide warranty service.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 21, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 43, eff. January 1, 2008.

Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 3.13, eff. September 1, 2013.

Acts 2023, 88th Leg., R.S., Ch. 731 (H.B. 2706), Sec. 5, eff. September 1, 2023.

Sec. 1201.358. FAILURE TO SHOW GOOD CAUSE; HEARING RESULTS. (a) Failure by the manufacturer, retailer, or installer to show good cause under Section 1201.357(a) is a sufficient basis for suspension or revocation of the manufacturer's, retailer's, or

installer's license.

(b) If the director determines that an order was incorrect regarding a warranty obligation, the director shall issue a final order stating the correct warranty obligation and the right of the manufacturer, retailer, or installer to indemnification from one of the other parties.

(c) The director may issue an order:

(1) directing a manufacturer, retailer, or installer whose license is not revoked, suspended, or subject to an administrative sanction under Section 1201.357(b) and who is not out of business to perform the warranty obligation of a manufacturer, retailer, or installer whose license is revoked, suspended, or subject to an administrative sanction under Section 1201.357(b) or who is out of business; and

(2) giving the manufacturer, retailer, or installer performing the obligation the right of indemnification against another party.

(d) A manufacturer, retailer, or installer entitled to indemnification under this section is a consumer for purposes of Subchapter I and may recover actual damages from the manufactured homeowner consumer claims program.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 43, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 77 (H.B. 2238), Sec. 13, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 49, eff. September 1, 2017.

Sec. 1201.359. APPLICATION OF WARRANTIES IF HUD-CODE MANUFACTURED HOME MOVED. (a) The manufacturer's and retailer's warranties do not apply to any defect or damage caused by moving a new HUD-code manufactured home from the initial installation site.

(b) Conspicuous notice of the warranty exception under Subsection (a) must be given to the consumer at the time of sale.

(c) The warrantor has the burden of proof to show that the

defect or damage is caused by the move.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.360. WARRANTY FOR HUD-CODE MANUFACTURED HOME PERMANENTLY ATTACHED TO REAL PROPERTY. (a) The seller of real property to which a new HUD-code manufactured home is permanently attached may give the initial purchaser a written warranty that combines the manufacturer's warranty and the retailer's warranty required by this subchapter if:

(1) the statement of ownership reflects that the owner has elected to treat the home as real property;

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

(3) a copy of the statement of ownership has been filed in the real property records for the county in which the home is located.

(b) If a combination warranty is given under this section, the manufacturer and retailer are not required to give separate written warranties, but the manufacturer and retailer are jointly liable with the seller of the real property to the purchaser for the performance of their respective warranty obligations.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 30, eff. June 18, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 50, eff. September 1, 2017.

Sec. 1201.361. INSTALLER'S WARRANTY. (a) For all installations, the installer shall give the manufactured home owner a written warranty that the installation of the home was performed in accordance with all department standards, rules, orders, and requirements. The warranty for the installation of a new HUD-code manufactured home is to be given by the retailer, who is responsible for installation. If the retailer subcontracts this function to a licensed installer, the retailer and installer are jointly and severally responsible for performance of the warranty.

(b) The warranty must conspicuously disclose the requirement that the consumer notify the installer of any claim in writing in accordance with the terms of the warranty. Unless the warranty provides for a longer period, the installer or retailer has no obligation or liability under the person's warranty for any defect described in a written notice received from the consumer more than two years after the later of the date of purchase or the date of installation.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 22, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 44, eff. January 1, 2008.

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

(b) Notwithstanding the limitations and terms of any warranty, the director may, whenever the department identifies any aspect of an installation that does not conform to applicable requirements, order the licensee who performed the installation to correct it, or, if that licensee is no longer licensed, reassign correction to a licensed installer and reimburse the person from the fund for the costs of correction.

Added by Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 45, eff. January 1, 2008.

SUBCHAPTER I. MANUFACTURED HOMEOWNER CONSUMER CLAIMS PROGRAM

Sec. 1201.401. MANUFACTURED HOMEOWNER CONSUMER CLAIMS PROGRAM. (a) The department shall administer the manufactured homeowner consumer claims program to provide a remedy for damages resulting from prohibited conduct by a person licensed under this chapter.

(b) The department may make a payment under the manufactured homeowner consumer claims program only after all other departmental

operating expenses are sufficiently funded.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 52, eff. September 1, 2017.

Sec. 1201.404. CONSUMER COMPENSATION. (a) Except as otherwise provided by Subchapter C, a payment made under the manufactured homeowner consumer claims program shall be paid directly to a consumer or, at the director's option, to a third party on behalf of a consumer to compensate a consumer who sustains actual damages resulting from an unsatisfied claim against a licensed manufacturer, retailer, broker, or installer if the unsatisfied claim results from a violation of:

(1) this chapter;

(2) a rule adopted by the director;

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

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

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

(b) The department is not liable to the consumer if the manufactured homeowner consumer claims program does not have the money necessary to pay the actual damages determined to be payable. The director shall record the date and time of receipt of each verified complaint and, as money becomes available, pay the consumer whose claim is the earliest by date and time to have been found to be verified and properly payable.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 47, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 77 (H.B. 2238), Sec. 14, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 53, eff. September 1, 2017.

Sec. 1201.405. LIMITATIONS ON CLAIMS. (a) The payment of actual damages is limited to the lesser of:

(1) the amount of actual, reasonable costs, not including attorney's fees, that the consumer has incurred or will incur to resolve the act or omission found to be a violation under Section 1201.404; or

(2) $35,000.

(b) Repealed by Acts 2009, 81st Leg., R.S., Ch. 77, Sec. 15(3), eff. September 1, 2009.

(c) Under the manufactured homeowner consumer claims program, the department is not liable for and the director may not pay:

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

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

(d) Notwithstanding other provisions of this subchapter, this subchapter does not apply to, and a consumer may not recover through the manufactured homeowner consumer claims program as a result of, a claim against a license holder that results from a cause of action directly related to the sale, exchange, brokerage, or installation of a manufactured home before September 1, 1987.

(e) In determining the amount of actual damages under this section, the director shall make an independent inquiry as to the damages actually incurred, unless the damages have been previously established through a contested trial.

(f) Under the manufactured homeowner consumer claims program, the department is not liable for and the director may not pay:

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

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

(3) for attorney's fees; or

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

(A) a breach of warranty;

(B) a failure to return or apply as agreed money received from a consumer or money for which the consumer was obligated;

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

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

(g) The board by rule may place reasonable limits on the costs that may be approved for payment under the manufactured homeowner consumer claims program, including the costs of reassigned warranty work, and require consumers making claims that may be subject to reimbursement under the manufactured homeowner consumer claims program to provide estimates establishing that the cost will be reasonable. Such rules may also specify such procedures and requirements as the board may deem necessary and advisable for the administration of the manufactured homeowner consumer claims program.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 23, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 48, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 77 (H.B. 2238), Sec. 15(3), eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 530 (S.B. 499), Sec. 1, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 54, eff. September 1, 2017.

Sec. 1201.406. PROCEDURE FOR RECOVERY UNDER MANUFACTURED HOMEOWNER CONSUMER CLAIMS PROGRAM. (a) To recover under the manufactured homeowner consumer claims program, a consumer must

file a written, sworn complaint in the form required by the director not later than the second anniversary of:

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

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

(b) On receipt of a verified complaint, the department shall:

(1) notify each appropriate license holder and the issuer of any surety bond issued in connection with their licenses; and

(2) investigate the claim and issue a preliminary determination, giving the consumer, the licensee, and any surety an opportunity to resolve the matter by agreement or to dispute the preliminary determination.

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 49, eff. January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 55, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 56, eff. September 1, 2017.

Sec. 1201.407. DISAGREEMENT OF PARTIES; INFORMAL DISPUTE RESOLUTION PROCESS. (a) If a preliminary determination is disputed, the department shall conduct an informal dispute resolution process, including a home inspection if appropriate, to resolve the dispute.

(b) For a preliminary determination that has been disputed to become final and valid, the department shall make any changes the

director determines to be appropriate and issue another written preliminary determination as to the responsibility and liability of the manufacturer, retailer, broker, and installer.

(c) Before making a final determination, the department shall allow a license holder 10 days to comment on this preliminary determination.

(d) After consideration of the comments, if any, the director shall issue a final determination.

(e) The final determination may be appealed to the board on or before the 10th day after the date of its issuance by giving written notice to the director, who shall place the matter before the board at the next meeting held on a date for which the matter could be publicly posted as required by Chapter 551, Government Code.

(f) Any license holder or surety, as applicable, is bound by the department's final determination of responsibility and liability.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 49, eff. January 1, 2008.

Sec. 1201.409. PAYMENT BY SURETY OR FROM OTHER SECURITY. (a) Except as otherwise provided by Subchapter C, the manufactured homeowner consumer claims program shall be reimbursed by the surety on a bond or from other security filed under Subchapter C for the amount of a claim that is paid out under the manufactured homeowner consumer claims program by the director to a consumer in accordance with this subchapter.

(b) Payment by the surety or from the other security must be made not later than the 30th day after the date of notice from the director that a consumer claim has been paid.

(c) If payment to the manufactured homeowner consumer claims program of a claim is not made by the surety or from the other security in a timely manner, the attorney general shall file suit for recovery of the amount due the manufactured homeowner consumer claims program. Venue for the suit is in Travis County.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 50, eff. January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 57, eff. September 1, 2017.

Sec. 1201.410. INFORMATION ON RECOVERY UNDER MANUFACTURED HOMEOWNER CONSUMER CLAIMS PROGRAM. The director shall prepare information for notifying consumers of their rights to recover under the manufactured homeowner consumer claims program, shall post the information on the department's website, and shall make printed copies available on request.
Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 51, eff. January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 58, eff. September 1, 2017.

SUBCHAPTER J. USED OR SALVAGED MANUFACTURED HOMES

Sec. 1201.451. TRANSFER OF GOOD AND MARKETABLE TITLE REQUIRED. (a) Except as otherwise provided by this subchapter, a person may not sell or exchange a used manufactured home without the appropriate transfer of good and marketable title to the home.

(b) Not later than the 60th day after the effective date of the transfer of ownership or the date the seller or transferor obtains possession of the necessary and properly executed documents, the seller or transferor shall forward to the purchaser or transferee the necessary, executed documents. If the seller or transferor fails to forward the documents on a timely basis, the purchaser or transferee may apply directly for the documents. On receipt of the documents, the purchaser or transferee shall apply for the issuance of a statement of ownership.
Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.
Amended by Acts 2003, 78th Leg., ch. 338, Sec. 31, eff. June 18,

2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 24, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 52, eff. January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 59, eff. September 1, 2017.

Sec. 1201.452. SEAL OR LABEL REQUIRED. (a) Except as otherwise provided by this subchapter, a person may not sell or exchange or negotiate for the sale or exchange of a used manufactured home to a consumer unless the appropriate seal or label is attached to the home.

(b) If the home does not have the appropriate seal or label, the person must:

(1) apply to the department for a seal; and

(2) pay the fee.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 25, eff. June 18, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 46 (H.B. 1510), Sec. 7, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 60, eff. September 1, 2017.

Sec. 1201.453. HABITABILITY. Manufactured housing is habitable only if:

(1) there is no defect or deterioration in or damage to the home that creates a dangerous situation;

(2) the plumbing, heating, and electrical systems are in safe working order;

(3) the walls, floor, and roof are:

(A) free from a substantial opening that was not designed; and

(B) structurally sound; and

(4) all exterior doors and windows are in place and operate properly.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 53, eff. January 1, 2008.

Sec. 1201.454. HABITABILITY: PROHIBITED ALTERATION OR REPLACEMENT. A manufacturer, retailer, broker, installer, or lienholder may not repair or otherwise alter a used manufactured home or replace a component or system of a used manufactured home in a way that makes the home not habitable.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.455. WRITTEN DISCLOSURE AND WARRANTY OF HABITABILITY REQUIRED. (a) Except as otherwise provided by this subchapter, a person may not sell or exchange a used manufactured home to a consumer for use as a dwelling without providing:

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

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

(b) Unless, not later than the 65th day after the later of the installation date or the date of the sale or exchange, the consumer notifies the seller in writing of a defect that makes the home not habitable, any obligation or liability of the seller under this subchapter is terminated. The warranty must conspicuously disclose that notice requirement to the consumer.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 26, eff. June 18, 2005.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 61, eff. September 1, 2017.

Sec. 1201.456. HABITABILITY: EXCEPTION TO WARRANTY REQUIREMENT. The warranty requirement imposed by Section 1201.455 does not apply to a sale or exchange of a used manufactured home from one consumer to another.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 62, eff. September 1, 2017.

Sec. 1201.457. HABITABILITY: CHANGE TO OR FROM NONRESIDENTIAL USE OR SALVAGE. (a) If the sale or exchange of a used manufactured home is to a purchaser for the purchaser's business use, the home is not required to be habitable unless the purchaser discloses to the retailer in writing at the time of purchase that the purchaser intends for a person to be present in the home for regularly scheduled work shifts of not less than eight hours each day. The purchaser of the home shall file with the department an application for the issuance of a statement of ownership indicating that the home is reserved for a business use.

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

(b) If a used manufactured home is reserved for a business use or another nonresidential use or is salvaged, a person may not knowingly allow any person to occupy or use the home as a dwelling unless the director issues a new statement of ownership indicating that the home is no longer reserved for that use or is no longer salvaged. On the purchaser's application to the department for issuance of a new statement of ownership, the department shall inspect the home and, if the department determines that the home is habitable, issue a new statement of ownership.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 338, Sec. 32, eff. June 18, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 28, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 54, eff. January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 63, eff. September 1, 2017.

Sec. 1201.458. HABITABILITY: EXCEPTION FOR CERTAIN GOVERNMENTAL OR NONPROFIT ENTITIES. (a) Notwithstanding any other provision of this subchapter and on a written application by the purchaser or transferee, the director may give express written authorization to a licensed retailer to sell or exchange a used manufactured home that is not or may not be habitable to or with a governmental housing agency or authority or to a nonprofit organization that provides housing for the homeless.

(b) As a part of the application, the purchaser or transferee must certify to the receipt of a written notice that the home is not or may not be habitable. The consumer protection division of the attorney general's office shall prepare the form of the notice, which must be approved by the director.

(c) The purchaser or transferee may not occupy or allow occupation of the home as a dwelling until the completion of any repair necessary to make the home habitable.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.459. COMPLIANCE NOT REQUIRED FOR SALE FOR COLLECTION OF DELINQUENT TAXES. (a) In selling a manufactured home to collect delinquent taxes, a tax assessor-collector is not required to comply with this subchapter or another provision of this chapter relating to the sale of a used manufactured home.

(b) If a home does not have a serial number, seal, or label, the tax appraiser or tax assessor-collector may apply to the department for a seal if the tax appraiser or assessor-collector assumes full responsibility for the affixation of a seal to the home and the seal is actually affixed on the home.

(c) A seal issued to a tax appraiser or tax

assessor-collector is for identification purposes only and does not imply that:

(1) the home is habitable; or

(2) a purchaser of the home at a tax sale may obtain a new statement of ownership from the department without an inspection for habitability.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 33, eff. June 18, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 55, eff. January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 64, eff. September 1, 2017.

Sec. 1201.460. COMPLIANCE NOT REQUIRED FOR LIENHOLDER. (a) A holder of a lien recorded on the statement of ownership of a manufactured home that has not been converted to real property who sells or exchanges a repossessed manufactured home covered by that statement of ownership is not required to comply with this chapter if the sale or exchange is:

(1) to or through a licensed retailer; or

(2) to a purchaser for the purchaser's business use or another nonresidential use.

(b) If the sale or exchange of the repossessed manufactured home is to or through a licensed retailer, the retailer is responsible and liable for compliance with this chapter and department rules. The lienholder may not be joined as a party in any litigation relating to the sale or exchange of the home.

(c) If the sale or exchange of the repossessed manufactured home is to a purchaser for the purchaser's business use or another nonresidential use, the lienholder shall apply to the department for the issuance of a new statement of ownership indicating that the home is reserved for a business use or another nonresidential use.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 34, eff. June 18, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 65, eff. September 1, 2017.

Sec. 1201.461. SALVAGED MANUFACTURED HOME; CRIMINAL PENALTY. (a) For the purposes of this chapter, a manufactured home is salvaged if the home is scrapped, dismantled, or destroyed or if an insurance company pays the full insured value of the home. The reasonableness of the insurer's judgment that the cost of repairing the home would exceed the full insured value of the home does not affect whether the home is salvaged.

(b) A person who owns a used manufactured home that is salvaged shall apply to the director for the issuance of a new statement of ownership that indicates that the home is salvaged.

(c) If a new manufactured home is salvaged, the retailer shall remove the label and surrender the label and the manufacturer's certificate under Section 1201.204 to the director for issuance of a statement of ownership that indicates that the home is salvaged.

(d) A person may not sell, convey, or otherwise transfer to a consumer in this state a manufactured home that is salvaged. A salvaged manufactured home may be sold only to a licensed retailer.

(e) A person may not repair, rebuild, or otherwise refurbish a salvaged manufactured home unless the person complies with the rules of the director relating to rebuilding a salvaged manufactured home. For purposes of this subsection, "refurbish" means any general repairs, improvements, or aesthetic changes to a manufactured home that do not constitute the rebuilding of a salvaged manufactured home.

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

(g) A county or other unit of local government that identifies a manufactured home within its jurisdiction that has been declared salvage may impose on that home such inspection, correction, and other requirements as it could apply if the home

were not a manufactured home.

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 35, eff. June 18, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 56, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 57, eff. January 1, 2008.

Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 3.14, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 66, eff. September 1, 2017.

SUBCHAPTER K. PROHIBITED PRACTICES

Sec. 1201.501. PROHIBITED CONSTRUCTION BY MANUFACTURER. A manufacturer may not construct a HUD-code manufactured home in this state for sale or resale unless the manufacturer:

(1) supplies the department with proof of acceptance by a design approval primary inspection agency authorized by the United States Department of Housing and Urban Development;

(2) purchases the required labels; and

(3) has the home inspected by an in-plant inspection agency authorized by the United States Department of Housing and Urban Development.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.502. PROHIBITED SHIPPING BY MANUFACTURER. A

manufacturer may not ship a HUD-code manufactured home into this state for sale or resale unless the manufacturer complies with:

(1) all requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.); and

(2) all standards, rules, and regulations of the United States Department of Housing and Urban Development.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.503. PROHIBITED ALTERATION. Before the sale to a consumer of a new manufactured home to which a label has been attached and before installation of the home, a manufacturer, retailer, broker, or installer may not alter the home or cause the home to be altered without obtaining prior written approval from a licensed engineer and providing evidence of such approval to the department.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 58, eff. January 1, 2008.

Sec. 1201.504. PROHIBITED SALE OR EXCHANGE. (a) A manufacturer may not sell or exchange, or offer to sell or exchange, a manufactured home to a person in this state who is not a licensed retailer.

(b) A retailer may not sell or exchange, or offer to sell or exchange, a new HUD-code manufactured home that was constructed by a manufacturer who was not licensed by the department at the time of construction.

(c) A retailer, broker, or salesperson may not sell or exchange, or offer to sell or exchange, a manufactured home to a consumer in this state for use as a dwelling unless the appropriate seal or label is attached to the home.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 67, eff. September 1, 2017.

Sec. 1201.505. PROHIBITED PURCHASE. A retailer may not purchase for resale to a consumer a new HUD-code manufactured home that was constructed by a manufacturer who was not licensed by the department at the time of construction.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.506. CREDIT. (a) A retailer or broker:

(1) shall comply with Subtitles A and B, Title 4, Finance Code, and the Truth in Lending Act (15 U.S.C. Section 1601 et seq.);

(2) may not advertise an interest rate or finance charge that is not expressed as an annual percentage rate; and

(3) shall comply with all applicable provisions of the Finance Code.

(b) A violation of this section does not create a cause of action or claim for damages for a consumer. The consumer may not recover more than the penalties provided by Subtitles A and B, Title 4, Finance Code, and the Truth in Lending Act (15 U.S.C. Section 1601 et seq.).

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 59, eff. January 1, 2008.

Sec. 1201.507. FALSE OR MISLEADING INFORMATION. (a) A retailer or salesperson may not:

(1) assist a consumer in preparing or providing false or misleading information on a document related to the purchase or financing of a manufactured home; or

(2) submit to a credit underwriter or lending institution information known to be false or misleading.

(b) A salesperson may not submit to a retailer information known to be false or misleading.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.508. DOWN PAYMENT. (a) A retailer may not state

payment of a down payment in a retail installment sales contract or other credit document unless the retailer has actually received the entire down payment at the time of execution of the document.

(b) If part of the down payment is consideration other than cash, including a loan or trade-in, the retailer must expressly state that fact in the retail installment sales contract or other credit document.

(c) A cash down payment may not be derived in any part from a rebate or other consideration received by, or to be given to, the consumer from the retailer or manufacturer.

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

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 36, eff. June 18, 2003.

Sec. 1201.509. PROHIBITED RETENTION OF DEPOSIT. A retailer, salesperson, or agent of the retailer may not refuse to refund a consumer's deposit except as provided by Section 1201.151.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.510. PROHIBITED INSTALLATION OF AIR CONDITIONING EQUIPMENT. A retailer or an installer may not contract with a person for the installation of air conditioning equipment in connection with the installation of a manufactured home unless the person is licensed by the state as an air conditioning and refrigeration contractor.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.511. PROHIBITED REAL ESTATE TRANSACTION. (a) This section applies to a transaction in which a manufactured home is sold as personal property.

(b) A retailer may not sell, represent for sale, or offer for sale real property in conjunction with the sale of a manufactured home except as authorized by the department consistent

with Chapter 1101.

(c) A retailer, broker, or salesperson or a person acting on behalf of a retailer or broker may not receive or accept compensation or consideration of any kind from the seller of the real property or a person acting on the seller's behalf. No part of the down payment on the purchase of the manufactured home or any fees, points, or other charges or "buy-downs" may be paid from money from the seller of the real property or a person acting on the seller's behalf.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 37, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.260(a), eff. Sept. 1, 2003.

Sec. 1201.512. PROHIBITED DELIVERY OR INSTALLATION OF MANUFACTURED HOME. (a) In this section, "homesite" means the land on which the foundation system for a manufactured home is or will be located.

(b) Unless the retailer, broker, or salesperson complies with the requirements of the National Flood Insurance Act of 1968 (42 U.S.C. Section 4001 et seq.), Subchapter I, Chapter 16, Water Code, and any other applicable local, state, or federal law, and ensures the consumer's compliance with applicable law by requiring the evidence described by Subsection (c), a retailer, broker, or salesperson who sells or exchanges a new or used manufactured home to a consumer for use as a permanent dwelling in this state may not:

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

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

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

(c) Before closing on the acquisition of a new or used manufactured home for use as a permanent dwelling in this state, a consumer seeking to acquire the home must provide to the retailer,

broker, or salesperson selling or exchanging the home satisfactory evidence that the home will not be located, in a manner that violates local, state, or federal law, on a homesite in a special flood hazard area designated by the director of the Federal Emergency Management Agency. A consumer may satisfy the evidentiary requirement of this subsection by providing the retailer, broker, or salesperson, as applicable, with a copy of any required permit to install a septic tank on the homesite.

(d) The following are exempt from the application of this section:

(1) a manufactured home that on August 31, 2003, was inhabited and located on real property zoned before September 1, 2003, by a local political subdivision for the purpose of developing homesites in a special flood hazard area designated by the director of the Federal Emergency Management Agency, if the home will remain on or be relocated to real property zoned as described by this subsection; and

(2) real property zoned before September 1, 2003, by a local political subdivision for the purpose of developing homesites in a special flood hazard area designated by the director of the Federal Emergency Management Agency.

Added by Acts 2003, 78th Leg., ch. 1016, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 68, eff. September 1, 2017.

Sec. 1201.513. DISPOSITION OF TRADE-INS AND OCCUPANCY OF HOMES BEFORE CLOSING. (a) A retailer may not sell a trade-in manufactured home before the closing of the sale in connection with which the retailer receives the trade-in.

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

Added by Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 60,

eff. January 1, 2008.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 69, eff. September 1, 2017.

SUBCHAPTER L. DISCIPLINARY PROCEDURES

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

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

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

(3) failed repeatedly to file with the department a completed application for a statement of ownership before the 61st day after the date of the sale of a manufactured home as required by Section 1201.206 or the date of the installation, whichever occurred later;

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

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

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

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

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

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

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

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

(b) The director may suspend or revoke a license if, after receiving notice of a claim, the license holder or the license holder's surety fails or refuses to pay a final claim paid under the manufactured homeowner consumer claims program for which demand for reimbursement was made.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 38, eff. June 18, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 61, eff. January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 70, eff. September 1, 2017.

Sec. 1201.552. LICENSE REVOCATION, SUSPENSION, OR DENIAL; HEARING. The director may issue an order to revoke, suspend, or deny a new or renewal license. If, before the 31st day after an order revoking, suspending, or denying a license is issued, the person against whom the order is issued requests a hearing by giving written notice to the director, the director shall set a hearing before the State Office of Administrative Hearings. If the person does not request a hearing before the 31st day after the date the order is issued, the order becomes final. Any administrative proceedings relating to the revocation, suspension, or denial of a license under this subsection shall be a contested case under Chapter 2001, Government Code. The board shall issue an order after receiving a proposal for decision.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 61, eff. January 1, 2008.

Sec. 1201.553. JUDICIAL REVIEW. Judicial review of any

order, decision, or determination of the board is instituted by filing a petition with a district court in Travis County as provided by Chapter 2001, Government Code.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 61, eff. January 1, 2008.

Sec. 1201.554. PROBATION. The department may place on probation a person whose license is suspended. If a license suspension is probated, the department may require the person to:

(1) report regularly to the department on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the department; or

(3) continue or review professional education until the person attains a degree of skill satisfactory to the department in those areas that are the basis of the probation.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.254(b), eff. Sept. 1, 2003.

SUBCHAPTER M. ENFORCEMENT PROVISIONS AND PENALTIES

Sec. 1201.601. ACTION AGAINST RETAILER OR MANUFACTURER: HOLDER OF DEBT INSTRUMENT. (a) If a consumer files a cause of action against a retailer or manufacturer, a claim based on an act of the retailer or manufacturer that the consumer could assert against the holder of the manufactured home debt instrument must be asserted against the holder in the primary suit against the retailer or manufacturer.

(b) A judgment obtained in the primary suit against the retailer or manufacturer is conclusive proof as to the holder of the debt instrument and admissible in an action by the consumer against the holder only if the consumer joins the holder in the primary suit.

(c) The holder of the debt instrument is entitled to full indemnity from the retailer or manufacturer for a claim based on an

act or omission of the retailer or manufacturer.

(d) If the consumer asserts against the holder of the debt instrument a claim or defense that arises from a claim or defense of the consumer against the retailer, the consumer's relief against the holder arising from claims and defenses of the consumer against the retailer is limited to recovery of an amount not to exceed the total amount paid by the consumer to the holder and to cancellation of the balance remaining on the instrument. If the balance remaining on the instrument is canceled, the manufactured home shall be returned to the holder.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.602. ACTION AGAINST MANUFACTURER, INSTALLER, OR RETAILER: ABATEMENT OR BAR. (a) Notwithstanding any other law, a suit alleging that a manufacturer, installer, or retailer failed to perform warranty service or failed to comply with a written or implied warranty is abated if:

(1) a plea in abatement is filed with the court not later than the 45th day after the movant's answer date; and

(2) the manufacturer, installer, or retailer requests a consumer complaint home inspection under Section 1201.355.

(b) The abatement continues until the earlier of:

(1) the date on which the department performs a consumer complaint home inspection and the manufacturer, installer, or retailer is given an opportunity to comply with the inspection report, determinations, and orders of the director; or

(2) the expiration of a period not to exceed 150 days.

(c) A consumer's refusal to allow the manufacturer, installer, or retailer to perform warranty service in accordance with the inspection report, determinations, and orders of the director bars a cause of action relating to an alleged failure to:

(1) comply with a written or implied warranty; or

(2) perform warranty service.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.603. DECEPTIVE TRADE PRACTICES. (a) A person's violation of this chapter or the failure by a manufacturer,

installer, or retailer to comply with an implied warranty is a deceptive trade practice actionable under Subchapter E, Chapter 17, Business & Commerce Code.

(b) The venue provisions of Subchapter E, Chapter 17, Business & Commerce Code, apply to a claim under Subsection (a). The remedies available under Subchapter E, Chapter 17, Business & Commerce Code, are cumulative of the remedies under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.604. CONSUMER RECOVERY FOR PROHIBITED RETENTION OF DEPOSIT. In addition to any other remedy, a consumer may recover from a retailer, salesperson, or agent of the retailer who violates Section 1201.151:

(1) three times the amount of the deposit; and

(2) reasonable attorney's fees.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003.

Sec. 1201.6041. DIRECT CONSUMER COMPENSATION. (a) Instead of requiring a consumer to apply for compensation under the manufactured homeowner consumer claims program under Subchapter I, the director may order a manufacturer, retailer, broker, or installer, as applicable, to pay a refund directly to a consumer who sustains actual damages resulting from an unsatisfied claim against a licensed manufacturer, retailer, broker, or installer if the unsatisfied claim results from a violation of:

(1) this chapter;

(2) a rule adopted by the director;

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

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

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

(b) For purposes of this section, the refund of a consumer's actual damages is determined according to Section 1201.405.

(c) The director shall prepare information for notifying consumers of the director's option to order a direct refund under

this section, shall post the information on the department's Internet website, and shall make printed copies available on request.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 3.15, eff. September 1, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 71, eff. September 1, 2017.

Sec. 1201.605. ADMINISTRATIVE PENALTY. (a) The director may assess against a person who fails to comply with this chapter, the rules adopted under this chapter, or any final order of the department an administrative penalty in an amount not to exceed $10,000 for each violation of this chapter and:

(1) reasonable attorney's fees;

(2) administrative costs;

(3) witness fees;

(4) investigative costs; and

(5) deposition expenses.

(b) The director may assess against a licensee who fails to provide information to a consumer as required by this chapter an administrative penalty in an amount not to exceed:

(1) $1,000 for the first violation;

(2) $2,000 for the second violation; and

(3) $4,000 for each subsequent violation.

(c) In determining the amount of an administrative penalty assessed under this section, the director shall consider:

(1) the seriousness of the violation;

(2) the history of previous violations;

(3) the amount necessary to deter future violations;

(4) efforts made to correct the violation; and

(5) any other matters that justice may require.

(d) The director may impose an administrative penalty in accordance with this section. If, before the 31st day after the date a person receives notice of the imposition of an administrative penalty, the person requests a hearing by giving written notice to the director, the director shall set a hearing

before the State Office of Administrative Hearings. If the person does not request a hearing before the 31st day after the date the person receives notice of the imposition of the administrative penalty, the penalty becomes final. Any administrative proceedings relating to the imposition of an administrative penalty under this subsection shall be a contested case under Chapter 2001, Government Code. The board shall issue an order after receiving a proposal for decision.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 338, Sec. 39, eff. June 18, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 62, eff. January 1, 2008.

Sec. 1201.606. CRIMINAL PENALTY. (a) A person or a director, officer, or agent of a corporation commits an offense if the person, director, officer, or agent knowingly and wilfully violates this chapter or a rule adopted or order issued by the department in a manner that threatens consumer health or safety.

(b) An offense under this section is a Class A misdemeanor punishable by:

(1) a fine of not more than $4,000;

(2) confinement in county jail for a term of not more than one year; or

(3) both the fine and confinement.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 2, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.261(a), eff. Sept. 1, 2003.

Sec. 1201.607. ISSUANCE OF ORDERS AND REQUESTS FOR HEARINGS. Any order issued by the director under this chapter, if not appealed before the 31st day after the date the order was issued, shall automatically become a final order. If the person made the subject of the order files a written request for a hearing with the director, the order shall be deemed to have been appealed and shall be a contested case under Chapter 2001, Government

Code. The director shall set any appealed order for a hearing before the State Office of Administrative Hearings, and the board shall issue a final order after receiving and reviewing the proposal for decision issued pursuant to such hearing.

Added by Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 63, eff. January 1, 2008.

Sec. 1201.608. INSPECTION OF LICENSEE RECORDS. (a) The department may inspect a licensee's records during normal business hours without advance notice if the director believes that such inspection is necessary to prevent a violation of this chapter, to protect a consumer or another licensee, or to assist another state or federal agency in an investigation.

(b) The director may request or issue subpoenas for a licensee's records.

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

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

Added by Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 63, eff. January 1, 2008.

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

Added by Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 63, eff. January 1, 2008.

Sec. 1201.610. CEASE AND DESIST. (a) The director may

issue without notice and hearing an order to cease and desist from continuing a particular action or an order to take affirmative action, or both, to enforce compliance with this chapter if the director has reasonable cause to believe that a person has violated or is about to violate any provision of this chapter or a rule adopted under this chapter.

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

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

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

(e) The director, after giving notice, may impose against a person who violates a cease and desist order an administrative penalty in an amount not to exceed $1,000 for each day of the violation. In addition to any other remedy provided by law, the director may institute in district court a suit for injunctive relief and for the collection of the administrative penalty. A

bond is not required of the director with respect to injunctive relief granted under this subsection.

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

(g) An order of suspension under Subsection (f) may be appealed. An appeal is a contested case governed by Chapter 2001, Government Code. A hearing of an appeal of an order of suspension issued under Subsection (f) shall be held not later than the 15th day after the date of receipt of the notice of appeal. The appellant shall be provided at least three days' notice of the time and place of the hearing.

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

Added by Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 63, eff. January 1, 2008.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 3.16, eff. September 1, 2013.

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

(b) If a person charged with the violation accepts the determination of the director, the director shall issue an order approving the determination and ordering that the person pay the

recommended penalty.

(c) Not later than the 30th day after the date on which the decision is final, the person charged shall:

(1) pay the penalty in full; or

(2) if the person files a petition for judicial review contesting the fact of the violation, the amount of the penalty, or both the fact of the violation and the amount of the penalty:

(A) forward the amount assessed to the department for deposit in an escrow account;

(B) in lieu of payment into escrow, post with the department a supersedeas bond for the amount of the penalty, in a form approved by the director and effective until judicial review of the decision is final; or

(C) without paying the amount of the penalty or posting the supersedeas bond, pursue judicial review.

(d) A person charged with a penalty who is financially unable to comply with Subsection (c)(2) is entitled to judicial review if the person files with the court, as part of the person's petition for judicial review, a sworn statement that the person is unable to meet the requirements of that subsection.

(e) If the person charged does not pay the penalty and does not pursue judicial review, the department or the attorney general may bring an action for the collection of the penalty.

(f) Judicial review of the order of the director assessing the penalty is subject to the substantial evidence rule and shall be instituted by filing a petition with a district court in Travis County.

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

(h) Repealed by Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 85(8), eff. September 1, 2017.

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

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

Added by Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 63, eff. January 1, 2008.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 85(8), eff. September 1, 2017.