

Preamble for Proposed Manufactured Housing Rules
Administrative Rules of the Texas Department of Housing and Community Affairs
10 Texas Administrative Code, Chapter 80

The Manufactured Housing Division of the Texas Department of Housing and Community Affairs (the “Department”) proposes to amend 10 Texas Administrative Code, Chapter 80, §80.41 relating to the regulation of the manufactured housing program.

10 Texas Administrative Code §80.41(c)(2)(D) and (E) adds that the Department may enter into an agreement with a third party to administer the licensing education exam(s) required under §1201.104 of the Manufactured Housing Standards Act. If required to be taken with the assistance of a third party, the applicant shall pay the cost of the exam.

Jim R. Hicks, Executive Director of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs, has determined that for the first five-year period that the proposed rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering these sections. There will be no effect on small businesses, micro-businesses, or rural communities because of the proposed amendments. The amendments will not cause the loss of any business opportunities or have an adverse effect on the businesses. There may be a slight economic costs to persons who are required to comply with the proposed rules, if the third party charges a fee to take the exam at their facility.

Mr. Hicks also has determined that for each year of the first five years that the proposed rules are in effect the public benefit for enforcing the amendments will be to maintain the necessary resources required to improve the general welfare and safety of purchasers of manufactured housing in this state as per §1201.002 of the Manufactured Housing Standards Act.

Mr. Hicks has also determined that for each year of the first five years the proposed rules are in effect there should be no adverse effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act (APA), Texas Government Code §2001.022.

Mr. Hicks has also determined that for each of the first five years the proposed rules are in effect would not have a large government growth impact. The proposed rules do not create or eliminate a government program. Implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions. Implementation of the proposed rules do not require the increase or decrease in future legislative appropriations to the agency. The proposed rules do not create a new regulation. The proposed rules do not expand, limit, or repeal an existing regulation. The proposed rules do not increase or decrease the number of individuals subject to the rules applicability. The proposed rules do not positively or adversely affect this state's economy. This statement is made pursuant to the Administrative Procedures Act, Texas Government Code, §2001.0221.

If requested, the Department will conduct a public hearing on this rulemaking, pursuant to the Administrative Procedure Act, Texas Government Code §2001.029. The request for a public hearing must be received by the Department within 15 days after publication.

Comments may be submitted to Mr. Jim R. Hicks, Executive Director of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs, P. O. Box 12489, Austin, Texas 78711-2489 or by e-mail at mhproposedrulecomments@tdhca.texas.gov. The deadline for comments is no later than 30 days from the date that these proposed rules are published in the *Texas Register*.

The amendments are proposed under §1201.052 of the Texas Occupations Code, which provides the Director with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and §1201.053 of the Texas Occupations Code, which authorizes the board to adopt rules as necessary and the director to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statutes, codes, or articles are affected by the proposed rule.

10 Tex. Admin. §80.41. License Requirements.

(a) - (b) No change.

(c) Education.

(1) The Standards Act requirement for an initial eight (8) hour course of instruction in the law, including instruction in consumer protection regulations; four (4) hour retailer education course; and/or four (4) hour installer education course shall be offered quarterly by the Department. Subject to limitations on Department resources, the Department will make special licensing classes available upon written request.

(2) Each test to be administered in connection with the course(s) will consist of a representative selection of questions from an approved set of questions approved by the Director. The test(s) will be open-book. A score of 70% correct is required to pass each test.

(A) Cheating on the Manufactured Housing Division licensure examinations will not be tolerated. Evidence of cheating on an examination shall be a cause for disciplinary action. The executive director shall be informed of such instances of suspected cheating at the earliest possible opportunity and will determine appropriate action.

(B) If the executive director determines that an examinee cheated on the Manufactured Housing Division exam, an examinee may have exam results invalidated and may be barred from taking the Manufactured Housing Division examination in Texas for a period of up to two years. Any application for licensure pending or approved for examination may be denied and will be evaluated or re-evaluated on that basis. Any examination taken and passed while barred from taking an examination in Texas will not be acceptable for licensure purposes in Texas.

(C) A licensee or applicant suspected of cheating, or a licensee assisting others with cheating may be charged with violating §1201.551 of the Act and applicable Manufactured Housing Division rules, which may result in the denial, suspension, or revocation of their license.

(D) The Department may enter into an agreement with a third party to administer each test.

(E) The applicant shall pay the cost of the test, if required to be taken with the assistance of a third party.

(3) - (8) (No change.)

(d) – (g) (No change.)