

CHAPTER 846

S.B. No. 1267

An Act relating to regulation of manufactured housing; providing for transportation, installation, registration, fees, taxation, insurance, exemptions, consumers, bonds and security, and penalties; amending the Revised Statutes, as amended, by amending Articles 6701-1/2 and 5069-6A.12 and by repealing Article 5069-6A.08; amending the Texas Manufactured Housing Standards Act, as amended (Article 5221f, Vernon's Texas Civil Statutes), by amending Subsections (g) and (h) of Section 13, Subsection (g) of Section 3, Subsections (d) and (f) of Section 6, Section 8, Subsections (k) and (n) of Section 7, Subsections (f) and (h) of Section 11, Section 17, Subsections (d) and (f) of Section 18, and Section 20 and by adding Subsection (j) to Section 13, Subsection (p) to Section 7, Subsections (s) and (t) to Section 19, and Sections 3A and 4A; adding Section 2.403 to the County Road and Bridge Act (Article 6702-1, Vernon's Texas Civil Statutes); adding Subsection (e) to Section 6, Air Conditioning Contractor License Law (Article 8861, Vernon's Texas Civil Statutes); amending the Tax Code by amending Section 32.03 and by adding Sections 11.432 and 32.015.

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** Article 6701-1/2, Revised Statutes, is amended to read as follows:

“Article 6701-1/2. A. Manufactured housing as defined by the Texas Manufactured Housing Standards Act (Article 5221f, Vernon’s Texas Civil Statutes) *and industrialized housing or buildings as defined in Article 5221f-1, Revised Statutes*, which is in excess of legal size ~~[width or length]~~ limits for motor vehicles as defined by law shall not be moved over the highways, roads, and streets in this state except in accordance with permits issued by the State Department of Highways and Public Transportation. *Counties and municipalities* ~~[Local political subdivisions]~~ may designate to said department the routes to be used within *the limits of their jurisdiction* ~~[such subdivision]~~; however, no additional permit, bond, fee, or license *other than required by state law* may be required by *any county or municipality* ~~[the local political subdivisions]~~. For purposes of this article, the terms ‘manufactured housing’ and ‘manufactured home’ also mean and refer to industrialized housing or buildings and include temporary chassis systems and returnable undercarriages used for the transportation of the home or building; the terms also refer to a transportable section which is transported on a chassis system or returnable undercarriage and which is constructed so that it cannot, without dismantling or destruction, be transported within the legal size limits for motor vehicles.

~~“[A. Manufactured housing as defined by the Texas Manufactured Housing Standards Act (Article 5221f, Vernon’s Texas Civil Statutes) which is in excess of eight (8) feet in width or sixty-five (65) feet in length, in combination with the towing vehicle, shall not be moved over the highways, roads and streets in this state except in accordance with permits issued by the State Department of Highways and Public Transportation. Local political subdivisions may designate to said department the routes to be used within such subdivision; however, no additional fee or license may be required by the local political subdivisions.]~~

“B. (1) The application for a permit and the permit shall be in the form as prescribed by the State Department of Highways and Public Transportation; however, the ~~[application and]~~ permit must contain the overall length, width, and height of the manufactured home and the ~~[overall length and width of the]~~ towing vehicle ~~[and the manufactured home]~~ in combination. ~~[The length and width of the manufactured home shall be measured in accordance with the rules and regulations of the Texas Department of Labor and Standards relating to the titling of the manufactured home.]~~ The overall combined length of the manufactured home and the towing vehicle shall include the length of the hitch or towing device. The height shall be measured from the roadbed to the highest elevation of the manufactured home. *The width of the home or section shall include any roof or eave extension or overhang on either side.*

“(2) The permit shall contain the route for the transportation of the manufactured home from the point of origin to the point of destination. The route shall be the shortest *practical distance including divided and interstate systems, except where construction is in progress or bridge or overpass width or height would create a safety hazard, or except highways in urban areas with heavy traffic conditions* ~~[distance practical taking into account the conditions of the highways, roads, and streets and the length, width, and height of the manufactured home].~~

“C. (1) The State Department of Highways and Public Transportation shall *only* ~~[not]~~ issue permits ~~[a permit]~~ to persons ~~[any person which is not]~~ registered as manufacturers or retailers with the Texas Department of Labor and Standards or ~~[which is not]~~ certificated for the transportation of manufactured housing by the Railroad Commission of Texas or the Interstate Commerce Commission *except as otherwise expressly authorized by this section*. The registration number or the certificate number of the person to whom the permit is issued shall be affixed to the rear of the manufactured home during transportation with letters and numbers which are at least eight (8) inches in height.

“(2) *The State Department of Highways and Public Transportation may issue single trip permits to owners of manufactured homes provided that the ownership of the manufactured home and of the towing vehicle is shown to be the same person by the title to the home and to the towing vehicle or that a lease duly filed pursuant to Chapter 209, Acts of the 53rd Legislature, Regular Session, 1953 (Article 6701c-1, Vernon’s Texas Civil Statutes), shows the owner of the manufactured home to be the lessee of the towing vehicle. Single trip permits may also be issued to installers registered with the Texas Department of Labor and Standards for the transportation of manufactured homes over routes between points when such transportation would be excluded from regulation under Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon’s Texas Civil Statutes). The owner or installer must have proof of insurance coverage in force as required in Section H of this article.*

"D. A [~~There shall also accompany the application for permit a~~] fee of Ten Dollars (\$10) for each permit [~~; which fee~~] shall be collected by the State Department of Highways and Public Transportation and deposited in the Treasury of the State of Texas to the credit of the State Highway Fund. [~~Said fee shall be paid by cashiers or certified check, postal or express money order.~~] On application said department shall issue permit books or packets containing twenty (20) [~~fifty (50) or one hundred (100)~~] individual permits provided that the aggregate fee of Ten Dollars (\$10) per permit is received with such application. *The book-type permit can be used for the movement of any manufactured home regardless of width, length, or height, and route approval can be secured by telephone from the issuing office along with any required validation number for the permit.*

"[~~D. There shall also accompany the application for the permit a fee of Five Dollars (\$5); which fee shall be by the State Department of Highways and Public Transportation deposited in the Treasury of the State of Texas to the credit of the State Highway Fund.~~]

"E. (1) *All manufactured homes which exceed twelve (12) feet in total width shall have one rotating amber beacon of not less than eight (8) inches mounted somewhere on the roof at the rear of the manufactured home. In addition the towing vehicle shall have one rotating amber beacon of not less than eight (8) inches mounted on top of the cab. These beacons shall be operational during any permitted move over the highways, roads, and streets of this state.*

"(2) *All manufactured homes which exceed sixteen (16) feet, but are not more than eighteen (18) feet, in total width shall have one escort flag vehicle which shall precede the home on two-lane roadways and shall follow the home on roadways of four or more lanes.*

"(3) *All manufactured homes which exceed eighteen (18) feet in total width shall be both preceded and followed by an escort flag vehicle during any movement over the highways, roads, and streets of this state.*

"(4) *Escort flag vehicles shall have two simultaneous flashing lights or shall have one rotating amber beacon of not less than eight (8) inches on top of the vehicle, which shall be visible from both front and rear, shall have one red sixteen (16) inch square flag mounted on each of the four corners of the vehicle, and shall have a 'wide load' sign mounted on the front and rear of the vehicle; the sign shall have a yellow background with black letters at least eight (8) inches in height.*

"(5) *Two transportable sections of a multisection manufactured home, or two single section manufactured homes, when towed together in convoy shall be considered one home for purposes of the escort flag vehicle requirements of this article, provided the distance between the two units does not exceed one thousand (1,000) feet.*

"(6) *The State Department of Highways and Public Transportation shall publish a map or a list updated annually of all bridges or overpasses which due to height or width require an escort flag vehicle to stop oncoming traffic while the manufactured home crosses the bridge or overpass.*

"(7) *No escort flag vehicles may be required except as expressly authorized in this section [~~If the width or overall length of the manufactured home and the towing vehicle in combination is in excess of sixteen feet or one hundred feet, respectively, the State Department of Highways and Public Transportation shall require one or more escort vehicles as necessary for traffic safety, and the department may require proof of property damage or liability insurance in an amount sufficient to cover any damage to the highways, roads, and streets or property of the state or local subdivisions as a result of the transportation of the manufactured home.~~].*

"F. *A permit [~~The permits~~] shall be good for a period of up to ten (10) days and valid only for a single continuous movement.*

"G. *Movements authorized by the [~~said~~] permits shall be made during daylight hours only and may be made on any day except national holidays. The State Department of Highways and Public Transportation may also limit the hours for travel on certain routes because of heavy traffic conditions; the department shall publish any limitations on movements during national holidays or any limitations during certain hours of heavy traffic conditions and make such publications available to the public prior to the limitations becoming effective.*

"H. (1) *A manufactured home shall not be towed in excess of posted speed limits or fifty-five (55) miles per hour, whichever is less.*

"(2) *Brakes on the towing vehicle and the manufactured home, temporary chassis system, or returnable undercarriage shall be capable of assuring that the maximum stopping distance from an initial velocity of twenty (20) miles per hour does not exceed forty (40) feet.*

"(3) *Each manufactured home shall be equipped with a light-wiring harness during transportation over the roadways to provide right and left turn signal lights and braking or stopping lights and parking lights on the rear of the home.*

"(4) *The towing vehicle shall be covered by liability insurance of not less than Three Hundred Thousand Dollars (\$300,000) combined single limit.*

"I. (1) *Any person who violates any provision of this article is guilty of a Class C misdemeanor.*

"(2) Any person found guilty of violating the provisions of this article may also be assessed a civil penalty of not less than Two Hundred Dollars (\$200) nor more than Five Hundred Dollars (\$500) for each of the following violations:

"(a) failure to obtain a permit; or

"(b) failure to have the required rotating amber beacons on the manufactured home or towing vehicle; or

"(c) failure to provide the escort flag cars as required; or

"(d) failure to have the required insurance coverage. The civil penalty may be awarded by the court having jurisdiction over Class C misdemeanors and shall be paid to the county in which the person was found guilty."

**SECTION 2.** Section 13, Texas Manufactured Housing Standards Act, as amended (Article 5221f, Vernon's Texas Civil Statutes), is amended by amending Subsections (g) and (h) and by adding a new Subsection (j) to read as follows:

"(g) Any 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. Property used for the business that is not contiguous to a bonded location requires a separate bond. Any location at which a manufactured home is shown to the public or at which it is offered for sale, exchange, or lease-purchase by a retailer to consumers is a location which is required to be bonded. A manufactured home installed on a permanent foundation system and offered for sale as real estate is not a business location that requires a bond. A temporary location for a bona fide trade show sponsored by a nonprofit corporation which qualifies for tax exemption pursuant to Section 501(c) of the U.S. Internal Revenue Code is not a location which requires a bond.

"(h) A manufacturer shall be bonded, supply a cash deposit or other security in the amount of \$500,000 [~~\$100,000~~]. A retailer shall be bonded, supply a cash deposit or other security in the amount of \$100,000 [~~\$50,000~~]. A broker shall be bonded, supply a cash deposit or other security in the amount of \$80,000 [~~\$40,000~~]. An installer shall be bonded, supply a cash deposit or other security in the amount of \$20,000 [~~\$10,000~~]. A person [~~Retailers, brokers, and installers~~] registered with the department and bonded prior to September 1, 1985 [~~1983~~], shall have until September 1, 1987 [~~January 1, 1984~~], to provide the additional amount of bond, cash deposit, or other security required by this Act for each location. A retailer holding a valid certificate of registration shall not be required to be bonded or file any security to secure a certificate of registration as a broker or an installer. A new bond shall not be required for any change of ownership of a person registered with the department nor for any change of a location; however, a proper endorsement of the original bond may be required by the department."

"(j) A consumer may assign any claim against the bond or other security to any person registered with the department who has performed services for or rendered any benefit to the consumer, and the assignee is entitled to recover against the bond or other security in accordance with the terms of the assignment. Otherwise, a consumer may not assign any claim."

**SECTION 3.** Subsection (g), Section 3, Texas Manufactured Housing Standards Act, as amended (Article 5221f, Vernon's Texas Civil Statutes), is amended to read as follows:

"(g) 'Consumer' means any person other than one registered under this article who seeks or acquires by purchase, exchange, or lease-purchase a manufactured home."

**SECTION 4.** Subsections (d) and (f), Section 6, Texas Manufactured Housing Standards Act, as amended (Article 5221f, Vernon's Texas Civil Statutes), are amended to read as follows:

"(d) It is unlawful for any retailer, broker, or salesperson to sell, exchange, or lease-purchase or offer to sell, exchange, or lease-purchase any manufactured home to a consumer [person] in the state for use as a residence or dwelling, unless the manufactured home has affixed to it the appropriate seal, label, or decal."

"(f) A person may not sell, exchange, or lease-purchase any manufactured home to a consumer [another person] in the state for use as a dwelling or residence, unless the manufactured home is habitable."

**SECTION 5.** Section 8, Texas Manufactured Housing Standards Act, as amended (Article 5221f, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 8. USED MOBILE HOMES. A retailer or broker may not sell, exchange, or lease-purchase or negotiate for the sale, exchange, or lease-purchase of a used mobile home manufactured after December 12, 1969, to a consumer unless an appropriate seal or label is affixed to it. If the used mobile home does not have a seal or label, the retailer or broker must apply to the department for a seal with an affidavit that the manufactured home is habitable."

**SECTION 6.** Section 7, Texas Manufactured Housing Standards Act, as amended (Article 5221f, Vernon's Texas Civil Statutes), is amended by amending Subsections (k) and (n) and by adding a new Subsection (p) to read as follows:

“(k) The commissioner, after notice and hearing, *may refuse to issue or may permanently revoke or suspend for a definite period of time and for a specified [particular] geographic area or sales location, any certificate of registration [issued under this Act] if the commissioner finds that the applicant or registrant:*

“(1) knowingly and wilfully violated any provision of this Act or any rule or regulation made pursuant to this Act ~~[after receipt of actual notice of any failure to comply];~~

“(2) without lawful authorization retained or converted any money, property, or any other thing of value from consumers in the form of down payments, sales and use taxes, deposits, or insurance premiums;

“(3) failed to deliver proper title documents or certificates of title to consumers;

“(4) failed to give or breached any manufactured home warranty required by this Act or by the Federal Trade Commission;

“(5) engaged in any false, misleading, or deceptive acts or practices as the term is set forth in and as those acts are declared unlawful by the provisions of Chapter 17, Subchapter E, Business & Commerce Code; ~~or~~

“(6) failed to furnish or file any reports required by the department for the administration and enforcement of this Act;

“(7) furnished false information on any application, report, or other document filed with the department; or

“(8) has a record of criminal convictions which, in the opinion of the department, renders the applicant unfit for registration.”

“(n) A person may not act as a salesperson of manufactured housing unless the person is registered with the department. Each applicant for a certificate of registration shall file with the department an application giving such information as the department deems necessary and pay the required fee. The owner of a sole proprietorship, a partner in a partnership, or an officer of a corporation which is duly registered as a retailer or broker does not have to register as a salesperson so long as such individual is properly listed in the retailer's or broker's application for registration. The salesperson is the agent of the retailer or broker, and the department may require the execution of an appropriate agency designation. *The registration shall be an annual registration. A retailer or broker shall not employ, retain, or otherwise use the services of a salesperson who is not registered. A registered salesperson may work or sell for one or more retailers, brokers, or sales locations.*”

“(p) *The department must require at least forty (40) hours of instruction in the law and consumer protection regulations for each person applying for registration as a retailer. The instruction shall be given not less than one time each calendar quarter in Austin. No test shall be made a prerequisite of registration, but actual attendance at the instruction sessions is required. The department may require instruction for other categories of registrants as may be necessary for the protection of the public health, safety, and welfare. This subsection does not apply to any person registered in any category on September 1, 1985.*”

SECTION 7. Subsections (f) and (h), Section 11, Texas Manufactured Housing Standards Act, as amended (Article 5221f, Vernon's Texas Civil Statutes), are amended to read as follows:

“(f) All fees assessed under this article [Act] shall be paid to the State Treasurer and placed in the General Revenue Fund ~~[except the inspection fees paid pursuant to Subsections (a) and (c) of this section. Those fees shall be placed in a special manufactured housing inspection fund created in the state treasury which shall be used by the department as may be appropriated for the costs of inspections and fee distributions to local governmental entities performing inspections pursuant to contracts or other official designations].~~”

“(h) The commissioner shall set *the fees [each fee] imposed under this section in amounts [an amount] that are [is] reasonable and necessary to defray the costs of administering this article [Act].*”

SECTION 8. Section 17, Texas Manufactured Housing Standards Act, as amended (Article 5221f, Vernon's Texas Civil Statutes), is amended to read as follows:

“Section 17. PENALTIES. (a) A person, individual, or director, officer, or agent of a corporation who knowingly and wilfully violates a provision of this Act or any rule, regulation, or administrative order of the department in a manner that threatens the health or safety of any purchaser or consumer commits a *Class A* misdemeanor and on conviction shall be fined not more than \$2,000 ~~[\$1,000]~~ or shall be confined in the county jail not longer than one year or both.

“(b) Any person who violates any provision of this Act or the rules, ~~[and] regulations, or administrative orders~~ of the department may be assessed a civil penalty to be paid to the State of Texas in an amount not to exceed \$1,000 for each such violation as the court may deem proper,

except that the maximum civil penalty may not exceed \$1,000,000 for any related series of violations occurring within one year from the date of the first violation. *In lieu of revoking or suspending the registration pursuant to Subsection (k) of Section 7 of this Act, and with the agreement of the registrant, the department may assess a civil penalty in an amount not to exceed \$1,000 for each and every violation of this Act or the rules, regulations, or administrative orders of the department, provided that the aggregate civil penalties as to any one registrant shall not exceed \$50,000 for any related series of violations occurring within one year from the date of the first violation.*

“(c) Whenever it appears that any person has violated or is threatening to violate any of the provisions of this Act or of the rules, regulations, or ~~and~~ administrative orders of the department, ~~either~~ the attorney general ~~or~~ the department, *or any person holding a valid registration pursuant to this Act* may cause a civil suit to be instituted either for injunctive relief to restrain the person from continuing the violation or threat of violation or for the assessment and recovery of the civil penalty or for both. *If the injunctive relief is granted or a civil penalty assessed, the plaintiff or petitioner shall be awarded reasonable attorney fees and costs of suit.*

“(d) Failure by a manufacturer or retailer to comply with the warranty provisions of this Act or any implied warranties or the violation of any provision of this Act by any person is a deceptive trade practice in addition to those practices delineated in Chapter 17, Subchapter E, Business & Commerce Code and is actionable pursuant to said subchapter. As such, the venue provisions and all remedies available in said subchapter apply to and are cumulative of the remedies in this Act. *However, notwithstanding any provisions of law to the contrary, a lawsuit alleging failure to comply with the warranty provisions of this article shall be abated unless and until the department has performed a consumer complaint inspection and the retailer, manufacturer, or both have been given an opportunity to comply with the inspection report and instructions of the department. A consumer's refusal to allow the manufacturer or retailer to perform warranty service pursuant to the rules of the department is a bar to any cause of action for failure to perform warranty service.*

“(e) Civil suits filed pursuant to this section shall be filed in a district court in Travis County, Texas, or in the county in which the violation, or threat of violation, occurred.

“(f) *Civil penalties assessed and recovered pursuant to this section shall be paid to the State Treasurer and placed in the General Revenue Fund.*”

**SECTION 9.** Subsections (d) and (f), Section 18, Texas Manufactured Housing Standards Act, as amended (Article 5221f, Vernon's Texas Civil Statutes), are amended to read as follows:

“(d) If a retailer, broker, ~~salesperson,~~ or installer does not possess a valid certificate of registration at the time of entering into any contract with a consumer, the contract between the consumer and the retailer, broker, ~~salesperson,~~ or installer is voidable at the option of the consumer. A consumer's contract for the purchase, exchange, or lease-purchase of a new manufactured home is also voidable if the retailer purchased the home from an unregistered manufacturer in violation of Section 6, Subsection (h), of this Act.”

“(f) Notwithstanding any provisions of any other statute, regulation, or ordinance to the contrary, *a registered ~~an~~ installer is not required to secure any permit, certificate, or license or pay any fee for the transportation of manufactured housing to the place where it is to be installed except as required by the department or by the State Department of Highways and Public Transportation pursuant to Article 6701-1/2, Title 116, Revised Statutes. The department shall cooperate with the State Department of Highways and Public Transportation by providing current lists of registered manufactured housing manufacturers, retailers, and installers ~~shall cooperate with the department in the routing of the transportation of housing and shall not issue any permits for the transportation of manufactured housing except to persons holding valid certificates of registration issued by the department.~~*”

**SECTION 10.** Section 20, Texas Manufactured Housing Standards Act, as amended (Article 5221f, Vernon's Texas Civil Statutes), is amended to read as follows:

“Section 20. NOTICE TO CONSUMERS BEFORE TITLE TRANSFER. (a) A retailer or manufacturer shall not transfer title to a HUD-Code manufactured home nor otherwise sell, assign or convey a HUD-Code manufactured home to a consumer without delivering the formaldehyde health notice required by this section subject to applicable rules of the department ~~and Subsection (e) of this section~~. The notice shall be delivered to the consumer prior to the execution of any mutually binding sales agreement or retail installment sales contract.

“(b) *The content of the notice shall be the same as required by the U.S. Department of Housing and Urban Development and of such type, size, and format as prescribed by the department. A retailer or manufacturer shall not vary the provisions or form of the notice; it is sufficient and adequate, as a matter of law, to advise consumers of the risks of occupying the home. ~~It shall read as follows:~~*

## [WARNING

"[CERTAIN BUILDING MATERIALS USED IN THE CONSTRUCTION OF RESIDENTIAL DWELLINGS MAY RELEASE FORMALDEHYDE GAS INTO YOUR HOME OVER A LONG PERIOD OF TIME AND CAUSE OR CONTRIBUTE TO ADVERSE HEALTH EFFECTS.

"[FORMALDEHYDE GAS MAY CAUSE EYE, NOSE, AND THROAT IRRITATION, COUGHING, SHORTNESS OF BREATH, SKIN IRRITATION, NAUSEA, DROWSINESS, HEADACHES, AND DIZZINESS. PEOPLE WITH ASTHMA OR OTHER RESPIRATORY PROBLEMS OR ALLERGIES MAY SUFFER MORE SERIOUS REACTIONS, ESPECIALLY PERSONS ALLERGIC TO FORMALDEHYDE.

"[PROPER VENTILATION OF YOUR HOME MAY HELP REDUCE THE LEVEL OF FORMALDEHYDE. THEREFORE, PERIODIC AIRING OF YOUR HOME IS RECOMMENDED.

"[IF YOU HAVE QUESTIONS CONCERNING FORMALDEHYDE, CONTACT THE TEXAS DEPARTMENT OF LABOR AND STANDARDS. IF YOU HAVE HEALTH PROBLEMS, CONSULT YOUR DOCTOR.

Texas Department of Labor and Standards  
P.O. Box 12157  
Capitol Station  
Austin, TX 78711  
Telephone: 512/475/5712]

"(c) [(4)] *The knowing and willful failure of a retailer or a manufacturer to comply with the applicable regulations of the U.S. Department of Housing and Urban Development and of the department is conclusive that such person breached the duty to notify the consumer about formaldehyde and that the home is not habitable; compliance with such applicable regulations by a retailer or a manufacturer is conclusive that the consumer received sufficient and adequate notice of the risks of occupying the home and that the home is habitable as regards formaldehyde emissions [The legislature finds that substantial questions currently exist as to the health effects, if any, of formaldehyde gas; that sufficient evidence is not now available to determine whether or not formaldehyde is a health hazard; and further that additional research, testing, and hearings are necessary to make these determinations.*

"[(2)] *The department shall determine whether or not formaldehyde emitted by building products and materials into the ambient air of manufactured housing is a serious health hazard and at what levels or concentrations; if any, it becomes a serious health hazard. This determination shall be made by contracting for appropriate research and for the testing of homes, by collecting data and information through coordination with all appropriate federal agencies and with the Texas Department of Health and Texas Air Control Board; and by conducting and holding hearings as necessary.*

"[(3)] *If the department determines that there is not a serious health hazard, or that there is not a serious health hazard at or below certain levels or concentrations, the notice requirement contained in Subsection (a) of this section shall not apply except to those manufactured homes in which there is a level or concentration of formaldehyde, if any, deemed by the department to be a serious health hazard.*

"[(4)] *If it is determined that a serious health hazard exists at certain levels or concentrations, the department shall establish performance standards for building products and materials, prescribed testing procedures and the standards and conditions under which tests shall be conducted, and shall adopt rules and regulations, all as may be deemed necessary for the protection of the health, safety, and welfare of the consumer. The department shall also amend or modify the warning set forth in Subsection (b) of this section as required to assure that the consumer receives adequate information and notice of the health effects, if any, of formaldehyde in indoor ambient air and the risks, if any, of living in the home].*

"(d) *The knowing and willful failure of a retailer or a manufacturer, from September 1, 1981, to September 1, 1985, to comply with the applicable provisions of Section 20, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), and the revised formaldehyde warning as promulgated by the department continues to be conclusive that such person breached the duty to notify the consumer about formaldehyde and that the home is not habitable; compliance, from September 1, 1981, to September 1, 1985, with the applicable provisions of Section 20, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), and the revised formaldehyde warning as promulgated by the department*

*continues to be conclusive that the consumer received sufficient and adequate notice of the risks of occupying the home and that the home is habitable as regards formaldehyde emissions [The provisions of this section shall not be deemed to imply or infer that the retailer or manufacturer had, or did not have, prior to the passage of this Act any duty to warn any consumer concerning possible health effects of formaldehyde. Failure to comply with the notice provisions of this section or the performance standards for building products and materials which may be established by the department shall, after the effective date of this section, be evidence of wanton disregard for the health and safety of the consumer; compliance with such notice provisions and standards shall be evidence that the home is habitable and that the manufacturer and retailer had due regard for the health and safety of the consumer].”*

**SECTION 11.** The Texas Manufactured Housing Standards Act, as amended (Article 5221f, Vernon's Texas Civil Statutes), is amended by adding Sections 3A and 4A to read as follows:

*“Section 3A. DEFINITIONS BINDING. The definitions of manufactured housing set forth in Section 3 of this article are binding on all persons as a matter of law including local political subdivisions of this state and home-rule cities.”*

*“Section 4A. MUNICIPALITIES. An incorporated city may prohibit the installation of a mobile home for use or occupancy as a residential dwelling within its corporate limits. Any such prohibition must be prospective and shall not apply to a mobile home previously legally permitted and used or occupied as a residential dwelling within the city. Permits for such use and occupancy must be granted by an incorporated city for the replacement of a mobile home within its corporate limits with a HUD-Code manufactured home. Upon application the installation of HUD-Code manufactured homes shall be permitted as residential dwellings in those areas determined appropriate by the city, including subdivisions, planned unit developments, single lots, and rental communities and parks. This section shall not affect the validity of any deed restriction that is otherwise valid.”*

**SECTION 12.** The County Road and Bridge Act (Article 6702-1, Vernon's Texas Civil Statutes) is amended by adding a new Section 2.403 to Subchapter E of Chapter 2 to read as follows:

*“Section 2.403. MANUFACTURED HOME RENTAL COMMUNITIES. (a) A ‘manufactured home rental community’ is defined as and means a plot or tract of land which is separated into two or more spaces or lots which are rented or leased or offered for rent or lease to persons for the installation of manufactured homes for use and occupancy as residences; provided that the lease or rental agreement is for a term of less than 60 months and contains no purchase option.*

*“(b) A manufactured home rental community, as defined in the preceding subsection, is not a subdivision and the provisions of this subchapter are not applicable.”*

**SECTION 13.** The Air Conditioning Contractor License Law (Article 8861, Vernon's Texas Civil Statutes) is amended by adding a new Subsection (e) to Section 6 to read as follows:

*“(e) This article does not apply to a person or firm that is registered as a manufacturer, retailer, or installer and regulated pursuant to the Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes) and that engages exclusively in air conditioning contracting for manufactured homes.”*

**SECTION 14.** Subchapter C, Chapter 11, Tax Code, is amended by adding Section 11.432 to read as follows:

*“Section 11.432. HOMESTEAD EXEMPTION FOR MANUFACTURED HOME. (a) For a manufactured home to qualify for an exemption under Section 11.13 of this code, the application for the exemption must be accompanied by a copy of a document of title to the manufactured home issued by the Texas Department of Labor and Standards under Section 19, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), showing that the individual applying for the exemption is the owner of the manufactured home.*

*“(b) The chief appraiser may require an individual allowed an exemption under Section 11.13 of this code on a manufactured home in a year prior to the 1986 tax year to furnish the appraisal office before May 1 of the tax year with a copy of the document of title to the manufactured home or with other proof of ownership which accurately describes the home and contains the correct identification number showing that the individual is the owner of the manufactured home, in order to qualify for the exemption in the current tax year. However, any such requirement is not valid unless the chief appraiser has delivered to the individual prior to February 1 of the tax year a written notice that the copy of the document of title or other proof of ownership is required and which contains a description of the procedure the individual may follow to comply with the requirement. This subsection expires January 1, 1989.*

*“(c) In this section, ‘manufactured home’ has the meaning assigned by Subsection (s), Section 3, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes);*



however, the term does not apply to any manufactured home which has been attached to real estate and for which the document of title has been canceled pursuant to Subsection (j) of Section 19 of said Act.”

**SECTION 15.** Chapter 32, Tax Code, is amended by adding Section 32.015 to read as follows:

“Section 32.015. **RECORDING TAX LIEN ON MANUFACTURED HOME.** (a) The collector for a taxing unit may file notice of the unit’s tax lien on a manufactured home with the Texas Department of Labor and Standards. The notice must include:

- “(1) the name and address of the owner of the manufactured home; and
- “(2) the amount of tax owed, the tax year for which the tax was imposed, and the name of the taxing unit that imposed the tax; and
- “(3) the correct identification number of the manufactured home.

“(b) The collector may simultaneously file notice of tax liens of all the taxing units served by the collector. However, notice of any lien for taxes for the prior calendar year must be filed with the Texas Department of Labor and Standards prior to May 1 of the following year. Any lien for which the notice is not filed by such date is extinguished and is not enforceable.

“(c) If the information on the tax lien notice matches that of the title of record, the Texas Department of Labor and Standards shall record a tax lien notice filed under this section and shall thereafter indicate the existence of the lien on any document of title for the manufactured home issued by the department under Section 19, Texas Manufactured Housing Standards Act (Article 5221f, Vernon’s Texas Civil Statutes), until the collector for the taxing unit files a notice under Subsection (e) of this section canceling the notice. Simultaneously with the recording of a tax lien, the Texas Department of Labor and Standards must mail a notice of the tax lien to any other lienholders of record.

“(d) For all manufactured homes sold, or to which ownership is transferred, after December 31, 1985, the recording of a tax lien notice filed under this section constitutes constructive notice of the existence of the lien to all purchasers of the manufactured home who purchase it after the date of recordation of the lien and before the collector for the taxing unit files a notice under Subsection (e) of this section canceling the notice.

“(e) If a tax lien for which notice has been filed under this section ceases to exist, the collector for the taxing unit shall file a notice with the Texas Department of Labor and Standards stating that the lien no longer exists. The collector shall file the notice not later than the 10th day after the date of payment of the taxes subject to the lien.

“(f) The provisions of this section shall not apply to a taxing unit, or any lien filed by a taxing unit, which regulates manufactured housing for siting or zoning purposes in a manner which is different from such regulation of site-built housing.

“(g) In this section, ‘manufactured home’ has the meaning assigned by Subsection (s), Section 3, Texas Manufactured Housing Standards Act (Article 5221f, Vernon’s Texas Civil Statutes); however, the term does not apply to any manufactured home which has been attached to real estate and for which the document of title has been canceled pursuant to Subsection (j) of Section 19 of said Act.”

**SECTION 16.** Section 32.03, Tax Code, is amended to read as follows:

“Section 32.03. **RESTRICTIONS ON PERSONAL PROPERTY TAX LIEN.** A tax lien may not be enforced against personal property transferred to a bona fide purchaser for value who does not have actual notice of the existence of the lien or, if the property is a manufactured home, who does not have constructive notice of the existence of the lien.”

**SECTION 17.** Section 19, Texas Manufactured Housing Standards Act (Article 5221f, Vernon’s Texas Civil Statutes), is amended by adding Subsections (s) and (t) to read as follows:

“(s) The department shall print on every document of title issued by the department under this section a notice that the document of title may not reflect the existence of a tax lien notice filed for the manufactured home since the document of title was issued and that information about tax liens for which notice has been filed may be obtained from the department on written request.

“(t) On the written request of a person containing the name of the owner of a manufactured home having a document of title or the identification number of a manufactured home, the department shall furnish information held by the department on the current ownership of the manufactured home and the existence of any tax liens on the manufactured home for which notice has been filed with the department.”

**SECTION 18.** Title 79, Revised Statutes, as amended, is amended by repealing Section (7) of Article 5069-6A.08 and amending Article 5069-6A.12 as follows:

“Article 5069-6A.12. **Tax and Insurance Escrow**

"(1) *The creditor may require [If the creditor and consumer agree,] the consumer [may elect] to pay ad valorem taxes on the manufactured home through the creditor and include these taxes as reasonably estimated for the first year in the credit transaction or pay the tax estimate for the first year to the creditor and, on the date each installment is due, pay a sum equal to one-twelfth of the annual ad valorem taxes as reasonably estimated. The creditor may require premiums for insurance, required in accordance with Article 5069-6A.08(1), for coverage in the second and subsequent years to be paid by the consumer to the creditor by paying, on the date each installment is due, a sum equal to one-twelfth of the yearly premium for the insurance as reasonably estimated.*

"(2) *The creditor shall deposit and hold the tax and insurance installments paid to the creditor in an institution the deposits or accounts of which are insured or guaranteed by a federal or state agency. The creditor shall apply those funds to pay the ad valorem taxes and the insurance on the manufactured home. The creditor may not charge for holding and applying the funds, analyzing the account, or verifying and compiling the bills. The creditor is not required to pay the consumer any interest or earnings on those funds. The creditor shall give to the consumer, without charge, an annual accounting of the funds showing credits and debits to the funds and the purpose for which each debit to the funds was made.*

"(3) *If the sum of the tax installments held by the creditor and the future tax installments of funds payable before the due dates of taxes on the manufactured home exceeds the amount required to pay the taxes as they come due, the creditor, at the consumer's option, shall either repay the excess to the consumer or credit the excess to the payment of the consumer's future tax installments. If the amount of the tax installments held by the creditor is not sufficient to pay taxes as they come due, the consumer shall pay to the creditor before the 31st day after the day on which the creditor mails to the consumer notice requesting the consumer to pay the amount of the deficiency an amount equal to the amount of the deficiency. If the consumer fails to make such an adjustment with regard to the tax installments, the creditor may treat the deficiency in the same manner as forced placed insurance pursuant to Article 5069-6A.08(3) [Subsection (2) of Section 8 of this chapter].*

"(4) *If the sum of the insurance premium installments held by the creditor and the future insurance premium installments of funds payable before the due dates of insurance premiums exceeds the amount required to pay the insurance premiums as they come due, the creditor, at the consumer's option, shall either repay the excess to the consumer or credit the excess to the payment of the consumer's future insurance premium installments. If the amount of the insurance premium installments held by the creditor is not sufficient to pay insurance premiums as they come due, the consumer shall pay to the creditor before the 31st day after the day on which the creditor mails to the consumer notice requesting the consumer to pay the amount of the deficiency an amount equal to the amount of the deficiency. If the consumer fails to make such an adjustment with regard to insurance required under Article 5069-6A.08(1), the creditor may treat the deficiency in the same manner as forced placed insurance described by Article 5069-6A.08(3) [If the consumer agrees to enter into a tax escrow agreement, the creditor may require the consumer to use that method of payment for the full term of the debt. However, the creditor may not in any way require the consumer initially to enter into an escrow agreement]."*

**SECTION 19.** The effective date of this Act is September 1, 1985.

**SECTION 20.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on March 28, 1985, by the following vote: Yeas 29, Nays 0; Senate concurred in House amendments on May 16, 1985, by a viva-voce vote; passed the House, with amendments, on May 15, 1985, by a non-record vote.

Approved: June 15, 1985

Effective: September 1, 1985