



Texas Department of Housing and Community Affairs
Manufactured Housing Board Meeting
on July 24, 2002

Don Stouder, Chair

Jack Davis, Member
Clement "Pete" Moreno, Member

Joan Tavarez, Member
Cary Yates, Member

**Texas Department of Housing and Community Affairs
Manufactured Housing Board Meeting**

July 24, 2002

ROLL CALL

	<u>Present</u>	<u>Absent</u>
Don Stouder, Chair	_____	_____
Jack Davis, Member	_____	_____
Clement "Pete" Moreno, Member	_____	_____
Joan Tavaréz, Member	_____	_____
Cary Yates, Member	_____	_____
Number Present	_____	
Number Absent		_____

_____, Presiding Officer

MANUFACTURED HOUSING BOARD MEETING
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
507 Sabine, Room 437, Austin, Texas 78701
July 24, 2002 10:00 a.m.

AGENDA

**CALL TO ORDER, ROLL CALL
CERTIFICATION OF QUORUM**

Don Stouder
Chair

PUBLIC COMMENT

The Board will solicit Public Comment at the beginning of the meeting and will provide for Public Comment on each agenda item after motions made by the Board.

The Board of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs (TDHCA) will meet to consider and possibly act upon:

ACTION ITEMS

- | | | |
|---------|---|-------------|
| Item 1. | Presentation, Discussion and Possible Approval of Minutes of Board Meeting of April 26, 2002. | Don Stouder |
| Item 2. | Presentation, Discussion and Consideration of Possible Approval of the State Office of Administrative Hearings (SOAH) Proposal for Decision:
(a) Approval of Manufactured Housing Case:
In the Matter of the Complaint of TDHCA vs Payless Housing, Inc. dba American Spirit Homes, Docket No. 332-02-1794, Complaint Nos. MHD2000000684-W, MHD2000001391-IV, MHD2001000578-W.
(b) Approval of Manufactured Housing Case:
In the Matter of the Complaint of TDHCA vs Blue Sky Homes, Inc. dba Blue Sky Homes, Docket No. 332-02-1966, Complaint Nos. MHD2001001930-RD, MHD20002000163-RD, MHD2002000293-IV. | Don Stouder |
| Item 3. | Discussion and Possible Approval of the Manufactured Housing Division's proposed budget for fiscal year 2003. | Don Stouder |
| Item 4. | Discussion and Possible Approval to continue contracting with TDHCA for administrative support in fiscal year 2003. | Don Stouder |
| Item 5. | Discussion and Possible Approval to adopt the proposed Manufactured Housing Rules. | Don Stouder |

EXECUTIVE SESSION

Don Stouder

Personnel Matters under Sec. 551.074, Texas Government Code
The Board may discuss any item on this agenda in Executive Session.

OPEN SESSION

Action in Open Session on Items Discussed in Executive Session

Don Stouder

ADJOURN

Don Stouder
Chair

To access this agenda or request information, please visit our website at www.tdhca.state.tx.us or contact Cindy S. Bocz, TDHCA, 507 Sabine, Austin, Texas 78701, 512-475-2884, cbocz@tdhca.state.tx.us.

Individuals who require auxiliary aids, services or translators for this meeting should contact Gina Esteves, ADA Responsible Employee, at 512-475-3943 or Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made.

Agenda Item No. 1

**BOARD MEETING
DIVISION OF MANUFACTURED HOUSING
507 Sabine Street, 4th floor Boardroom
April 26, 2002 1:00 p. m.**

Summary of Minutes

**CALL TO ORDER, ROLL CALL
CERTIFICATION OF QUORUM**

The Board Meeting of the Division of Manufactured Housing of April 26, 2001 was called to order by Board Presiding Officer, Don Stouder at 1:00 p.m. It was held on the 4th floor at 507 Sabine Street, Austin, Texas. Roll call certified a quorum was present. Joan Tavarez and Cary Yates were absent.

Members present:

Don Stouder – Presiding Officer

Jack Davis -- Member

Pete Moreno -- Member

Select staff members of the Division of Manufactured Housing and the Texas Department of Housing and Community Affairs were also present.

Mr. Stouder opened the meeting by welcoming everyone to the board meeting.

PUBLIC COMMENT

The Board will solicit Public Comment at the beginning of the meeting and will also provide for Public Comment on each agenda item after the presentation made by department staff and motions made by the Board.

Mr. Stouder called for public comment and the following either gave comments at this time or preferred to wait until the agenda item was presented.

No public comments were made.

ACTION ITEMS

(1) Presentation, discussion and possible approval of Minutes of the Board Meeting of December 19, 2001.

Motion to approve the minutes was made by Jack Davis and seconded by Don Stouder.

(2) Presentation, discussion and Consideration of Possible Approval of the State Office of Administrative Hearing (SOAH) Proposal for Decision:

(a) Approval of Manufactured Housing Case:

In the Matter of the Complaint of TDHCA vs Marco A. Jaramillo dba Fiesta Homes, Docket No. 332-02-1159, Complaint Nos. MHD2001001313-IV, MHD2001001913-IV, MHD2002000289-IV. Motion to approve Proposal for Decision was made by Jack Davis and seconded by Pete Moreno.

~~(b) — Approval of Manufactured Housing Case:~~

~~In the Matter of the Complaint of TDHCA vs Payless Housing, Inc. dba American Spirit Homes, Docket No. 332-02-1794, Complaint Nos. MHD2000000684-W, MHD2000001391-IV, MHD2001000578-W. Final decision is deferred for a later date.~~

(c) Approval of Manufactured Housing Case:

In the Matter of the Complaint of TDHCA vs C.E. Hitchcock, Mark Hitchcock, and Judith Hitchcock, Et Al, Docket No. 332-01-3183, Complaint No. MHD2000001828-UI. Motion to approve Proposal for Decision was made by Jack Davis and seconded by Don Stouder.

(d) Approval of Manufactured Housing Case:

In the Matter of the Complaint of TDHCA vs Rikk's New and Used Furniture, Inc., Docket No. 332-01-3062, Complaint No. MHD1999000220-V. Motion to approve Proposal for Decision was made by Jack Davis and seconded by Pete Moreno.

(e) Approval of Manufactured Housing Case:

In the Matter of the Complaint of TDHCA vs James W. Lee III dba Dynasty Housing, Docket No. 332-01-3639, Complaint Nos. MHD2001001248-RD, MHD2001001379-RD, MHD2001001465-RD. Motion to approve Proposal for Decision was made by Pete Moreno and seconded by Jack Davis.

(f) Approval of Manufactured Housing Case:

In the Matter of the Complaint of TDHCA vs Sunriver Homes, Inc., Docket No. 332-02-0931, Complaint No. MHD2001001070-W. Motion to approve Proposal for Decision was made by Pete Moreno and seconded by Don Moreno.

EXECUTIVE SESSION

No Executive Session was necessary

OPEN SESSION

Ms. Hill introduced members of the TDHCA staff that have been working with MHD in an administrative function: David Gains, Directors of Internal audit; Bill Dally, Chief Financial Officer; David Aldridge, Accounting and Michael Lyttle, Director of Government and Public Information.

ADJOURN

The meeting adjourned at 1:17 p.m.

Respectfully submitted,
Cindy Bocz
Acting Board Secretary

Agenda Item No. 2(a)



DIVISION OF MANUFACTURED HOUSING

Rick Perry
GOVERNOR

Bobbie Hill
EXECUTIVE DIRECTOR

BOARD MEMBERS
Presiding Officer, Don Stouder
Jack Davis
Clement P. Moreno
Joan Tavarez
Cary Yates

TO: Governing Board of the Manufactured Housing Division of the Texas
Department of Housing and Community Affairs

FROM: Jerry E. Schroeder, Resolution Supervisor

THROUGH: Timothy K. Irvine, Attorney

SUBJECT: Summary of Proposal for Decision

Payless Housing, Inc. dba American Spirit Homes, ("Respondent")

License type/number: RBI-33152. Effective dates May 16, 1996 through May 16, 2001
License type/number: RBI-33291. Effective dates January 11, 1997 through January 12, 2002.

Docket Number: 332-02-1794

Complaint Numbers: MHD2000000684-W, MHD2000001391-IV, MHD2001000578-W

Background

It was found and determined by the staff of the Manufactured Housing Division that Respondent had committed the following violations of the Act and the Rules:

1. Respondent failed to comply with the initial report and Warranty Orders of the Executive Director and provide the Department with corrective action, in a timely manner regarding two (2) manufactured homes (owned by Hess and Rasberry) as required by Sections 14(f) and 14(j) of the Act and Sections 80.131(b) and 80.132(3) of the Rules.
2. Respondent also incorrectly installed the Hail manufactured home and failed to comply with the initial report and Installation Warranty Orders of the Executive

Director and provide the Department with corrective action, in a timely manner as required by Sections 14(f) and 14(j) of the Act and Sections 80.51 (amended 1998) (current version at Section 80.54(a) of the Rules), 80.131(b) and 80.132(3) of the Rules.

The staff initiated the following administrative actions against Respondent.

After proper notice, an administrative hearing was held on March 21, 2002. An Administrative Law Judge (ALJ) at the State Office of Administrative Hearings (SOAH) issued the attached Proposal for Decision (PFD) as a result of that meeting. The PFD upholds the findings and determinations of the staff.

Proposal for Decision

The Proposal for Decision dated April 2, 2002 recommends that Respondent be assessed an administrative penalty of Three Thousand Dollars (\$3,000.00).

These cases were previously set for decision for the April 26, 2002 Board Meeting.

On April 22, 2002, the Respondent requested the Department to postpone the Final Decision until he could have another chance to take corrective action on the assigned responsibilities. The Department has obtained corrective action and ensures that corrective action has been taken on the Hess and Rasberry homes. However, the Respondent now alleges that the Hail home was properly installed and that the consumer removed the anchors to install their electrical and plumbing. Respondent also took corrective action on the Hail home on April 25, 2002.

Recommendation

It is recommended that the Board approve the following administrative action with respect to the Respondent, as supported by the record and the PFD, excluding the Hail home violation from the Final Order

Respondent be assessed an administrative penalty of Two Thousand Dollars (\$2,000.00).

State Office of Administrative Hearings



Shelia Bailey Taylor
Chief Administrative Law Judge

April 2, 2002

Ms. Bobbie Hill
Executive Director
Texas Department of Housing and Community Affairs
507 Sabine
Austin, Texas 78701

HAND DELIVERY

RE: Docket No. 332-02-1794; TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS v. PAYLESS HOUSING, INC. d/b/a AMERICAN SPIRIT HOMES

Dear Ms. Hill:

Enclosed please find the Proposal for Decision in the above-referenced cause for the consideration of the Texas Department of Housing and Community Affairs (Department). Copies of the Proposal are being sent to Jerry Schroeder, Dispute Resolution Manager for the Texas Department of Housing and Community Affairs, and to Payless Housing, Inc. d/b/a American Spirit Homes, Respondent. For reasons discussed in the proposal for decision, the Administrative Law Judge finds that Respondent should be assessed an administrative penalty of \$3,000.

Pursuant to the Administrative Procedure Act, each party has the right to file exceptions to the proposal, accompanied by supporting briefs. Exceptions, replies to the exceptions, and supporting briefs must be filed with the Director ten days after the party receives the Proposal for Decision. Replies to exceptions should be filed ten days thereafter. A party filing exceptions, replies, and briefs must serve a copy on the State Office of Administrative Hearings and the other party hereto.

Sincerely,

A handwritten signature in black ink that reads "Craig R. Bennett".

Craig R. Bennett
Administrative Law Judge

CRB/ls
Enc.

xc: Docket Clerk, State Office of Administrative Hearings - **HAND DELIVERY**
Jerry Schroeder, Dispute Resolution Manager, Texas Department of Housing and Community Affairs - **HAND DELIVERY**
Payless Housing, Inc. d/b/a American Spirit Homes, P. O. Box 267, Sulphur Springs, Texas 75483 - **REGULAR U.S. MAIL**

DOCKET NO. 332-02-1794

**TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS**

V.

**PAYLESS HOUSING, INC. d/b/a
AMERICAN SPIRIT HOMES**

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

I. Introduction

The Staff of the Texas Department of Housing and Community Affairs (Staff) brought this action against Payless Housing, Inc. d/b/a American Spirit Homes (Respondent) for alleged violations of the Texas Manufactured Housing Standards Act. Despite being sent proper notice, Respondent failed to appear or be represented at the hearing. Based on the Respondent's failure to appear, a default judgment was rendered against Respondent and Staff's allegations were accepted as true. Based on the deemed factual allegations and the evidence presented by Staff, the Administrative Law Judge (ALJ) finds that Respondent should be assessed an administrative penalty of \$3,000.

II. Notice and Jurisdiction

The Texas Department of Housing and Community Affairs has jurisdiction over this matter pursuant to § 7 of the Texas Manufactured Housing Standards Act (the Act), TEX. REV. CIV. STAT. ANN. art. 5221f, and TEX. GOV'T CODE ANN. § 2306.604. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law pursuant to TEX. GOV'T CODE ANN. ch. 2003.

The notice of intention to institute disciplinary action and of the hearing met the notice requirements imposed by statute and rule. The details about notice to Respondent are set forth in the findings of fact and conclusions of law without further discussion here.

III. Procedural History

The hearing in this case was held on March 21, 2002, before ALJ Craig R. Bennett at the Hearings Facility of the State Office of Administrative Hearings, located at 300 West 15th Street, Austin, Texas. Staff was represented by Jerry Schroeder. Respondent did not appear and was not represented at the hearing. Staff moved for a default judgment and sought leave to introduce additional exhibits sufficient to establish jurisdiction, notice, and the substance of the allegations. Numerous exhibits were admitted into the record and the ALJ deemed the factual allegations in the notice as true, based on Respondent's failure to appear.

IV. Recommendation

Based on the evidence and the facts deemed admitted as true, the ALJ concludes that Respondent violated § 14(f) and § 14(j) of the Act and 10 TEX. ADMIN. CODE §§ 80.54(a), 80.131(b), and 80.132. Further, based on the criteria in TEX. GOV'T CODE ANN. § 2306.604, the ALJ concludes that Respondent should be fined \$3,000.

V. Findings of Fact

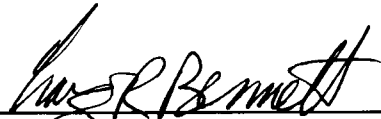
1. Payless Housing, Inc. d/b/a American Spirit Homes held License Number RBI-33152, effective May 16, 1996 through May 16, 2001, and License Number RBI-33291, effective January 11, 1997 through January 12, 2002. Both licenses were issued by the Texas Department of Housing and Community Affairs (TDHCA).
2. On February 19, 2002, TDHCA Staff sent notice of an administrative hearing to Respondent at its last known address of P.O. Box 267, Sulphur Springs, Texas 75483, by certified mail, return receipt requested, and by regular mail.
3. The notice of hearing informed Respondent the hearing would begin at 1:00 p.m. on March 21, 2002, before an administrative law judge at the State Office of Administrative Hearings, 300 West 15th Street, 4th Floor, Austin, Texas. The notice also contained a statement of the nature of the hearing, the matters asserted, the legal authority and jurisdiction under which the hearing was to be held, and the default warning language reflected in 1 TEX. ADMIN. CODE § 155.55(c).

4. The hearing convened as scheduled on March 21, 2002. Staff appeared and represented TDHCA. Respondent did not appear and was not represented by counsel.
5. Based on Respondent's failure to appear at the hearing, Staff moved for a default judgment under 1 TEX. ADMIN. CODE § 155.55, and the ALJ granted the request and entered a default judgment against Respondent.
6. On or about February 14, 2000, Respondent was served with a One Year Warranty Order issued by TDHCA, requiring Respondent to correct or repair listed warranty items on the home of Marsha Hess within forty calendar days from the date of receipt of the Order.
7. By April 16, 2000, Respondent had not responded to the One Year Warranty Order regarding the home of Marsha Hess.
8. On or about April 20, 1999, Respondent was served with an Installation Warranty Order issued by TDHCA, requiring Respondent to correct or repair listed warranty items on the home of Phillip Hail within forty calendar days from the date of receipt of the Order.
9. By May 30, 1999, Respondent had not responded to the Installation Warranty Order regarding the home of Phillip Hail.
10. On or about February 10, 2001, Respondent was served with a One Year Warranty Order issued by TDHCA, requiring Respondent to correct or repair listed warranty items on the home of Lode Raspberry within forty calendar days from the date of receipt of the Order.
11. By March 23, 2001, Respondent had not responded to the One Year Warranty Order regarding the home of Lode Raspberry.
12. Respondent has been found in violation of the Act on prior occasions and at least three Agreed Orders against Respondent have been issued by TDHCA since 1998, in which Respondent was required to pay administrative penalties for violation of the Act.
13. At the hearing Staff recommended that a total penalty of \$3,000.00, equal to \$1,000 per violation, be assessed against Respondent.

VI. Conclusions of Law

1. TDHCA has jurisdiction over this matter pursuant to the Texas Manufactured Housing Standards Act (the Act), TEX. REV. CIV. STAT. ANN. art. 5221f, and has authority to discipline and penalize Respondent pursuant to § 7(j) of the Act and TEX. GOV'T CODE ANN. Ch. 2306.
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law pursuant, to TEX. GOV'T CODE ANN. Ch. 2003.
3. Notice of the hearing was provided to Respondent pursuant to the Act; TEX. GOV'T CODE ANN. Ch. 2001 and Ch. 2306; 1 TEX. ADMIN. CODE § 155.55; and 10 TEX. ADMIN. CODE § 80.126. TDHCA's rules, as reflected by 10 TEX. ADMIN. CODE § 1.21(c), provide for notice to be sent to Respondent's last known address as shown by TDHCA's records.
4. Based on Respondent's failure to appear at the hearing, a default judgment was properly rendered against Respondent pursuant to 1 TEX. ADMIN. CODE § 155.55, and the factual allegations contained in the Notice of Hearing were deemed admitted as true.
5. Based on the above findings of fact, Respondent violated § 14(f) and § 14(j) of the Act and 10 TEX. ADMIN. CODE §§ 80.54(a), 80.131(b), and 80.132.
6. Based on the criteria in TEX. GOV'T CODE ANN. § 2306.604, Respondent should be fined a civil penalty of \$1,000 per violation, for a total of \$3,000.00.

SIGNED this 2nd day of April, 2002



CRAIG R. BENNETT
Administrative Law Judge
State Office of Administrative Hearings

Agenda Item No. 2(b)



DIVISION OF MANUFACTURED HOUSING

Rick Perry
GOVERNOR

Bobbie Hill
EXECUTIVE DIRECTOR

BOARD MEMBERS
Presiding Officer, Don Stouder
Jack Davis
Clement P. Moreno
Joan Tavarez
Cary Yates

TO: Governing Board of the Manufactured Housing Division of the Texas
Department of Housing and Community Affairs

FROM: Jerry E. Schroeder, Resolution Supervisor

THROUGH: Timothy K. Irvine, Attorney

SUBJECT: Summary of Proposal for Decision

Blue Sky Homes, Inc. dba Blue Sky Homes, ("Respondent")

License type/number: RBI-34493. Effective dates April 12, 2000 through February 27, 2002.
Bond cancelled.

Docket Number: 332-02-1966

Complaint Numbers: MHD2001001930-R, MHD2002000163-R, MHD2002000293-IV

Background

It was found and determined by the staff of the Manufactured Housing Division that Respondent had committed the following violations of the Act and the Rules:

3. Respondent failed to refund the deposits of two (2) separate consumers totaling Two Thousand Dollars (\$2,000.00) violating Section 6(m) of the Act.
4. Respondent also did not refund the deposits of the same two (2) consumers within fifteen (15) days of receiving written notice as required by Section 6(m)(1) of the Act.
5. Respondent also failed to deliver to the same two (2) consumers conspicuous written notice of the requirements concerning deposits, as required by Section 6(m)(3) of the Act.

6. Respondent also incorrectly installed an additional manufactured home and failed to comply with the initial report and Installation Warranty Orders of the Executive Director and provide the Department with corrective action, in a timely manner as required by Sections 4(d), 14(f), and 14(j) of the Act and Sections 80.131(b) and 80.132(3) of the Rules.

The staff initiated the following administrative actions against Respondent.

After proper notice, an administrative hearing was held on April 4, 2002. An Administrative Law Judge (ALJ) at the State Office of Administrative Hearings (SOAH) issued the attached Proposal for Decision (PFD) as a result of that meeting. The PFD upholds the findings and determinations of the staff.

Proposal for Decision

The Proposal for Decision dated May 15, 2002 recommends that Respondent be assessed an administrative penalty of Three Thousand Dollars (\$3,000.00).

Recommendation

It is recommended that the Board approve the following administrative action with respect to the Respondent, as supported by the record and the PFD.

Respondent be assessed an administrative penalty of Three Thousand Dollars (\$3,000.00).

State Office of Administrative Hearings



Shelia Bailey Taylor
Chief Administrative Law Judge

May 15, 2002

Ms. Bobbie Hill
Executive Director
Texas Department of Housing and Community Affairs
507 Sabine, 10th Floor
Austin, Texas 78701

HAND DELIVERY

**RE: Docket No. 332-02-1966; Texas Department of Housing and Community Affairs
v. Blue Sky Homes, Inc., d/b/a Blue Sky Homes**

Dear Ms. Hill:

Enclosed please find the Proposal for Decision in the above-referenced cause for the consideration of the Texas Department of Housing and Community Affairs. Copies of the Proposal are being sent to Jerry Schroeder, Dispute Resolution Manager for the Texas Department of Housing and Community Affairs, and to Terry Turner d/b/a Blue Sky Homes, Respondent. For reasons discussed in the proposal, the Administrative Law Judge concurs with Staff's recommendation that the Texas Department of Housing and Community Affairs, (Department) should assess an administrative penalty of \$3,000 dollars.

Pursuant to the Administrative Procedure Act, each party has the right to file exceptions to the proposal, accompanied by supporting briefs. Exceptions, replies to the exceptions, and supporting briefs must be filed with the Director ten days after the party receives the Proposal for Decision. Replies to exceptions should be filed ten days thereafter. A party filing exceptions, replies, and briefs must serve a copy on the State Office of Administrative Hearings and the other party hereto.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven M. Rivas".

Steven M. Rivas
Administrative Law Judge

SMR/lao
Enclosure

xc: Rommel Corro, Docket Clerk, State Office of Administrative Hearings - **HAND DELIVERY**
Jerry Schroeder, Dispute Resolution Manager, TDHCA - **HAND DELIVERY**
Terry Turner, Owner, Blue Sky Homes Inc., d/b/a Blue Sky Homes, 920 South Southeast Loop 323, Tyler, TX
75702 - **VIA U.S. MAIL**

William P. Clements Building
Post Office Box 13025 ♦ 300 West 15th Street, Suite 502 ♦ Austin Texas 78711-3025
(512) 475-4993 .Docket (512) 475-3445 Fax (512) 475-4994

SOAH DOCKET NO. 332-02-1966

(Complaint Nos. MHD2001001930-RD, MHD2002000163-RD, MHD2002000293.-IV)

**TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS,
Petitioner**

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BEFORE THE STATE OFFICE

V.

OF

**BLUE SKY HOMES, INC. d/b/a
BLUE SKY HOMES,
Respondent**

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

Staff of the Texas Department of Housing and Community Affairs (the Department) brought this case against Blue Sky Homes, Inc. d/b/a Blue Sky Homes (Respondent) seeking administrative penalties based on three complaints: refusal to refund deposits to two different consumers, and improper installation of a mobile home. Respondent did not appear at the hearing. The Administrative Law Judge (ALJ) agrees with Staff's recommendation to assess an administrative penalty of \$3,000.

I. Procedural History, Notice, and Jurisdiction

On April 4, 2002, the Administrative Law Judge (ALJ) Steven Rivas convened a hearing at the William P. Clements Building, 300 West 15th Street, Fourth Floor, Austin, Texas. Jerry Schroeder, Resolution Supervisor for the Department's Manufactured Housing Division, represented Staff. Respondent did not appear and was not represented at the hearing. Staff presented documents related to notice and jurisdiction and moved for a default under 1 TEX. ADMIN. CODE § 155.55. The ALJ granted the motion for a default and closed the hearing on April 4, 2002. Because the hearing proceeded on a default basis, the ALJ deemed all Staff's factual allegations as true. Therefore, the allegations and applicable law are set forth in the Findings of Fact and Conclusions of Law without discussion.

II. Recommendation

The ALJ recommends that a default be entered against Respondent and that the Department enter an order imposing a civil penalty of \$3,000 against Respondent based on the Findings of Fact and Conclusions of Law presented below.

III. Findings of Fact

1. Blue Sky Homes, Inc. d/b/a Blue Sky Homes (Respondent) held License No. RBI-34493 issued by the Texas Department of Housing and Community Affairs (Department) on April 12, 2000, and effective through February 27, 2002. The bond is canceled.
2. The hearing notice advised Respondent in 10-point bold-face type that failure to appear at the hearing would result in the factual allegations in the notice being admitted as true and the relief sought being granted by default.
3. On February 26, 2002, Department Staff sent notices of an administrative hearing to Respondent at 920 South Southeast Loop, Tyler, Texas 75702, and at Highway 69, Route 1 Box 31, Point, Texas 75472 by certified mail, return receipt requested, and by regular mail.
4. The notices of hearing informed Respondent of the matters asserted; the right to appear and be represented by counsel; the time and place of the hearing; the default warning language pursuant to the requirements of 1 TEX. ADMIN. CODE (TAC) § 155.55(c); the legal authority and jurisdiction under which the hearing would be held; and the statutes and rules involved.
5. The hearing was convened as scheduled on April 4, 2002, in the William P. Clements Building, 300 W. 15th Street, Fourth Floor, Austin, Texas.
6. Respondent did not appear and was not represented at the hearing.
7. Based on Respondent's failure to appear at the hearing, Staff moved for a default judgment under 1 TAC § 155.55.
8. Staff's notices of hearing alleged the following:
 - a. Respondent accepted a deposit of \$1,000 from Susan T. Koleas on June 1, 2001, to special order a home from the Manufacturer. Respondent did not give consumer Susan T. Koleas conspicuous written notice of the requirements concerning retention of deposits. Respondent failed to return the deposit given by consumer Susan T. Koleas within 15 days of receiving written notice dated June 27, 2001, from the consumer requesting the refund.
 - b. Respondent accepted a deposit of \$1,000 from Harold W. Mackey on June 13, 2001, to special order a home from the Manufacturer. Respondent did not give consumer Harold W. Mackey conspicuous written notice of the requirements concerning retention of deposits. Respondent failed to return the deposit given by consumer Harold W. Mackey within 15 days of receiving written notice dated August 9, 2001, from the consumer requesting the refund.

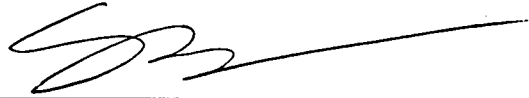
- c. Respondent did not properly install the manufactured home owned by Joe and Leslie Hinds, HUD Label PFS0691140/41. The Department inspected the home on May 2, 2001, and a Warranty Order was issued outlining corrective action that was required. Respondent received the Warranty Order on May 11, 2001. The deadline for warranty service work to be performed was June 25, 2001. The deadline for submitting warranty service orders to the Department was July 5, 2001. Respondent did not comply with the Warranty Order by June 25, 2001. Additionally, Respondent did not submit warranty service orders by July 5, 2001.
9. Based on the violations alleged in Finding of Fact No. 8. a.-c., Staff recommended Respondent be assessed a \$3,000 administrative penalty.

IV. Conclusions of Law

1. The Department has jurisdiction in this case pursuant to the Texas Manufactured Housing Standards Act (the Act), TEX. REV. CIV. STAT. ANN. art. 5221f, and has the authority to discipline and penalize an owner registered with the Department pursuant to § 7 (j) of the Act and TEX. GOV'T. CODE ANN. ch. 2306.
2. The State Office of Administrative Hearings (SOAH) has jurisdiction over matters related to the hearing, including the authority to issue a proposal for decision, pursuant to TEX. GOV'T CODE ANN. ch. 2003.
3. Notice of the hearing was provided to Respondent pursuant to the Act; TEX. GOV'T CODE ANN. ch. 2001; TEX. GOV'T CODE ANN. ch. 2306; 1 TAC § 155.55; and 10 TAC § 80.126.
4. Based on Finding of Fact No. 8.a. and 8.b., Respondent violated § 6(m) of the Act by refusing to refund the deposits given by each of the consumers. Respondent failed to give conspicuous written notice of the requirements concerning retention of deposits, as required by § 6(m)(3)(D) of the Act, and because of that, Respondent is not entitled to retain any part of the deposits received from the consumers, pursuant to § 6(m)(3) of the Act. Respondent also violated § 6(m)(1) of the Act by not returning the deposits given by each of the consumers within 15 days of receiving written notice from the consumer requesting the refund.
5. Based on Finding of Fact No. 8.c., Respondent violated §§ 4(d), 14(f) and (j) of the Act, and 10 TAC §§ 80.54(a), 80.131(b), and 80.132(3) by not properly installing the home, complying with the initial report and warranty orders of the Director, and providing the Department with copies of completed work orders in a timely manner.

6. Based on Conclusions of Law Nos. 4 and 5, and the criteria in TEX. GOV'T CODE ANN. § 2306.604, Respondent should be fined \$3,000.

SIGNED this 15th day of May, 2002.



STEVEN RIVAS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

DRAFT

**Texas Department of Housing and Community Affairs
Historical Budget Analysis
Manufactured Housing Division**

	FY02 Budget (a)	FY03 Budget (b)	Variance (b-a)	Percentage Change	Comments
Salaries and Wages	3,328,100	3,506,816	178,716	5.4%	4% State Employee pay increase and yearly merits and promotions
Payroll Related Costs	392,486	418,579	26,093	6.6%	Increases as a percentage Salaries and Wages
Travel	221,324	284,000	62,676	28.3%	
Professional Fees	247,000	454,000	207,000	83.8%	Reduction in contracted inspections and an increase in consumer claims
Material and Supplies	85,471	72,512	(12,959)	-15.2%	General reduction to fund consumer claims (Professional Fees)
Repairs/Maintenance	45,762	25,000	(20,762)	-45.4%	General reduction to fund consumer claims (Professional Fees)
Printing and Reproduction	47,006	45,900	(1,106)	-2.4%	General reduction to fund consumer claims (Professional Fees)
Rentals and Leases	356,965	387,862	30,897	8.7%	Increase for Headquarters and Field Office Building Rental
Membership Fees	1,000	1,000	0	0.0%	
Registration Fees	58,018	50,851	(7,167)	-12.4%	General reduction to fund consumer claims (Professional Fees)
Employee Tuition	2,500	3,000	500	20.0%	
Advertising	3,000	1,500	(1,500)	-50.0%	
Freight/Delivery	70,000	7,000	(63,000)	-90.0%	General reduction to fund consumer claims (Professional Fees)
Temporary Help	117,456	20,000	(97,456)	-83.0%	General reduction to fund consumer claims (Professional Fees)
Furniture and Equipment	12,550	15,700	3,150	25.1%	Contingency for Filed Offices to replace obsolete Furniture/Equipment
Communication and Utilities	207,565	148,300	(59,265)	-28.6%	General reduction to fund consumer claims (Professional Fees)
Capital Outlay	112,366	81,205	(31,161)	-27.7%	Decrease associated with fewer personal computer replacements
Office Renovation/Consolidation	41,292	0	(41,292)	-100.0%	No move/renovation expected to impact Manufactured Housing
Subtotal	5,349,861	5,523,225	173,364	3.2%	
Indirect Support	623,449	586,030	(37,419)	-6.0%	
Total, Manufactured Housing	5,973,310	6,109,255	135,945	2.3%	
FTE's	87.50	87.50	0.00		

Agenda Item No. 4

ADMINISTRATIVE SERVICES AND COST REIMBURSEMENT AGREEMENT

This Administrative Services and Cost Reimbursement Agreement ("Agreement") is made effective as of September 1, 2001 by and between the **Texas Department of Housing and Community Affairs**, a public and official department of the State of Texas ("TDHCA"), and the **Manufactured Housing Division** of TDHCA.

RECITALS

WHEREAS, newly enacted Subchapter AA, Sections 2306.6001 through 2306.6023 of the Texas Government Code, requires:

- (1) that beginning September 1, 2001, TDHCA is to administer and enforce the Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes) through the Manufactured Housing Division ("MH Division");
- (2) that the MH Division be governed by a five member board that is to be an independent entity within TDHCA, administratively attached to TDHCA, and not an advisory board to TDHCA ("MH Board");
- (3) that the MH Board and the division director of the MH Division are to exercise authority and responsibilities assigned to them under the Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes); and
- (4) that the MH Board shall develop a budget for the operations of the department relating to the MH Division and shall reduce administrative costs by entering into an agreement with TDHCA to enable the sharing of department personnel, equipment, and facilities.

WHEREAS, in the interim period prior to the appointment of the MH Board and the employment by the MH Board of a division director to act as the chief executive and administrative officer of the MH

Division, TDHCA has agreed to provide for indirect and direct administrative services as hereinafter provided for a monthly administrative fee described herein to be paid by the MH Division to TDHCA;

NOW THEREFORE, for and in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by TDHCA and the MH Division, the parties agree as follows:

1. ADMINISTRATIVE SERVICES AND REIMBURSEMENT OF OPERATING COSTS

1.1 Scope of Services

During the term of this Agreement, TDHCA shall continue to provide for the budgeted costs and expenses set out on the annual operating budget for the MH Division attached as Exhibit "A" in the manner contemplated by the annual operating budget for TDHCA and to account for all such actual payments and receipts. In addition, TDHCA will provide indirect support through the provision of the services of TDHCA personnel for a total agreed annual administrative cost of \$659,460. These services, will include, but not be limited to, administrative support services from TDHCA's Executive Office; Legal Services; Internal Audit; Governmental Communications; Human Resources; Facilities and Support; Information Systems; and Financial Services (collectively the "Services").

2. TERM

2.1 Term

This Agreement shall be effective September 1, 2001 and shall continue in full force and effect until August 31, 2002, unless sooner terminated pursuant to Section 4.1 of this Agreement.

3. ADMINISTRATIVE SERVICES FEES AND COST REIMBURSEMENTS

3.1 Reimbursement to TDHCA for Operating Costs

TDHCA shall be reimbursed by the MH Division for all operating costs incurred by TDHCA on their behalf out of budgeted receipts attributable to the MH Division as set out on Exhibit "A".

3.2 Payments to TDHCA for Services

As compensation for the Services performed by TDHCA personnel pursuant to this Agreement, TDHCA shall be paid \$54,955 monthly by the MH Division (or a total annual amount not to exceed \$659,460) for each month during the term of this Agreement.

4. TERMINATION OF AGREEMENT

4.1 Early Termination

Either party and the duly constituted MH Board contemplated by Sections 2306 once appointed may terminate this Agreement prior to the August 31, 2002 term provided in Section 2.1 upon 30 days' written notice to the other party. Administrative fees due for Services provided up to and including the date of such early termination shall be prorated and shall be payable in full to TDHCA upon such early termination. If this Agreement is terminated by an MH Board, TDHCA agrees to take all actions necessary to deliver to the MH Board possession or control of all books, records, and property of the MH Division in TDHCA's possession in an orderly manner and without interruption of the MH Division's business.

5. FORCE MAJEURE

5.1 Force Majeure

In the event that performance by a party of any of its obligations under the terms of this Agreement shall be interrupted or delayed by an act of God, by acts of war, riot, or civil commotion, by an act of State, by strikes, fire, or flood, or by the occurrence of any other event beyond the control of such party, such party shall be excused from such performance during the period of time when the interruption occurred and for such period of time as is reasonably necessary after such occurrence abates for the effects thereof to have dissipated.

6. MISCELLANEOUS

6.1 Notices

All notices, requests, demands and other communications under this Agreement shall be deemed to be duly given if delivered or sent and effective in accordance with this Section 6.1 and all of its subsections and if addressed as follows:

If to TDHCA to:

Texas Department of Housing & Community Affairs
507 Sabine Street, Suite 900
Austin, Texas 78701
ATTENTION: Michael Jones, TDHCA Board Chair
FAX: (512) 472-8526

If to the Manufactured Housing Division to:

Manufactured Housing Division
507 Sabine Street, Suite 1000
Austin, Texas 78701
ATTENTION: Daisy A. Stiner , TDHCA Executive Director
FAX: (512) 472-8526

or to such other address or to the attention of such other person as the recipient party has specified in accordance with this Section 6.1 by prior written notice to the sending party. Every notice required or contemplated by this Agreement to be given, delivered or sent by any party may be delivered in person or may be sent by courier, telecopy, express mail, telex, telegraph or postage prepaid certified or registered air mail (or its equivalent under the laws of the country where mailed), addressed to the party for whom it is intended, at the address specified in this Agreement. Any party may change its address for notice by giving notice to the other parties of the change. Any written notice will be effective no later than the date actually received. Unless otherwise provided in this Agreement, notice by courier, express mail, certified mail, or registered mail will be effective on the date it is officially recorded as delivered by return receipt or equivalent and in the absence of

such record of delivery it will be presumed to have been delivered on the fifth business day after it was deposited, first-class postage prepaid, in the United States first class mail. Notice by telex or telegraph will be deemed given at the time it is recorded by the carrier in the ordinary course of business as having been delivered, but in any event no later than one business day after dispatch. Notice not given in writing will be effective only if acknowledged in writing by a duly authorized officer of the party to whom it was given.

6.2 Entire Agreement

This Agreement contains the entire agreement of the parties with respect to the matters covered by its terms. Any written or oral representations, promises, agreements or understandings concerning the subject matter of this Agreement that is not contained in this Agreement shall be of no force or effect. No change, modification or waiver of any of the terms of this Agreement shall be binding unless reduced to writing and signed by authorized representatives of both parties.

6.3 Assignment

This Agreement shall be binding upon and inure to the benefit of the parties hereto, and the legal representatives, successors in interest and assigns, respectively, of each such party. Notwithstanding the preceding sentence, this Agreement shall not be assigned in whole or in part by either party without the prior written consent of the other party.

6.4 Governing Law

This Agreement shall be construed under and governed in all respects, including without limitation issues of validity, interpretation, performance and enforcement, by the laws, and not the conflicts law, of the State of Texas.

6.5 No Waiver

The failure of any party hereto at any time to require performance of any provision of this Agreement shall in no way affect the right of such party to require performance of that provision.

Any waiver by any party of any breach of any provision of this Agreement shall not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself or a waiver of any right under this Agreement.

6.6 Partial Invalidity

If any one or more of the provisions of this Agreement should be ruled wholly or partly invalid or unenforceable by a court or other government body of competent jurisdiction, then:

- (A) the validity and enforceability of all provisions of this Agreement not ruled to be invalid or unenforceable will be unaffected;
- (B) the effect of the ruling will be limited to the jurisdiction of the court or other government body making the ruling;
- (C) the provision(s) held wholly or partly invalid or unenforceable will be deemed amended, and the court or other government body is authorized to reform the provision(s), to the minimum extent necessary to render them valid and enforceable in conformity with the parties' intent as manifested herein; and
- (D) if the ruling, and/or the controlling principle of law or equity leading to the ruling, is subsequently overruled, modified, or amended by legislative, judicial, or administrative action, then the provision(s) in question as originally set forth in this Agreement will be deemed valid and enforceable to the maximum extent permitted by the new controlling principle of law or equity.

6.7 Multiple Counterparts

This Agreement may be executed in multiple counterparts, each of which shall be considered a true and original copy of this Agreement and all of which shall be deemed one and the same document.

6.8 Time

Time is of the essence under this Agreement. If the last day permitted for the performance of any act required or permitted under this Agreement falls on a Saturday, Sunday, or legal holiday in the State of Texas, the time for such performance shall be extended to the next succeeding business day that is not a legal holiday.

6.9 Jurisdiction and Venue

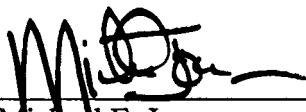
Suit to enforce this Agreement or any provision thereof will be brought exclusively in the state or federal courts located in Austin, Travis County, Texas.

6.10 Section Headings

The article and section headings contained in this Agreement are for reference purposes only and shall not in any way control the meaning or interpretation of this Agreement. Each person signing below represents that he or she has read this Agreement in its entirety (including any and all Schedules and Exhibits); understands its terms; is duly authorized to execute this Agreement on behalf of the party indicated below by his name; and agrees on behalf of such party that such party will be bound by those terms.

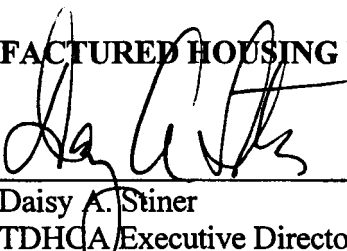
IN WITNESS WHEREOF, the parties have signed this Agreement to be effective as of September 1, 2001.

**TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS**

By: 

Michael E. Jones
TDHCA Chairman of the Board

MANUFACTURED HOUSING DIVISION

By: 

Daisy A. Stiner
TDHCA Executive Director

EXHIBIT ATEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MANUFACTURED HOUSING DIVISION
ANNUAL OPERATING BUDGET
SEPTEMBER 01, 2001 thru AUGUST 31, 2002

BUDGET CATEGORIES	BUDGETED	APPROP. RECEIPTS	GENERAL REVENUE	FEDERAL
Salaries	3,328,100	955,548	1,544,073	828,479
Payroll Related Costs	392,486	210,221		182,265
Travel	221,324	88,530	132,794	
Professional Fees	247,000	98,800	148,200	
Materials/Supplies	85,471	34,188	51,283	
Repairs/Maintenance	45,762	18,305	27,457	
Printing and Reproduction	47,006	18,802	28,204	
Rental/Lease	356,965	142,786	214,179	
Membership Dues	1,000	400	600	
Registration Fees	58,018	23,207	34,811	
Employee Tuition	2,500	1,000	1,500	
Advertising	3,000	1,200	1,800	
Freight/Delivery	70,000	28,000	42,000	
Temporary Help	117,456	46,982	70,474	
Furniture/Equipment	12,550	5,020	7,530	
Communications/Utilities	207,565	83,026	124,539	
Capital Outlay	112,366	89,893	22,473	
Office	41,292	16,517	24,775	
Renovation/Consolidation				
Subtotal, Division	5,349,861	1,862,425	2,476,692	1,010,744
Indirect Support	659,465	659,465		
Total	6,009,325	2,521,889	2,476,692	1,010,744

Note: Indirect Support includes partial salary and wages for FTEs in Executive, Legal, Internal Audit, Governmental Communications, Human Resources, Facilities and Support, Information Systems and Accounting.

ADMINISTRATIVE SERVICES AND COST REIMBURSEMENT AGREEMENT
AMENDMENT NO. 1

SECTION 1. The **Texas Department of Housing and Community Affairs**, a public and official department of the State of Texas ("TDHCA"), and the **Manufactured Housing Division** of TDHCA ("MH Division") do hereby contract and agree to amend their original agreement as initially executed by the Executive Director of TDHCA effective September 1, 2001 through August 31, 2002 for the performance of administrative services.

SECTION 2. The parties hereto agree to amend the agreement identified above so that Section 1.1, Scope of Services, is revised to read hereafter as given below:

“Section 1.1, Scope of Services. During the term of this Agreement, TDHCA shall continue to provide for the budgeted costs and expenses set out on the annual operating budget for the MH Division attached as Exhibit “A” in the manner contemplated by the annual operating budget for TDHCA and to account for all such actual payments and receipts. In addition, TDHCA will provide indirect support through the provision of the services of TDHCA personnel for a total agreed annual administrative cost of \$626,220. These services, will include, but not be limited to, administrative support services from Internal Audit; Governmental Communications; Human Resources; Facilities and Support; Information Systems; and Financial Services (collectively the "Services").”

SECTION 3. The parties hereto agree to amend the agreement identified in Section 1 above so that Exhibit A is revised hereafter to read as given in Exhibit A to this amendment.

SECTION 4. The parties hereto agree to amend the agreement identified in Section 1 above so that Section 3.2, “Payments to TDHCA for Services” is revised to read hereafter as given below:

“Section 3.2, “Payments to TDHCA for Services.” As compensation for the Services performed by TDHCA personnel pursuant to this Agreement, TDHCA shall be paid \$52,185 monthly by the MH Division (or a total annual amount not to exceed \$626,220) for each month during the term of this Agreement.”

SECTION 5. The parties hereto agree that this amendment shall become effective on February 28, 2002.

SECTION 6. The parties hereto agree that all of the terms of the agreement identified in Section 1 above shall remain in effect and shall continue to govern except to the extent that they conflict with the terms of this amendment.

SECTION 7. By the signing of this amendment, the parties hereto expressly understand and agree that this amendment shall become a part of the agreement identified in Section 1 above as though it were set forth word for word herein.

WITNESS OUR HANDS EFFECTIVE FEBRUARY 28, 2002.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

By: *Bill Dally for Ruth Cedillo*
Ruth Cedillo
Acting Executive Director

MANUFACTURED HOUSING DIVISION

By: *Bobbie Hill*
Bobbie Hill
Executive Director
Manufactured Housing

**Manufactured Housing
Administrative Support
Revision Number 1 as of February 1, 2002
Fiscal Year 2002**

	FTEs	Salaries	Payroll Related	Total
Support:				
Executive Office		\$-	\$-	\$-
Legal Services		24,979	5,495	30,475
Internal Audit	0.40	22,213	4,887	27,100
Governmental Communications	0.60	32,360	7,119	39,480
Human Resources	1.00	43,341	9,535	52,876
Facilities and Support	1.00	39,525	8,695	48,220
Information Systems	2.60	146,032	32,127	178,159
Financial Services:				-
Chief Financial Officer/Support Staff	0.60	33,347	7,336	40,683
Budget	0.20	15,096	3,321	18,417
Payroll	0.20	8,781	1,932	10,713
Accounting Manager	0.40	30,192	6,642	36,834
Travel	0.40	17,165	3,776	20,941
Payables	0.30	13,961	3,071	17,032
Program Accountant	1.00	40,944	9,008	49,952
Purchasing	1.00	43,088	9,479	52,568
Total Support, Manufactured Housing	9.70	\$511,024	\$112,425	\$623,449

Note: Revision number 1 deletes the Legal Services provided under the agreement effective February 15, 2002.

DRAFT

Manufactured Housing Administrative Support Fiscal Year 2003

	FTEs	Salaries	Payroll Related	Total
Support:				
Executive Office		\$90,352	\$45,000	\$135,352
Legal Services		95,579	12,000	107,579
Internal Audit	0.40	43,692	4,000	47,692
Governmental Communications	0.60	66,039	18,000	84,039
Human Resources	1.00	60,926	1,000	61,926
Facilities and Support	1.00	-	-	-
Information Systems	2.85	160,975	25,152	186,127
Financial Services:				
Chief Financial Officer/Support Staff	0.30	318,137	69,990	388,127
Budget	0.25	46,548	10,241	56,789
Payroll	0.25	39,888	8,775	48,663
Accounting Manager	0.30	61,272	13,480	74,752
Travel	0.35	40,947	9,008	49,955
Payables	0.30	43,730	9,621	53,351
Program Accountant	1.00	41,159	9,055	50,214
Purchasing	0.80	-	-	-
Total Support, Manufactured Housing	9.40	\$1,109,244	\$235,322	\$1,344,565

**MANUFACTURED HOUSING DIVISION OF THE
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

The Manufactured Housing Division of the Texas Department of Housing and Community Affairs (Department) adopts amendments to §§80.11, 80.52, 80.54, 80.55, 80.119, 80.123, 80.204, and 80.205 with changes to the proposed rules as published in the April 5, 2002 issue of the *Texas Register* (27 TexReg 2642). The text will be republished. The Department adopts new §80.124, and amendments to §§80.20, 80.51, 80.56, 80.62, 80.63, 80.66, 80.121, 80.122, 80.128, 80.130, 80.132, 80.135, 80.180, 80.202, 80.207, and 80.208 without changes to the proposed rules as published in the April 5, 2002 issue of the *Texas Register* (27 TexReg 2642). The text will not be republished.

The Department received 104 comments regarding the proposal. Of these, 38 were written comments and 66 were received orally in a public hearing held on May 20, 2002. The majority of comments, written and oral, totaling 98 of the comments received, were directed to the need to adopt rules clarifying the continuing ability of homeowners to choose between financing the purchase of a manufactured home as a chattel or as real property. The testimony received, written and oral, included testimony from legislators who publicly stated that in voting for H. B. 1869 (77th Legislative Session) it was never their intent to eliminate the option of a chattel loan on a manufactured home.

Except as noted below, the rules as proposed on April 5, 2002 are adopted as final rules with the following non-substantive changes.

Section 80.11(43) (formerly §80.11(33)) - The proposed changes are not adopted. The terminology used in different sections of the Standards Act contains meaningful distinctions which need to be preserved.

Section 80.52(a)(7) - The proposed changes are not adopted. It is believed that the section, as it already exists, accurately describes the legal requirement and the additional language could have the unintended consequence of limiting installations to fully enclosed foundations.

Section 80.54(b)(2)(A) - The proposed text is adopted, but moved to paragraph (2) because §80.54(b)(2)(B) is not adopted.

Section 80.54(b)(2)(B) - The proposed changes are not adopted. It is believed that the additional language could have the unintended consequence of limiting installations to fully enclosed foundations.

Section 80.55(b)(1) - In the first sentence the measurement format was corrected to read 1.25 inches.

Section 80.55(f)(6)(C) - Add the "A strap must be within 3 inches of where the cross member attaches to the main I-beam." This sentence was taken out of the Longitudinal Ties drawing, but is being re-inserted in this subparagraph for clarity.

Section 80.119(g)(6) - To be consistent with the rules, the reference "TMHSA" was amended to "Standards Act."

Section 80.119(h) - To be consistent with the rules, the word "ten" was inserted before the numeric number.

Section 80.123(j)(1) - To be consistent with the rules, the words ninety, thirty, and fifteen were inserted before the numeric numbers.

Section 80.136 - The proposed new section is withdrawn.

Section 80.204(d)(1) - The term "attachment to" is replaced with "being" to avoid confusion over the term "attachment."

Section 80.204(f)(3) - The Department is withdrawing proposed paragraph (3) because statutory disclosure requirements are self-explanatory.

Section 80.205(c)(3)(B) - The proposed changes are adopted with the following non-substantive changes: the words "and chief executive office address" are replaced with the words "sales location address and license number" because this information will achieve the same result, identifying the office involved, while utilizing information that will reduce any ambiguity or confusion as to the affected licensee.

Responses to comments on proposed rules:

Comments on the general issue of the availability of chattel lending on manufactured homes

The majority of the comments focused on the effect of HB 1869 with respect to ability of lenders to finance manufactured home sales with chattel loans. A total of 104 parties provided written and oral testimony on this subject. Of the parties commenting, 3 expressed support for the proposition that chattel loans should be eliminated, and 98 expressed support for the adoption of rules which would facilitate the continued making of chattel loans. One commenter expressed support for the elimination of chattel lending on manufactured homes. Several legislators testified or provided letters and stated that it had not been their intent, in supporting the adoption of HB 1869, to eliminate the ability of Texans to choose whether to finance the acquisition of a manufactured home as real property or as a chattel. Two of these legislators provided suggested language to accommodate the ability to make this choice. However, because the language addressed issues outside the scope of the proposed rules, it is not addressed herein. The Department has under consideration the issue of whether to propose additional rules regarding this issue and, if so, how to approach the matter.

Because of the various sections in the proposed rules, §80.136 was the section which dealt most directly with the issue of how a manufactured home would be classified, *i.e.*, as real or personal property, there were a number of comments on aspects of that section. Although these comments are discussed below in order to continue the dialogue, §80.136 is being withdrawn in its entirety. The primary reason for withdrawing the proposed section relates to the fact that as proposed it related only to financed transactions, but commenters were raising issues about the way that it applied to questions of titling and classification in general. The way that titling and classification issues were to be treated in the context of financed transactions could not alter the scope and effect

of HB 1869 as it might apply to cash transactions. The Department will consider re-proposing the section at a later date.

One commenter, commenting on behalf of a trade association representing approximately 600 financial institutions, asked that the Department clarify the meaning of a manufactured home's being "secured" to a permanent foundation. It was suggested that the definition of "secured" simply cross reference the definition of "permanently affixed." The commenter indicated that if a home is not permanently affixed to the real property on which it is situated, it is not real property. The proposed amendment to renumbered §80.11(43), formerly (33), is also being withdrawn so that the Department may reconsider the meanings of the terms affixed, attached, installed, and secured and issue a proposed definition or definitions that give effect to any differing nuances of meaning. In that regard, it is noted that all of these terms were used in different portions of HB 1869.

One commenter requested clarification as to what exactly was meant by proposed §80.136(b)(1). Specifically, if A owns a manufactured home and it is placed on real property owned by A and B, is it on real property owned by the same person and, therefore, also presumed to be real property (if attached)? It is the view of the Department that "same" means identical and "A" is not the "same" as "A and B." We see no need to define further a word which is already well-defined. This same commenter went on to ask if the nature of the land or the use of the home made a difference. For example, if it made a difference that A placed A's home on A's land but it was a very large tract with multiple uses or A's home on A's land would be for use by an employee or family member of A. The size of the parcel of real estate and the use of the manufactured home do not, in our estimation, have any bearing on how the home is to be titled and classified.

The same commenter questioned how §80.136(a) and (b) would be reconciled on the issue of treatment of cash sales. Given that §80.136, by its terms, applies only to financed transactions, we do not see the inconsistency. It appears that the reader is trying to draw a conclusion that in some way §80.136(b) would result in the titling of a manufactured home would be handled differently depending on whether it was a cash sale or a financed sale. Because the issues treated in this section are some of the most controversial issues under HB 1869 it is understandable that readers would be focusing on this language to see if it provided a "loophole" in the statute. That is not and cannot be the case. The rules must be consistent with the statute pursuant to which they are enacted.

Another commenter submitted that there should be no reason to require that the closing of a cash sale occur at one of the designated locations (attorney, title company, or federally insured financial institution) because this would needlessly increase consumers' costs. The statute does not permit any such exceptions. All sales of manufactured homes that constitute real property under §19 of the Standards Act must close at one of these designated locations, without exception.

Two of the legislators testified that in supporting the enactment of HB 1869 they never intended to eliminate the chattel mortgage have provided suggested language for inclusion in a rule. This language focuses on the fact that different terminology is used when referring to classification as real estate for purposes of assessing and collecting *ad valorem* taxes ("attached," which is defined in §19A of the Standards Act) and "affixed" and "become(s) an improvement," which are not defined. The suggested language draws distinctions between these terms that would, if put into effect, enable a manufactured home to be classified, assessed, and taxed as real property while

being characterized for other purposes, such as the granting of a security interest to secure repayment of a loan, as either a chattel or as real property, depending on a number of factors.

Comments on other specific sections in the proposed rules

Section 80.11(54) -- One commenter expressed support for the proposed revision.

Section 80.20 – One commenter asked for the justification for the proposed increase in fees.

The Department has not revised its licensing fees since 1987. During that time, the costs of the Department have increased, not just in licensing but also in titling, enforcement, and other areas. These fees, as increased, are in line with fees for similar licenses and are designed to enable the Department to continue to conduct its licensing, titling, and oversight functions on a fiscally responsible basis.

Inspection fees do not cover the Department's calculated costs for conducting inspections. The changes brought about by the enactment of HB 1869 will place additional work on the Department to review the design, installation, and utilization of permanent foundations.

The Department believes that the proposed fees are an equitable way of spreading some of the costs of carrying out its responsibilities.

Section 80.52(a)(7) – One commenter asked why the proposed rule would require the use of a Texas engineer, noting that many manufacturers have their own engineers who are not licensed in Texas. The use of out-of-state engineers will continue to be permitted only when the activities are part of a DAPIA function. The Department believes that utilizing an engineer to approve foundation-related matters for a Texas site should, unless federal law, in connection with a DAPIA-related function, permits otherwise, be performed by Texas engineers. Another commenter asked that the proposed new language in this section and the similar language in §80.54(b)(2)(B) be deleted. The rationale for this request was that it would effectively require that all foundations be skirted, which would have been an unintended result. Accordingly, the proposed language will not be incorporated in the rules, as adopted.

Section 80.55(f)(6) – One commenter opposed the requirement for the spacing of tie-down straps on Wind Zone II homes, citing problems with the distances from windows and doors. While the Department understands the issues that spacing presents, no change will be made. When anchors are placed more closely than four feet and an anchor pulls out, the cone of earth it affects could adversely affect the adjacent anchors. Requiring this spacing will minimize this problem.

Section 80.119(g)(2) – One commenter asked if MHD were approved to perform FHA inspections. It is not and does not believe it should pursue such approval.

Section 80.121(c) – One commenter expressed support for the proposed revision.

Section 80.124 – One commenter asked for additional clarification to be added, delineating when money received by a retailer is a down payment and when it is a deposit. The Department believes that the definitional distinctions that have been made are adequate. No further clarification on this point is believed to be warranted.

Section 80.124(d)(1) – One commenter asked that the proposed rule be revised to provide examples of areas that could be covered by representations, stating that they were not all-inclusive, and providing that the required notice be given again prior to any agreed alteration of the representations. The Department does not believe that such examples will be useful. The provision applies to all representations regarding the home. Re-disclosing in the event of agreed alterations does not appear to be required by or provided for by the statute.

Section 80.124(d)(3) – One commenter asked that retailers be required, when conducting a transaction in a language other than English, to provide translated notices, using the language employed for the transaction. The commenter referred to the Texas Constitution, Article 16, §50(g), as the model for the request. The commenter asked for a similar change in proposed §80.136(f)(5). While these suggestions may have merit, the Department does not believe that a constitutional requirement applicable to a wholly different type of transaction is justification for adopting such a requirement. The relevant statutes do not appear to provide for imposing such a requirement on the industry.

Section 80.124(f) – One commenter asked that the proposed rule be revised to make it explicit that a down payment may not be collected prior to the execution of a retail installment contract. The Department does not believe that this is supported by the statute. In fact, the statute specifically excepts from the provisions regarding refunding of deposits the situation where a down payment is placed in escrow in a real estate transaction.

Section 80.132(2)(C) and (D) – One commenter opposed doubling the time to respond to inspection requests. The period provided for, thirty days, is as provided for by statute.

Section 80.180(b)(1) – One commenter opposed these changes. Specifically, the comment read as follows: "We oppose the changes in this section. We believe there has been an error in moving the substance of this section to the new section §80.124. Whereas the current language applies to all deposit transactions, the new language only applies to special order homes. Also, by keeping the language in this section, the failure to deliver the "Important Health Notice" is kept a non-conformance with the rules subject to action by the Department. It is not clear in the new language whether failure to deliver the notice is actionable by the Department or merely results in the ability of the consumer to retrieve their deposit." The Department believes that a violation of the rules is clear grounds for an administrative action, and this is an adequate basis for enforcement. The concept of an event giving rise to a right of refund is adequately defined in the law.

Section 80.202 – One commenter expressed opposition to the proposed revision but offered no specifics. Another commenter requested justification for the proposed fee increases.

The Department has not revised its licensing fees since 1987. During that time, the costs of the Department have increased, not just in licensing but also in titling, enforcement, and other areas. These fees, as increased, are in line with fees for similar licenses and are designed to enable the Department to continue to conduct its licensing, titling, and oversight functions on a fiscally responsible basis.

Inspection fees do not cover the Department's calculated costs for conducting inspections. The changes brought about by the enactment of HB 1869 will place additional work on the Department to review the design, installation, and utilization of permanent foundations.

The Department believes that the proposed fees are an equitable way of spreading some of the costs of carrying out its responsibilities.

Section 80.204 -- One commenter expressed opposition to the proposed revision but offered no specifics.

Section 80.204(f) -- One commenter proposed revising the language to conform more closely to the language of the statute. The Department is withdrawing proposed paragraph (3) because statutory disclosure requirements are self-explanatory.

Section 80.208 -- One commenter expressed opposition to the proposed revision but offered no specifics.

The following is a restatement of the rules' factual bases:

Section 80.11 is adopted (*with changes*) to add new definitions and revise existing definitions related to manufactured housing.

Section §80.20 is adopted (*without changes*) to provide clarification of required fees for installation reports, seals, education fee, reinspection of consumer's home and habitability inspections.

Section §80.51 is adopted (*without changes*) because a provision was needed for manufacturers to file their installation manuals electronically, if they desired, and a sentence was reworded so that an installer will not mistakenly believe that an engineer could approve a wind zone I home, built after September 1, 1997, for installation in a wind zone II county.

Section 80.52 is adopted (*with changes*). Amended §80.52(b) to clarifying if a certification will be by the homeowner only, the certification must show compliance with local ordinances if applicable. This rule will help avoid the cancellation of home titles for homes installed with conditional use zoning permits. Lenders may know this requirement, but a consumer probably does not.

Section §80.54 is adopted (*with changes*) to clarify standards for installation of manufactured homes. The site preparation responsibilities are amended in §80.54(b) because the responsibility for site preparation and proper drainage will differ depending on specific circumstances. For example, when a consumer contracts to have the home installed on a lot owned by the consumer, the consumer has the site preparation and drainage responsibility; however, the retailer will be responsible if the home is installed before it is sold. Also, §80.54(b) is amended to allow installers to follow instructions for the home, specifications of an approved stabilization system, or the generic standards. §80.54(d)(6) is amended to decrease the required size of shims from at least 4-inches to a minimum of 3-inches because several shim producers reported that they do not make a 3.5 or 4-inch wide shim.

Figure: 10 TAC §80.54(d)(4) is adopted (*without changes*). Notation number 5 is added to Table 3A referencing the correct American Society for Testing and Materials (ASTM) standard and defines actual block dimensions that are 3/8 inch less than the nominal dimensions.

Figure: 10 TAC §80.54(d)(6) is adopted (*without changes*). Notation number 1 and 2 are revised because inspectors need a reference to cite after observing damaged support system components. The specifications in Pier A are updated because the present wording is incorrect and conflicts with the drawing. Plate size is updated in Pier A and B drawings because installers need another plate size to make up a pier height.

Figure: 10 TAC §80.54(d)(6)(C) is adopted (*without changes*). Updated number 1 in the notation section in Figure 3C because installers need a method when the front face of the perimeter pier is flush with the perimeter joist.

Section 80.55 is adopted (*with changes*). The rule is amended for inspectors to have a way to identify conforming tie-down straps when inspecting the installation of manufactured homes. §80.55(d) is amended for installers to have a standard for the number of longitudinal ties per end when cross-drive rock anchors are used in difficult soil. §80.55(e) is amended to correct an inaccurate reference relating to standards for the installation of manufactured homes. §80.55(f) is amended to more clearly describe the requirements for longitudinal ties.

Figure: 10 TAC §80.55(c)(2) is adopted (*without changes*). Updated number 1 in the notation section regarding placement of stabilizing plates because the illustration does not describe the diameter of the concrete collar.

Figure: 10 TAC §80.55(d)(2) is adopted (*without changes*). Increased the maximum vertical distance in the wind zone I table up to a pier height of 80 inches and revised numbers 1 through 9 in the notation section for clarity.

Figure: 10 TAC §80.55(d)(3) is adopted (*without changes*). The revisions are non-substantive (only changed the formatting).

Figure: 10 TAC §80.55(e)(1) is adopted (*without changes*). Revised Table 5a concerning the maximum spacing for diagonal ties per side of the assembled unit by increasing the maximum vertical distance in the table up to a pier height of 80 inches and revised numbers 1 through 9 in the notation section for clarity.

Figure: 10 TAC §80.55(f)(4) is adopted (*without changes*). The revisions are non-substantive (only changed the formatting).

Figure: 10 TAC §80.55(f)(6)(D) is adopted (*without changes*). Revised figure 1 and 2 notations in the longitudinal ties drawing for clarify.

Section 80.56 is adopted (*without changes*). Amended §80.56(a) to clarify the types of material that are appropriate air and water infiltration barriers. Amended §80.56(d) to correct inaccurate references in paragraphs (1) and (4).

Figure: 10 TAC §80.56(a)(4) is adopted (*without changes*). Relocated drawing from §80.56(a)(3) and made non-substantive revisions (only changed the formatting).

Figure: 10 TAC §80.56(c)(2) is adopted (*without changes*). Revised the text in the endwall connections drawing for clarity.

Figure: 10 TAC §80.56(d)(4) is adopted (*without changes*). The current reference is incorrect in the roof connection drawing.

Figure: 10 TAC §80.56(h)(1) is adopted (*without changes*). The revisions are non-substantive (only changed the formatting).

Section 80.62 is adopted (*without changes*). Amended §80.62(a) to explain that we will accept certification reports that are smaller than 8.5 by 11 inches. Amended §80.62(d) & (e) to clarify wording and revised referenced codes.

Section 80.63 is adopted (*without changes*). Amended §80.63(c) to include preservative treated wood components as approved materials as long as they conform to standards set by the American Wood Preserver's Association. Amended §80.63(e) to update the publication reference that sets standards for certain types of stabilizing systems.

Section 80.66(e) is adopted (*without changes*) to explain that a damaged home may be refurbished to its original structural configuration, if not damaged enough to be declared salvage.

Section 80.119 is adopted (*with changes*). Amended §80.119(c) to reflect the updated cite referenced in the Standards Act. Amended §80.119(f) to delete the procedures for the obsolete Installation Report (Form T) and add a procedure for the Notice of Installation Affidavit. Amended §80.119(g) to describe the procedures when the installer selects the Department, a local government, or other inspectors to inspect the permanent foundation before concealment. Amended §80.119(h) to describe the procedure when the installer installs a manufactured home as personal property on land not owned by the consumer.

Section 80.121 is adopted (*without changes*). Amended §80.121(a) to require the retailer to at least summarize the contents of the warranties to the consumer before the contract or binding agreement is signed. Amended §80.121(a) and (b) to describe the retailer record keeping responsibilities. Amended §80.121(c) so that the Department may prosecute retailers who knowingly sell new or used manufactured homes to consumers in unsuitable zones.

Section 80.122(a) is adopted (*without changes*) to expound on security requirements that are also mentioned in the Standards Act.

Section 80.123 is adopted (*with changes*). Amended §80.123(a) through (c) to add the requirement to identify the corporate business name and corporate structure. Amended §80.123(d) because the rebuilders are considered licensed instead of certified. Amended §80.123(e) to require Articles of Incorporation or Assumed Name Certificate and correct a section reference. Amended §80.123(f) to limit the time that a temporary installer's license is valid to 30 calendar days and to allow a homeowner to install their homes by the generic installation standards. Amended §80.123(g) to clarify the requirements for a salesperson's license, identifies who may act as a salesperson and

allows the Department to track the salespersons that change their employer. Amended §80.123(h) to prevent a duplicate license. Amended §80.123(j) to outline the requirements for a nonprofit educational institution or foundation to be approved for conducting a training program as sanctioned by the Standards Act, §7(q). Section 80.123(k) is added because a non-compliance history is an important factor in determining whether to deny, suspend or revoke a license. Amended §80.123(k) to prevent license renewals from being in a pending status indefinitely. Amended §80.123(n) to delete information that is no longer necessary.

New §80.124 is adopted (*without changes*) to detail requirements for retaining deposits and down payments. The new rule is necessary to prevent improper deposit and down payment practices.

Section 80.128 is adopted (*without changes*). Section 80.128(a)(4) was amended to fully define Department.

Section 80.130(a) through (c) is adopted (*without changes*) to describe in more understandable terminology the requirements for delivery of warranty.

Section 80.132 is adopted (*without changes*) to comply with current consumer complaint requirements in the Standards Act and the Federal Manufactured Home Procedural and Enforcement Regulations concerning procedures for handling consumer complaints.

Section 80.135(a) is adopted (*without changes*) to clarify that a salvaged home or a home that is not habitable may not be auctioned to a consumer as a dwelling.

New §80.136 is withdrawn.

Section 80.180(b)(1) is adopted (*without changes*) regarding the formaldehyde notice requirements to delete information that is covered in new §80.124 (relating to Deposits and Down Payments).

Section 80.202 is adopted (*without changes*). Amended §80.202(a) to clarify that there is a fee for reissuance of a certificate of attachment and that cancellations and quick titles are separate processes. Cancellations involve a unique process that cannot be accomplished within the quick title timeframe. Therefore, we need to require that quick title applications arrive by overnight mail or delivered in-person because it is impossible to ferret out the quick title applications when submitted by regular mail. Amended §80.202(b) to add that a fee of \$35 is required for reissuance of a certificate of attachment. Amended §80.202(c) to add that the Department will accept company or business firm checks in payment of the fee for issuance of a license. Amended §80.202(d) to omit the fee amount of \$35 because the fee could be different.

Section 80.204 is adopted (*with changes*). Amended §80.204(b) to lessen the restriction that may have caused the Department to reject more title applications for lack of completeness than necessary. Amended §80.204(b)(5) describing the right of survivorship is deleted because it is outlined in the Standards Act. Amended §80.204(b)(6) explaining that the fees will also be submitted along with the application to the Austin headquarters for processing. Amended §80.204(c) to require that a map be included in the installation information furnished to the Department. Amended §80.204(d) describing the information found on a document of title, is amended to omit the space available for the signature of the purchaser because the title is no longer transferable in this manner.

Section 80.205 is adopted (*with changes*). Amended §80.205(c) to clarify filing of the inventory-finance security form. Amended §80.205(d) because the Department can consider other documents for release of lien other than Form B (Release of Lien or Foreclosure of Lien). Amended §80.205(g) to clarify right of survivorship.

Section 80.207(a) is adopted (*without changes*) to clarify when a canceled document of title may be reinstated.

Section 80.208(b) and (c) are adopted (*without changes*) because the four-part form format is no longer used for recording tax liens. The updated format coincides with the Standards Act.

The new and amended sections are adopted under the Texas Manufactured Housing Standards Act, Texas Civil Statutes, Article 5221f, §9, which provides the Department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and under Texas Government Code, Chapter 2306, §2306.603, which authorizes the director to adopt rules as necessary to administer and enforce the manufactured housing program through the Manufactured Housing Division.

The agency hereby certifies that the adopted amendments have been reviewed by legal counsel and found to be within the agency's authority to adopt.

No other statute, code, or article is affected by the adopted amendments.

Manufactured Housing Rules (Adopted Format)

*Administrative Rules of the Texas Department of Housing and Community Affairs
10 Texas Administrative Code, Chapter 80*

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SUBCHAPTER A. CODES AND STANDARDS

§80.10. *Texas Manufactured Housing Standards Code.*

- (a) The Texas Manufactured Housing Standards Code for HUD-Code manufactured homes shall be the Federal Standards established under Title VI of the Housing and Community Development Act of 1974 and each change, amendment, or requirement shall become effective in conjunction with the effective date set by the federal program.
- (b) The historical record of standards adopted for manufactured homes in accordance with the Standards Act, is as follows:
 - (1) Prior to December 11, 1969: none;
 - (2) December 12, 1969 - August 31, 1971: American National Standards Institute (ANSI), A119.1-1963, plumbing, heating and electrical;
 - (3) September 1, 1971 - December 15, 1971: none;
 - (4) December 15, 1971 - February 16, 1972: ANSI, A119.1-1969, plumbing, heating and electrical;
 - (5) February 17, 1972 - January 31, 1973: ANSI, A119.1-1973, plumbing, heating and electrical;
 - (6) February 1, 1973 - September 19, 1973: ANSI, A119.1-1973, plumbing, heating, electrical and construction;
 - (7) September 20, 1973 - August 31, 1974: ANSI, A119.1-1973, plumbing, heating, electrical and construction;
 - (8) September 1, 1974 - June 14, 1976: ANSI, A119.1-1974, plumbing, heating, electrical and construction; and
 - (9) June 15, 1976 - Future: HUD-Code - National Manufactured Home Construction and Safety Standards, Part 3280, promulgated by the United States Department of Housing and Urban Development (HUD), Code of Federal Regulations (CFR), Title 24.

SUBCHAPTER B. DEFINITIONS

§80.11. *Definitions.*

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

- (1) Alteration - The replacement, addition, and modification or removal of any equipment or its installation after sale by the manufacturer to a retailer, but

prior to sale and installation to a purchaser which may affect the construction, fire safety, occupancy plumbing, heat-producing, or electrical system. An alteration is deemed to be prior to sale if the alteration is part of the retail sales contract. It includes any modification made in the manufactured home which may affect the compliance of the home with the standards, but it does not include the repair or replacement of a component or appliance requiring plug-in to an electrical receptacle where the replaced item is of the same configuration and rating as the one being replaced. It also does not include the addition of an appliance requiring "plug-in" to an electrical receptacle, which appliance 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 it is connected (FMHCSS §3287.7(c)).

- (2) Anchoring components - Any component which is attached to the manufactured home and is designed to resist the horizontal and vertical forces imposed on the manufactured home as a result of wind loading. These components include auger anchors, rock anchors, slab anchors, ground anchors, stabilizing plates, connection bolts, j-hooks, buckles, and split bolts.
- (3) Anchoring equipment - Straps, cables, turnbuckles, and chains, including tensioning devices, which are used with ties to secure a manufactured home to anchoring components or other approved devices.
- (4) Anchoring systems - Combination of ties, anchoring components, and anchoring equipment that will resist overturning and lateral movement of the manufactured home from wind forces.
- (5) APA - Administrative Procedure Act, Texas Government Code, Chapter 2001.

(6) Board – Governing Board of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs.

(7)~~(6)~~ Business use - Any use other than for dwelling purposes.

(8)~~(7)~~ Calendar days - Includes every day on the calendar.

(9)~~(8)~~ Certificate of Attachment ~~[to Real Estate]~~ - A certificate issued by the department to the person who surrenders the **Manufacturer's Certificate of Origin** ~~[manufacturer's certificate of origin]~~ or document of title when the home has been permanently affixed to real estate.

(10)~~(9)~~ Coastline - The shoreline that forms the boundary between the land and the Gulf of Mexico or a bay or estuary connecting to the Gulf of Mexico that is more than five miles wide.

(11) Covenant Disclosure Notice Affidavit - Disclosure to consumer by retailer and lender required pursuant to §21 of the Standards Act.

(12)~~(10)~~ Credit document - The credit sale contract or the loan instruments including all the written agreements between the consumer and creditor that relate to the credit transaction.

(13)~~(11)~~ Creditor - A person involved in a credit transaction who:

- (A) extends or arranges the extension of credit; or
- (B) is a retailer or broker as defined in the Standards Act and participates in arranging for the extension of credit.

(14) Creditor-Lender – A person that is involved in extending or arranging for credit in inventory financing secured by manufactured housing.

(15)~~(12)~~ Custom designed stabilization system - An anchoring and support system that is not an approved method as prescribed by the state generic standards, manufacturer's installation instructions, or other systems pre-approved by the department.

(16)~~(13)~~ DAPIA - The Design Approval Primary Inspection Agency.

(17)~~(14)~~ Defect - A failure to comply with an applicable federal manufactured home safety and construction standard that renders the manufactured home or any part or component thereof not fit for the ordinary use for which it was intended, but does not result in an unreasonable risk of injury or death to occupants of the affected manufactured home (FMHCSS §3282.7(j)).

(18)~~(15)~~ Department - The **Manufactured Housing Division of the** Texas Department of Housing and Community Affairs (TDHCA).

(19) Department inspector - An inspector who is an employee of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs or an inspector who is an employee of an entity performing inspection services under contract with the department.

(20) Deposits - Money or other consideration given by a consumer to a retailer, salesperson, or agent of a retailer to hold a home in inventory for subsequent purchase or to special order a home for subsequent purchase.

(21)~~(16)~~ Diagonal tie - A tie intended to primarily resist horizontal forces, but which may also be used to resist vertical forces.

(22)~~(17)~~ Director - The Executive Director of the **Manufactured Housing Division of the** Texas Department of Housing and Community Affairs (TDHCA).

(23) Document of Title – The instrument issued by the department to reflect the ownership of a manufactured home and any liens on such home as provided by the records of the department.

(24) Down Payment - An amount, including the value of any property used as a trade-in, paid to a retailer to reduce the cash price of goods or services purchased in a credit sale transaction.

(25) [(18)] Dwelling unit - One or more habitable rooms which are designed to be occupied by one family with facilities for living, sleeping, cooking and eating.

(26) [(19)] FMHCSS - Federal Manufactured Home Construction and Safety Standards that implement the National Manufactured Home Construction and Safety Standards Act of 1974, 42 USC 5401, et seq., and means a reasonable standard for the construction, design, and performance of a manufactured home which meets the needs of the public including the need for quality, durability, and safety.

(27) [(20)] Footing - That portion of the support system that transmits loads directly to the soil.

(28) [(21)] Ground anchor - Any device at the manufactured home site designed to transfer manufactured home anchoring loads to the ground.

(29) [(22)] HUD-Code manufactured home - A structure constructed on or after June 15, 1976, according to the rules of HUD, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems. The term does not include a recreational vehicle as that term is defined by 24 CFR, §3282.8(g).

(30) [(23)] Imminent safety hazard - A hazard that presents an imminent and unreasonable risk of death or severe personal injury that may or may not be related to failure to comply with an applicable federal manufactured home construction and safety standard (FMHCSS §3282.7(q)).

(31) [(24)] Independent testing laboratory - An agency **or firm** that tests products for conformance to standards and employs at least one engineer or architect licensed in at least one state.

(32) [(25)] Installation information - A term used to describe the reports used to inform the department of information needed to perform installation

inspections (includes Notice of Installation Affidavit [~~"Affidavit of Installation" and "Form E - Statement of Home Location"~~]).

(33) [~~(26)~~] IPIA - The Production Inspection Primary Inspection Agency which evaluates the ability of manufactured home manufacturing plants to follow approved quality control procedures and/or provides ongoing surveillance of the manufacturing process.

(34) Lien – A security interest that is created by any kind of lease, conditional sales contract, deed of trust, chattel mortgage, trust receipt, reservation of title or other security agreement of whatever kind or character, if an interest, other than an absolute title, is sought to be held or given in a manufactured home, and any lien on a manufactured home that is created or given by the constitution or a statute.

(35) [~~(27)~~] Main frame - The structural components on which the body of the manufactured home is mounted.

(36) [~~(28)~~] Manufactured home - A HUD-Code manufactured home or a mobile home and collectively means and refers to both.

(37) [~~(29)~~] Manufactured home identification numbers - For purposes of title records, the numbers shall include the HUD label number(s) and the serial number(s) imprinted or stamped on the home in accordance with HUD departmental regulations. For homes manufactured prior to June 15, 1976, the Texas seal number, as issued by the department, shall be used instead of the HUD label number. If a home manufactured prior to June 15, 1976, does not have a Texas seal, or if a home manufactured after June 15, 1976, does not have a HUD label, a Texas seal shall be purchased from the department and attached to the home and used for identification in lieu of the HUD label number.

(38) [~~(30)~~] Manufactured home site - That area of a lot or tract of land on which a manufactured home is installed.

(39) [~~(31)~~] Mobile home - A structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

(40) Notice of Attachment - Notice as defined in §19(I) of the Standards Act that may be filed in property records of the county in which the home is located by a person before department can issue Certificate of Attachment when home is affixed or becomes an improvement to real estate.

(41) Notice of Improvement Attachment - Notice as defined in §19(l) of the Standards Act that must be filed in property records of the county in which the home is located by a title insurance company before department can issue Certificate of Attachment when home is affixed or becomes an improvement to real estate.

(42) [(32)] Permanent foundation - A system of supports^[5] and securements, including piers, either partially or entirely below grade which is constructed or certified in accordance with the criteria outlined in §80.52(a) and (b), of this title (relating to Permanent Foundation Performance Criteria).

(43) [(33)] Permanently affixed, permanently attached, permanently installed or becomes an improvement - Having been anchored to the real estate by attachment to a permanent foundation.

NOTE: The proposed new text is not adopted.

(44) [(34)] Rebuild - To make a salvaged manufactured home habitable in accordance with §80.66 of this title (relating to Rebuilding or Repairing a "Salvaged" Manufactured Home).

(45) [(35)] Rebuilder - Any person, within the state, who has been licensed [certified] by the department to rebuild a salvaged manufactured home, as defined in §8(g) of the Standards Act, [§8(g),] in accordance with the rules and regulations of the department.

(46) Refurbish - To make a nonhabitable manufactured home or section habitable by repairing, adding, replacing, modifying, or removing components.

(47) [(36)] Serious defect - Any failure to comply with an applicable federal manufactured home construction and safety standard that renders the manufactured home or any part thereof not fit for the ordinary use for which it was intended and which results in an unreasonable risk of injury or death to occupants of the affected manufactured home (FMHCSS §3282.7(gg)).

(48) [(37)] Shim - A wedge-shaped piece of cedar, oak, walnut, pecan, gum, ash, hickory, elm, or other comparable hardwood or other accepted material not to exceed one (1) inch vertical (actual) height.

(49) [(38)] Stabilizing components - All components of the anchoring and support system such as piers, footings, ties, anchoring equipment, ground anchors, and any other equipment which supports the manufactured home and secures it to the ground.

(50) ~~[(39)]~~ Standards Act - Texas Manufactured Housing Standards Act, Texas Revised Civil Statutes, Article 5221f.

(51) ~~[(40)]~~ Support system - A combination of footings, piers, caps and shims that support the manufactured home.

(52) ~~[(41)]~~ TDHCA - The Manufactured Housing Division of the Texas Department of Housing and Community Affairs (Department).

~~[(42)] TDHCA inspector - An inspector who is an employee of the department or an inspector who is an employee of an entity performing inspection services under contract with the department.]~~

(53) ~~[(43)]~~ TMHSA - Texas Manufactured Housing Standards Act, Texas Revised Civil Statutes, Article 5221f.

(54) ~~[(44)]~~ Used [manufactured] home - Any manufactured home (or mobile home) for which a document [or certificate] of title has previously been issued by an appropriate agency of any state or which has been occupied.

(55) ~~[(45)]~~ Vertical tie - A tie intended to primarily resist the uplifting and overturning forces.

(56) ~~[(46)]~~ Wind Zone I - All Texas counties not in Wind Zone II.

(57) ~~[(47)]~~ Wind Zone II - Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Orange, Refugio, San Patricio, and Willacy counties.

(58) ~~[(48)]~~ Working days - Includes every day on the calendar except Saturday, Sunday, and federal and state holidays.

SUBCHAPTER C. FEE STRUCTURE

§80.20. Fees.

- (a) Annual License Fees and Renewal Fees:
- (1) \$425 ~~[\$375]~~ for each manufacturer's plant license;
 - (2) \$275 ~~[\$225]~~ for each retailer's sales license;
 - (3) \$275 ~~[\$225]~~ for each rebuilder's license;
 - (4) \$175 ~~[\$125]~~ for each broker's license;
 - (5) \$175 ~~[\$125]~~ for each installer's license; and

- (6) \$100 [~~\$50~~] for each salesperson's license.
- (b) Installation Fees:
- (1) There is a reporting fee of \$20 for the installation of each manufactured home which is not installed on a permanent foundation.
 - (2) There is a reporting fee of \$100 for the installation of a manufactured home permanently affixed to real estate or on a permanent foundation.
 - (3) Installation fees shall be submitted to the department as follows:
 - (A) When the installation occurs in conjunction with a title transfer, the fee must be submitted to the department along with the application for title and the Notice of Installation Affidavit [Form E (Affidavit of Installation)]; or
 - (B) For secondary moves (when there is no title transfer), the fee must be submitted to the department along with a completed Notice of Installation Affidavit [Form T (Installation Report)] within ten (10) working days following the installation date.
 - (4) Fee distributions to local governmental entities performing inspection functions pursuant to contract with the department shall be made in accordance with department procedures and the provisions of the contract.
- (c) Alteration Fee: There is a fee of \$30 per hour or a minimum fee of \$30 for the inspection of alterations made upon the structure, plumbing, heating, or electrical systems of manufactured homes. The fee is paid to the department by the person making the alterations. The person shall also reimburse the department for mileage and per diem incurred by department personnel to and from the place of inspection.
- (d) Seal Fee: There is a fee of \$15 for the issuance of Texas Seals. Any person who sells, exchanges, lease purchases, or offers for sale, exchange, or lease purchase a used HUD-Code manufactured home manufactured after June 15, 1976, that does not have a HUD label affixed, or a used mobile home manufactured prior to June 15, 1976, that does not have a Texas Seal affixed shall file an application to the department for a Texas Seal. The application shall be accompanied by the seal fee of \$15 per section made payable to the department.
- (e) Monitoring Fee: There is a fee, as required by HUD, to be paid by each manufacturer in this state for each HUD-Code manufactured home produced. The monitoring inspection fee is established by the secretary of HUD, (pursuant to 24 CFR §3282.307) who shall distribute the fees collected from all manufacturers among the approved and conditionally approved states based on the number of new homes whose first location after leaving the manufacturing plant is on the premises of distributor, retailer, or purchaser in that state, and the extent of participation of the

state in the joint monitoring program established under the National Manufactured Housing Construction and Safety Standards Act of 1974.

- (f) Homeowner's Temporary Installer's License: There is a fee of \$40 for the issuance of a homeowner's temporary installer's license, which shall also include the cost of the installation inspection. The fee shall be made payable to the department.
- (g) Education Fee: Each attendee at the course of instruction in the law and consumer protection regulations for license applicants shall be assessed a fee of ~~\$250~~ \$125. If a manufacturer requests the training be performed at his or her facility, the manufacturer shall reimburse the department for the actual costs of the training session (educational fee plus actual cost of travel).
- (h) Habitability Inspection:
 - (1) There is a fee of \$100 for the inspection of a manufactured home which is to be titled for use as a residence after the title has been previously canceled for business use or to become real estate ~~[other purposes and has been surrendered]~~. The inspection is to determine if the home is habitable as defined by §8 of the Standards Act. The fee shall accompany a Form A to apply for reinstatement of the title along with those documents set forth in §80.207 of this title (relating to Reinstatement of Canceled Documents of Title)~~[written request for the inspection]~~. The person requesting the inspection for the use change of a manufactured home shall be charged for mileage and per diem incurred by department personnel traveling to and from the location of the manufactured home. The inspector shall advise the consumer of the charges incurred and no title shall be issued until all fees have been paid.
 - (2) There is a fee of \$125 for the plan review and inspection of a salvaged manufactured home which is to be ~~[has been]~~ rebuilt to determine if the home is habitable for reinstatement of the ~~[issuance of a new]~~ title. The fee shall accompany a written request for the inspection. The rebuilder shall also be charged for mileage and per diem incurred by department personnel traveling to and from the location of the home. See §80.66 of this title (relating to Rebuilding or Repairing a "Salvaged" Manufactured Home). The inspector shall advise the rebuilder of the charges incurred and no title shall be issued until all fees have been paid.
- (i) Consumer Complaint Inspection:
 - (1) There is a fee of \$100 for the initial inspection of a consumer's home in accordance with a consumer complaint when requested by a license holder or party other than a consumer. The fee shall accompany a written request for the inspection.
 - (2) There is a fee of \$100 for the reinspection of a consumer's home. ~~[The fee shall be paid by the license holder, party other than the consumer, or the~~

~~consumer.]~~ The fee shall be paid by the party deemed responsible by the department.

- (j) Titles: Fees relating to titles and title transactions are set forth in §80.202 of this title (relating to Fees for Title Documents).

SUBCHAPTER D. STANDARDS AND REQUIREMENTS

§80.50. *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) A manufactured home constructed on or after September 1, 1997 must meet the Wind Zone II standards adopted by HUD in order to be installed in a Wind Zone II county.
- (c) All manufactured homes constructed prior to September 1, 1997 may be installed in Wind Zone I or Wind Zone II without restriction.
- (d) A consumer purchasing a manufactured home constructed on or after September 1, 1997 to Wind Zone I standards must be given a written notice by the selling retailer that:
 - (1) The home was not designed nor constructed to withstand hurricane force winds which may occur in Wind Zone II or III areas; and
 - (2) The home is not permitted to be installed in Wind Zone II counties in Texas, and there may be restrictions in other states prohibiting installation in Wind Zone II or III areas.
- (e) The notice required by this section shall be given to the consumer prior to the execution of any mutually binding sales agreement or retail installment sales contract.
- (f) A manufactured home constructed on or after September 1, 1997 shall not be installed within 1,500 feet of the coastline in Wind Zone II, unless the home and its anchoring and support systems have been designed for the increased requirements specified for Exposure D in ANSI/ASCE 7-88.

§80.51. *Manufactured Home Installation Requirements.*

- (a) The following tasks are the responsibility of the manufacturer:
 - (1) Manufacturers shall file with the department copies, in the number specified by the department, of installation instructions approved by the manufacturer's

DAPIA. DAPIA approval stamps, engineer or architect approval stamps, and the installation manual effective date shall be on each page of the installation instructions or on the cover pages of bound installation manuals, unless an equivalent method of authentication is used for electronically filed documents.

- (2) A manufacturer may file an appendix to the state's generic standards as a part of the manufacturer's installation instructions if the design of one or more of its homes requires a change in the generic standards to protect the structural integrity of the home. The appendix shall specify which provision of the generic standards is being changed and clearly set forth in detail the change that is necessary.
 - (3) At least thirty (30) calendar days prior to the effective date of any change, modification, or update to the manufacturer's installation instructions or any appendix, the manufacturer shall file such change, modification, or update with the department and mail a copy(s) to all the manufacturer's retailers.
- (b) Manufactured homes installed in Wind Zone I shall be installed in accordance with the manufacturer's installation instructions or the generic standards approved by the department for Wind Zone I.
- (c) Manufactured homes installed in Wind Zone II shall:
- (1) if constructed before September 1, 1997, be installed in accordance with the manufacturer's installation instructions for Wind Zone II or the department's generic standards for Wind Zone II;
 - (2) if constructed on or after September 1, 1997, have data plates indicating Wind Zone II construction and be installed in accordance with the manufacturer's installation instructions for Wind Zone II or the department's generic standards for Wind Zone II.
- (d) In lieu of the requirements of subsections (b) and (c) of this section a manufactured home or an identified class of manufactured homes may be installed at a particular area with similar soil properties according to county soil survey or other geotechnical reports in accordance with a custom designed stabilization system drawing that is stamped by a Texas licensed professional engineer or architect. A custom designed stabilization system may or may not meet the definition of a permanent foundation, but must meet the wind loading requirements of zone II in order to be installed in wind zone II, and a copy of the stabilization system drawing must be forwarded to the department along with the installation report. It must be reported on the permanent foundation installation inspection report form and sent to the department at least ten (10) working days prior to the date of construction, along with the required fee, if the bottoms of the footings or piers are embedded more than 24 inches below the finished natural grade or engineered fill.

§80.52. Permanent Foundation Criteria.

- (a) The permanent foundation system shall be either:
- (1) capable of transferring all design loads imposed by or upon the structure into soil or bedrock without failure;
 - (2) placed at an adequate depth below grade to prevent structural damage from frost heave [damage];
 - (3) constructed of concrete, metal, treated lumber or wood, masonry, or other materials conforming to nationally recognized standards;
 - (4) designed so that all of the components of the foundation system cannot be easily removed from the site and used at any other location and the drawings state that the foundation is a permanent foundation for a manufactured home;
 - (5) designed so that the attached structure resists overturning due to wind pressure by the dead load resisting moment of the structure and foundation. The weight of earth superimposed over footings may be used to calculate the dead load resisting moment. The overturning moment shall not exceed the dead load resisting moment and the overturning moment, multiplied by a safety factor of 1.5, shall be less than or equal to the dead load stabilizing moment plus the stabilizing moment due to ground anchor reactions;
 - (6) designed to have the structure attached without the towing hitch, axles, brakes, wheels and other parts of the chassis that operate only during transportation; and
 - (7) designed in accordance with accepted engineering practice to resist damage due to decay, insects, and condensation with the underfloor crawl space entirely enclosed with a perimeter foundation, skirting, retaining wall or equivalent. Underfloor access through the perimeter foundation, skirting, retaining wall, or equivalent shall be through a minimum clear opening of 18 inches by 24 inches. The opening shall be located as close as practical to the utilities so fuel, electric, water, and sewer connections are accessible for inspection, service, and repair. The panel or door for the access panel shall not require tools, more than 5 pounds of force, or the operation of more than four devices to remove or open the access panel or door. The panel or door must be easily identifiable or permanently labeled "Access" in 3/4 inch high bold letters. There must be a minimum of 30 inches of clear space directly in front of each access panel or door. A Texas licensed engineer or architect shall stamp and sign each foundation drawing. If the foundation drawing is approved by the DAPIA, the engineer or architect may be licensed in another state; or

NOTE: The proposed new text is not adopted.

- (b) In the alternative for a home acquired and installed before January 1, 2002, [it is] a permanent foundation is a system which is certified by the consumer/mortgagor and the lender/mortgagee in a real estate loan transaction, or certified by the owner if there is no lien or the lien has been released, as having permanently affixed the structure to the real estate. If the certification is by the owner only, the certification must show compliance with local ordinances if applicable.

§80.53. *Manufacturer's Design Requirements.*

- (a) Each new manufactured home shall be designed and constructed as a completely integrated structure capable of sustaining the design load requirements of the FMHCSS and shall be capable of transmitting the loads to anchoring systems without causing an unsafe deformation or an abnormal internal movement of the structure or its structural parts.
- (b) Each new manufactured home shall have provisions for anchoring systems which, when properly designed and installed, will resist overturning and lateral movement of the manufactured home up to the respective design loads.
- (c) The provisions of this section shall be followed and the support and anchoring systems shall be designed by a licensed professional engineer or architect.
- (d) The manufacturer shall design homes to make provisions for the necessary support and anchoring systems, but is not required to provide the anchoring equipment. Printed installation instructions for support and anchoring systems for each model shall be filed with the department as required by the department. When the manufacturer's installation instructions provide for the main frame structure to be used as the point for connection to diagonal ties, no specific connecting devices need to be provided on the frame. Ties shall be designed and installed to prevent self disconnection when the ties are slack. For example, open end hooks shall have set screws or other mechanisms to prevent disconnection when there is slack in the strapping.
- (e) The manufacturer shall provide printed instructions with each new home specifying the location, orientation and required capacity of stabilizing components on which the design is based. The installer must use stabilizing components that have the required capacity and install them according to the anchor or stabilizing component manufacturer's current installation instructions. When soil auger anchor shafts are not installed in-line with the diagonal frame ties or the combined loads of two ties, approved stabilizer plates, or other approved methods, must be used in accordance with the installation instructions for the soil auger anchors and stabilizer plates. If a difficult soil, such as mixed soil and rock or caliche (heavily weathered limestone) that is not solid rock, exists at the homesite, the installer may install a home in accordance with the generic standards and §80.55(d)(4) of this title (relating to Anchoring Systems).
- (f) The minimum number of ties (f) required per side shall be sufficient to resist the wind load stated in the FMHCSS §3280.305(c).

§80.54. Standards for the Installation of Manufactured Homes.

- (a) All manufactured homes shall be installed in accordance with one of the following:
- (1) the home manufacturer's installation instructions;
 - (2) the state's generic standards set forth in this section, §80.55 of this title (relating to Anchoring Systems), §80.56 of this title (relating to Multi-Section Connection Standards), and modified by any appendix filed in accordance with §80.51(a)(2) of this title (relating to Manufactured Home Installation Requirements);
 - (3) a custom designed stabilization system;
 - (4) a stabilization system pre-approved by the department; or
 - (5) on a permanent foundation.
- (b) Site Preparation Responsibilities and Requirements:
- (1) The purchaser is responsible for the proper preparation of the site where the manufactured home (new or used) is to be installed unless the home is installed in a rental community. Except in rental communities, the purchaser shall remove all debris, sod, tree stumps and other organic materials from all areas where footings are to be located. In areas where footings are not to be located, all debris, sod, tree stumps and other organic material shall be trimmed, cut, or removed down to a maximum height of 8 inches above the ground. The retailer must give the purchaser a site preparation notice as described in this section prior to the execution of any binding sales agreement, if the sales agreement will be executed before the home is installed. If the installation is a secondary move, not involving a retail sale, the installer must give the homeowner the site preparation notice prior to any agreement for the secondary installation of the home.
 - (2) If the retailer or installer provides the materials for skirting or contracts for the installation of skirting, the retailer or installer is responsible for the following: The retailer or installer shall install any required moisture and ground vapor control measures in accordance with the home installation instructions, specifications of an approved stabilization system, or the generic standards and shall provide for the proper cross ventilation of the crawl space. If the purchaser or homeowner contracts with a person other than the retailer or installer for the skirting, the purchaser or homeowner is responsible for installing the moisture and ground vapor control measures and for providing for the proper cross ventilation of the crawl space. ~~[installing any required moisture and ground vapor control measures in accordance with the home installation instructions or the generic standards and for providing for the proper~~

~~cross ventilation of the crawl space. If the purchaser or homeowner contracts with a person other than the retailer or installer for the skirting, the purchaser or homeowner is responsible for installing the moisture and ground vapor control measures and for providing for the proper cross ventilation of the crawl space.]~~

NOTE: Subparagraph (A) is moved to paragraph (2) because (B) is not adopted.

~~(B) — The retailer or installer shall enclose the entire underfloor crawl space with a perimeter foundation, skirting, retaining wall or equivalent. The retailer or installer shall provide underfloor access through the perimeter foundation, skirting, retaining wall, or equivalent shall be through a minimum clear opening of 18 inches by 24 inches. The opening shall be located as close as practical to the utilities so fuel, electric, water, and sewer connections are accessible for inspection, service, and repair. The panel or door for the access panel shall not require tools, more than 5 pounds of force, or the operation of more than four devices to remove or open the access panel or door. The panel or door must be easily identifiable or permanently labeled “Access” in three-fourth inch high bold letters. There must be a minimum of 30 inches of clear space directly in front of each access panel or door.~~

NOTE: Subparagraph (B) is not adopted.

- (3) Clearance: If the manufactured home is installed according to the state’s generic standards, a minimum clearance of 18 inches between the ground and the bottom of the floor joists must be maintained. In addition, the installer shall be responsible for installing the home with sufficient clearance between the I-Beams and the ground so that after the crossover duct prescribed by the manufacturer is properly installed it will not be in contact with the ground. Refer to §80.56 of this title (relating to Multi-Section Connection Standards) for additional requirements for utility connections. It is strongly recommended that the installer not install the home unless all debris, sod, tree stumps and other organic materials are removed from all areas where footings are to be located.
- (4) Drainage: The purchaser is responsible for proper site drainage where the manufactured home (new or used) is to be installed unless the home is installed in a rental community. [Except in rental communities, proper drainage is the responsibility of the homeowner.] It is strongly recommended that the installer not install the home unless the exterior grade is sloped away from the home or another approved method to prohibit surface runoff from draining under the home is provided. Drainage prevents water build-up under the home. Water build-up may cause shifting or settling of the foundation, dampness in the home, damage to siding and bottom board, buckling of walls and floors, delamination of floor decking and problems with the operation of windows and doors.

(5) Generic Moisture and Ground Vapor Controls:

(A) If the manufactured home is installed according to the state's generic standards and the space under the home is to be enclosed with skirting and/or other materials provided by the retailer and/or installer, an access opening not less than 18 inches in any dimension and not less than three square feet in area shall be provided by the installer. The access opening shall be located so that any water supply and sewer drain connections located under the home are accessible for inspections. If a clothes dryer exhaust duct, air conditioning condensation drain, or combustion air inlet is present, the installer must pass it through the skirting to the outside. In addition, crawl space ventilation must be provided at the rate of minimum 1 square foot of net free area, for every 150 square feet of floor area. At least six openings shall be provided, one at each end of the home and two on each side of the home. The openings shall be screened or otherwise covered to prevent entrance of rodents (note: screening will reduce net free area). For example, a 16'x76' single section home has 1216 square feet of floor area. This 1216 square feet divided by 150 equals 8.1 square feet or 1166 square inches of net free area crawl space ventilation.

(B) The retailer and/or installer must notify the purchaser that moisture and ground vapor control measures are required if the space under the home is to be enclosed. Water vapor build-up may cause dampness in the home, damage to siding and bottom board, buckling of walls and floors, delamination of floor decking and problems with the operation of windows and doors. The generic ground vapor control measure shall consist of a ground vapor retarder that is minimum 6 mil polyethylene sheeting or its equivalent, installed so that the area under the home is covered with sheeting and overlapped approximately 12 inches at all joints. Any tear larger than 18 inches long or wide must be taped using a material appropriate for the sheeting used. The laps should be weighted down to prevent movement. Any small tears and/or voids around construction (footings, anchor heads, etc.) are acceptable.

(c) Notice: The site preparation notice to be given to the consumer shall be as follows:

SITE PREPARATION NOTICE

FAILURE TO PROPERLY PREPARE THE SITE MAY INVALIDATE YOUR WARRANTIES. Unless the home is installed in a rental community, you, the purchaser or homeowner, are responsible for the proper preparation of the site where your manufactured home is to be installed.

All debris, sod, tree stumps and other organic materials from all areas where foundation footings are to be located must be removed. In areas where footings are not to be located, all debris, sod, tree stumps or other organic materials must be trimmed, cut, or removed down to a maximum height of 8 inches above the ground or to a lower level if needed to install any vapor retarder material.

The exterior grade must slope away from the home or other approved means must be provided to prohibit surface runoff from draining under the home. Drainage prevents water build-up under the home. Water build-up may cause shifting or settling of the foundation, dampness in the home, damage to siding and bottom board, buckling of walls and floors, delamination of floor decking and problems with the operation of windows and doors.

If the retailer or installer furnishes the materials for skirting to enclose the crawl space under the home or contracts for the installation of skirting, the retailer or installer must provide and install any required moisture and ground vapor control measures and provide for proper cross ventilation of the crawl space. Otherwise, you are responsible for the moisture and ground vapor control measures and the cross ventilation. If you contract with someone other than the retailer or installer, ask your skirting contractor for details of these requirements.

By your signature(s), you acknowledge that you understand the content of this notice and that you have received a copy and further that this notice was given to you on the date shown and prior to the signing of any binding sales or installation agreement.

purchaser/homeowner signature

purchaser/homeowner signature

type or print name

type or print name

date

date

(d) Footers and Piers:

(1) Proper sizing of footings depends on the load carrying capacity of both the piers and the soil. To determine the load bearing capacity of the soil, the installer may use any of the following methods:

(A) Pocket penetrometer:

- (i) Test a typical area adjacent to or within 10 feet of the perimeter of the unit;
- (ii) Dig down to undisturbed soil. This should be a minimum of 1 square foot surface area; and
- (iii) Using the pocket penetrometer take seven (7) readings, eliminate the highest and the lowest and average the remaining five (5).

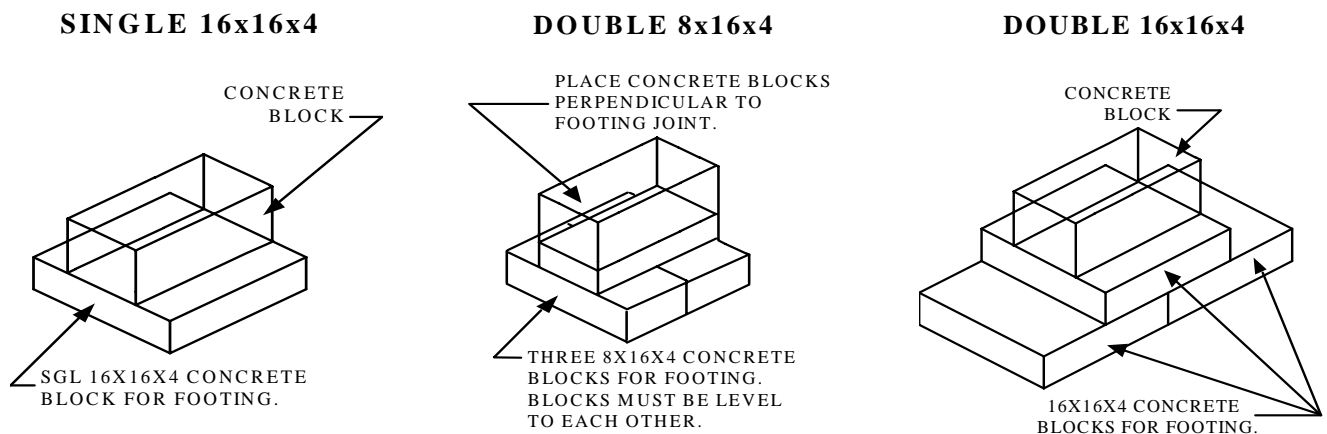
(B) Soil surveys from the U.S. Department of Agriculture;

(C) Values from tables of allowable or presumptive bearing capacities given in local building codes. Such tables are commonly available from the local authority having jurisdiction; or

(D) Any other test data from soil analysis reports.

(2) The footing must be placed on firm, undisturbed soil, or fill compacted to at least 90% of its maximum relative density. Installation on loose, noncompacted fill may invalidate the home's limited warranty.

(3) Footer configurations:



- (4) Footer sizing and capacities: The following tables represent maximum loads and spacings based on footer size and soil bearing capacity. Other approved footers may be used if equal or greater in bearing area than those footer sizes tabulated.

TABLE 3A: FOOTER CAPACITIES (LBS)

-----Soil Bearing Capacity-----

Footer size [sq.in.]	1000psf	1500psf	2000psf	2500psf	3000psf	3500psf	4000psf
16x16x4 [256]	1700	2700	3500	4400	5300	6100	7000
20x20x4 [400]	2700	4100	5500	6900	8300	9400	11000
16x32x4 [512]	3500	5200	6800	8600	10400	12000	14000
24x24x4 [576]	4000	6000	8000	10000	12000	14000	16000

Notes:

- 1) 8x16x4 footers may be used for perimeter and/or exterior door supports. Capacity is half that of the tabulated values for a 16x16x4 footer. For double 8x16x4 footers use the 16x16x4 row.
- 2) Footers of material other than concrete may be used if approved by the department and the listed capacity and area is equal to or greater than the footer it replaces. Concrete footers of sizes not listed may be used as long as their size is equal to or greater than the size listed.
- 3) Footers with loads greater than 10,000 lbs. require a double stacked pier.
- 4) All poured concrete is minimum 2500 psi at 28 days.
- 5) Actual footer dimensions may be 3/8 inch less than the nominal dimensions for solid concrete footers conforming to the specifications in ASTM C90-99a, Standard Specification for Loadbearing Concrete Masonry Units.

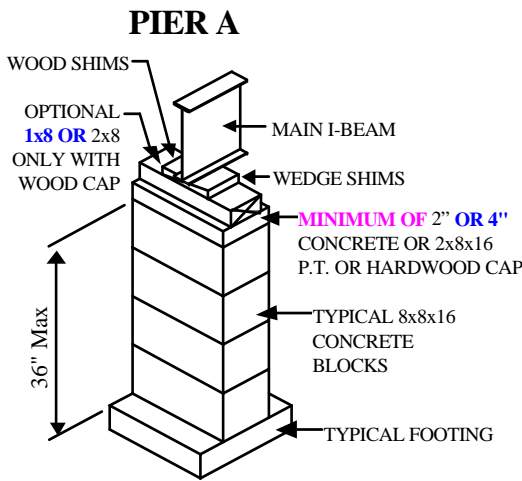
- (5) Piers and pier spacings: One of the most important parts of home installation is proper pier installation. Incorrect size, location or spacing of piers may cause serious structural damage to the home. Spacing and location of piers shall be in accordance with the tables listed in these standards (Table 3B, without perimeter piers; Table 3C, with perimeter piers).
- (A) Spacing shall be as even as practicable along each main I-Beam. Pier spacing may exceed tabulated values up to 30% so long as the total pier count remains the same. End piers are to be located within 24 inches of the end of the main frame.
 - (B) Piers shall extend at least 6 inches from the centerline of the I-Beam or be designed to prevent dislodgment due to horizontal movement of less than 4 inches.
 - (C) Load bearing supports or devices shall be listed by an independent testing laboratory, nationally recognized inspection agency, or other nationally recognized organization and approved by the department. Engineers or architects licensed in Texas may design load bearing supports or devices for a single installation. A copy of the design for

this particular home and site shall be provided to the department before the home is installed, but department approval is not required.

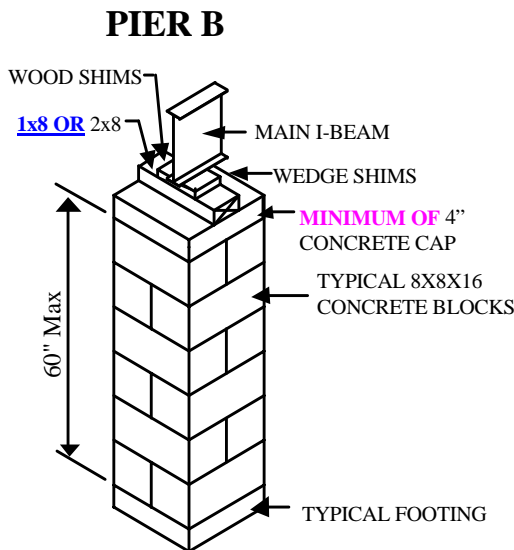
- (D) Sidewall openings greater than 4 feet shall have perimeter piers located under each side of the opening, i.e. patio doors, recessed porches/entries, bay windows and porch posts. Perimeter piers for openings are not required for endwalls.

(6) Pier design: Piers shall be constructed per the following details:

PIER DESIGN (SINGLE & MULTI-SECTION STACK)



Pier A: Single stack of open cell, 8x8x16 concrete blocks. Maximum height is 36 inches as measured from the top of the footer to the top of the last concrete block. Concrete blocks are installed with their lengths [width] perpendicular to the main I-Beam. Open cells must be vertical and in alignment.



Pier B: Interlocked double stack of open cell 8x8x16 concrete blocks. The maximum height is 60 inches as measured from the top of the footer to the top of the last concrete block. The pier is capped with a minimum 16x16x4 concrete cap. Open cells must be vertical and in alignment. Each course of open cell blocks must be perpendicular to the previous course.

Note:

- 1) Open cell and solid concrete blocks shall meet ASTM-C90-99a, ~~[85, Grade N]~~ Standard Specification for Loadbearing Concrete Masonry Units.
- 2) Support system components are to be undamaged and installed in a manner to accomplish the purpose intended. ~~[Solid concrete blocks shall meet ASTM C145-85, Grade N.]~~
- 3) Either wood caps or shims must be used between I-Beam and concrete.

(A) Shimming (if needed): Hardwood shims are commonly used as a means for leveling the home and filling any voids left between the bottom flange of the I-Beam and the top of the pier cap. Wedge shaped shims must be installed from both sides of the I-Beam to provide a level bearing surface. The allowable height must not exceed 1 inch. Shims shall be a minimum of 3 inches~~[at least 4 inches]~~ wide ~~[(nominal)]~~ and 6 inches long. Over shimming should be avoided.

(B) Table 3B - Pier loads (pounds) at tabulated spacings WITHOUT perimeter supports:

----- maximum pier spacing -----

Unit Width(ft)	4 ft o.c.	5 ft o.c.	6 ft o.c.	7 ft o.c.	8 ft o.c.
12 Wide	1725	2150	2600	3000	3400
14 wide	2000	2500	3000	3500	4000
16 Wide	2350	2900	3500	4100	4700

Note: 18 ft. wides require perimeter blocking per table 3C.

Example: Determine maximum pier spacing for a 16 ft. wide x 76 ft. long single section with a soil bearing capacity of 1500 psf. Footer size to be used is a single 16x16x4 precast concrete footer.

Step 1: In table 3A look up the maximum load for a single 16x16x4 pad set on 1500 psf soil.
Answer = 2700 psf

Step 2: In table 3B in the column for 16 ft. wide, find the on-center spacing (o.c.) load equal to or less than the footer capacity of 2700 lbs found in table 3A.
The 4ft column shows minimum capacity of 2350 lbs.

Answer: Therefore, for a 16 ft. wide and a soil bearing capacity of 1500 psf using 16x16x4 footers the maximum pier spacing is 4 ft. o.c.

(C) Table 3C - Pier loads (pounds) at tabulated spacings WITH perimeter supports:

----- maximum I-Beam pier spacing -----

Unit width (ft)	4 ft o.c.	6 ft o.c.	8 ft o.c.	10 ft o.c.	12 ft o.c.
12 Wide	750	1150	1500	1900	2300
14 Wide	1050	1600	2100	2600	3100
16 Wide	1200	1800	2400	3000	3600
18 Wide	1450	2150	2850	3600	4300

Note: Maximum I-Beam pier spacing is 8 ft. o.c. for 8" I-Beam, 10 ft. o.c. for 10" I-Beam and 12 ft. o.c. for 12" I-Beam or the resultant maximum spacing based on soil bearing and footer size per Table 3A, whichever is less.

----- maximum perimeter pier spacing -----

Unit width (ft)	4 ft o.c.	5 ft o.c.	6 ft o.c.	7 ft o.c.	8 ft o.c.
12 Wide	1000	1200	1500	1700	1900
14 Wide	1100	1400	1650	1900	2200
16 Wide	1300	1600	1900	2250	2500
18 Wide	1600	2000	2300	2700	3000

Example: Determine maximum I-Beam pier spacing for a 16 ft. wide with 12" I-Beam, perimeter blocking and 1500 psf soil bearing capacity.

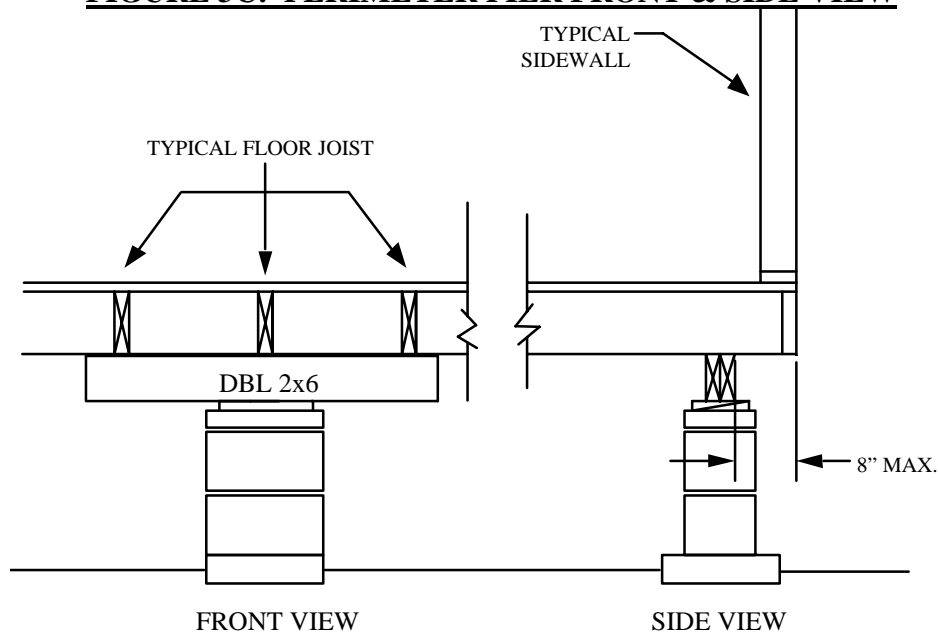
Step 1: From Table 3A, the maximum load for a 16x16x4 at 1500 psf soil is 2700 lbs.

Step 2: From Table 3C, the I-Beam pier load @ 10 ft. o.c. is 3000 lbs ==> no good
the I-Beam pier load @ 8 ft. o.c. is 2400 lbs ==>> ok

I-Beam pier spacing is at 8 ft. o.c.

Step 3: The perimeter pier load @ 8ft. o.c. is 2500 lbs ==>>>> ok
Perimeter pier spacing is at 8 ft. o.c.

FIGURE 3C: PERIMETER PIER FRONT & SIDE VIEW

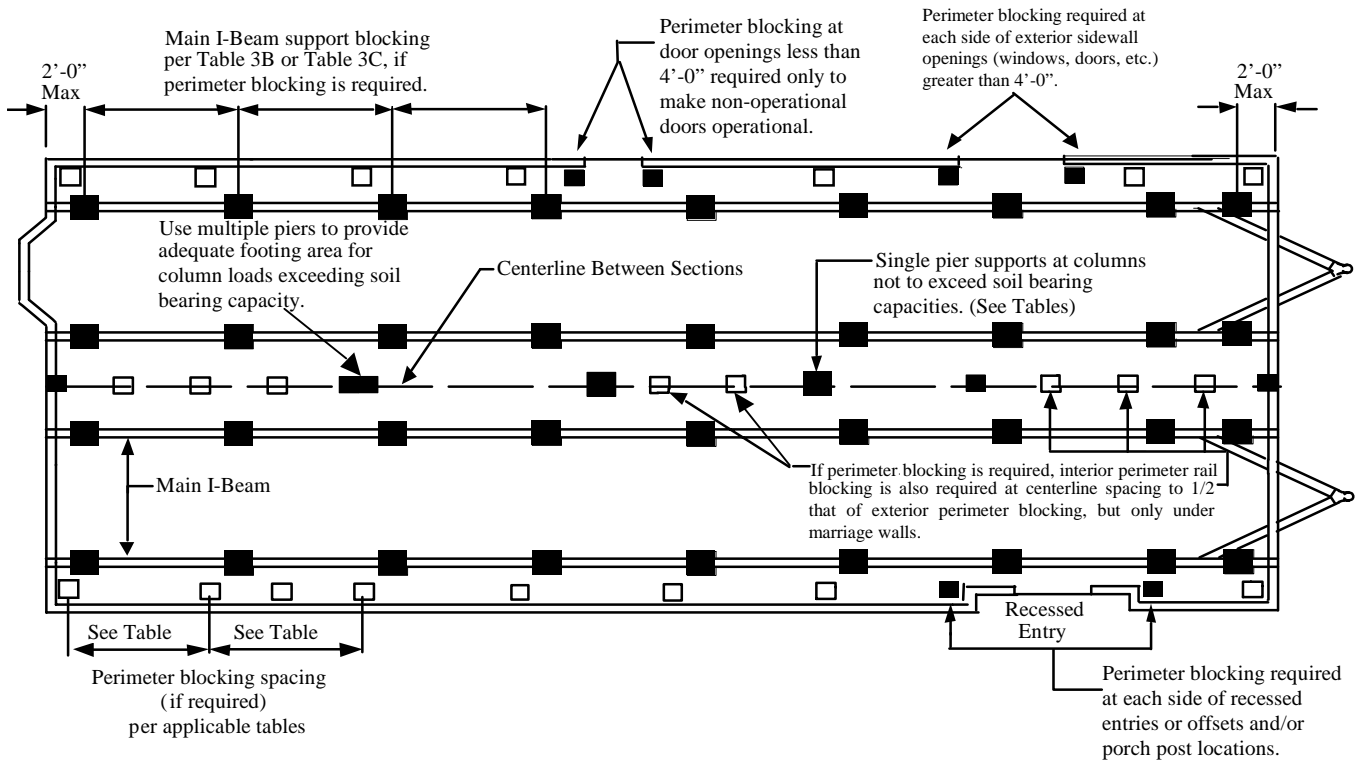


Notes:

- 1) Perimeter pier may be inset from edge of floor up to 8". **The 2x6 brace may be omitted if the front face of a perimeter pier is flush with the perimeter joist and the perimeter pier supports the intersection of an interior joist and perimeter joist.**
- 2) Dbl 2x6 are min. #3 Yellow Pine or pressure treated Spruce-Pine, nailed together with min. 16d nails 2-rows at maximum 8" o.c.
- 3) 2x6 brace must span at least two (2) but not more than three (3) floor joists.

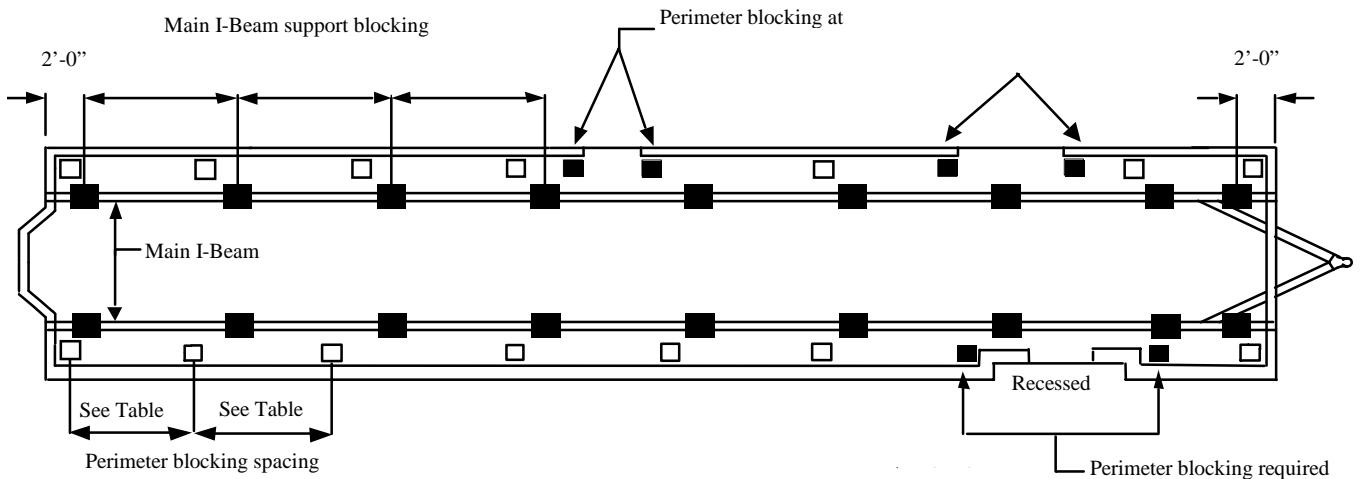
(7) Typical multi-section pier layout:

TYPICAL MULTI-SECTION PIER LAYOUT



(8) Typical single section pier layout:

TYPICAL SINGLE SECTION PIER LAYOUT



(9) Multi-section units mating line column supports:

(A) On multi-section units, openings larger than 4 feet must have piers installed at each end of the opening. To determine the pier loads, refer to Table 3D in subparagraph (D) of this paragraph.

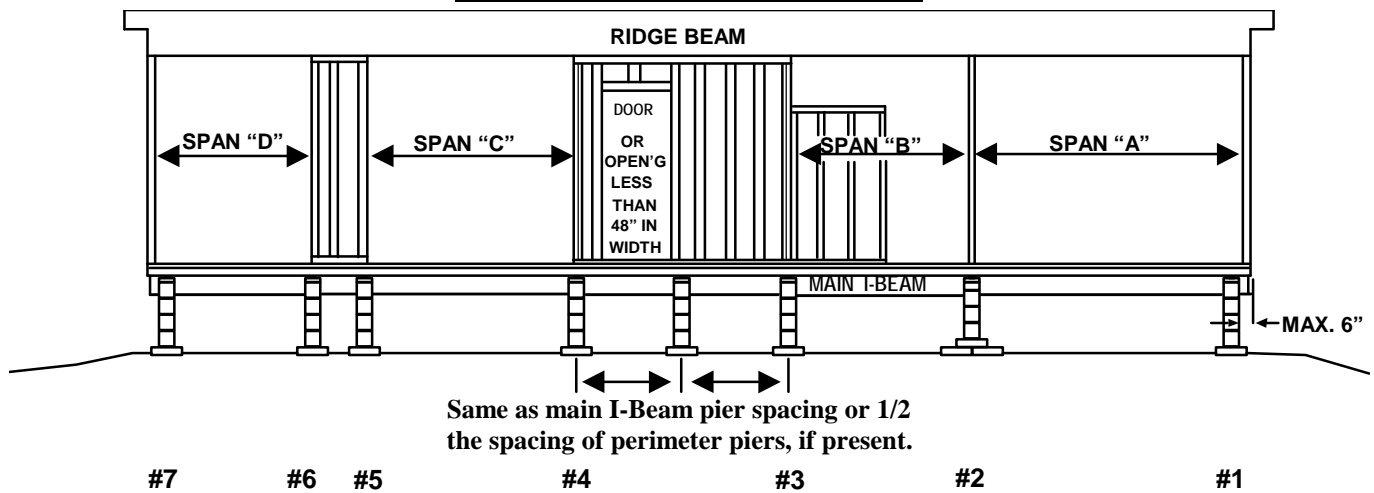
DETERMINING COLUMN LOAD

To determine the column load for Column #1 at the endwall look up Span "A" in Table 3D. To determine the column load for Column #2, look up the combined distance of both Span "A" and Span "B".

To determine the column load for Column #3 look up Span "B" in the table.
(NOTE: Mating line walls not supporting the beam must be included in the span distance.)

To determine the loads for Columns #4 and #5 look up Span "C". For Columns #6 and #7 look up load for span "D".

MARRIAGE LINE ELEVATION



(B) Column loads for each section may be combined when the columns are opposite each other. The footer must be sized for the combined loading.

(C) Additional piers are required under marriage walls (see wall between column #3 and #4 in the Marriage Line Elevation drawing in subparagraph (A) of this paragraph). The maximum spacing is the same as the spacing at the main I-Beams, without perimeter piers, and one half the spacing of the perimeter piers, with perimeter piers installed.

(D) Table 3D: Mating line column loads (pounds).

-----Unit width in feet (nominal)-----

Span in feet	12 Wide	14 Wide	16 Wide
4	720	840	960
6	1080	1260	1440
8	1440	1680	1920
10	1800	2100	2400
12	2160	2520	2880
14	2520	2940	3360
16	2880	3360	3840
18	3240	3780	4320
20	3600	4200	4800
22	3960	4620	5280
24	4320	5040	5760
26	4680	5460	6240
28	5040	5880	6720
30	5400	6300	7200
32	5760	6720	7680
34	6120	7140	8160
36	6480	7560	8640

Note: If actual span is not shown use next higher tabulated span.

§80.55. Anchoring Systems.

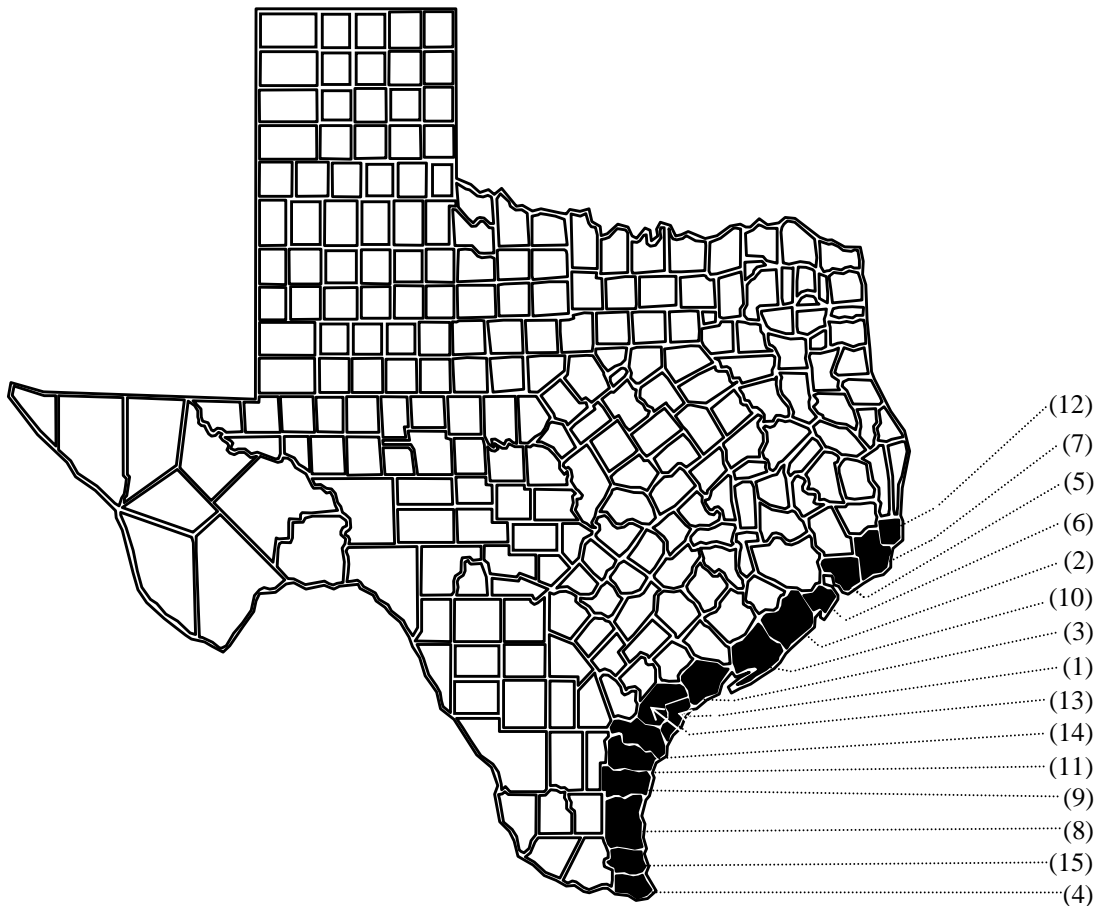
- (a) General Requirements: For units built on or after September 1, 1997, the installer must verify that the unit is designed for the Wind Zone in which it is to be installed. Note: A Wind Zone I unit, built on or after September 1, 1997, may not be installed in a Wind Zone II area. However, a Wind Zone II unit may be installed in a Wind Zone I area.

Counties Located in Wind Zone II

The following counties in Texas are considered to be in Wind Zone II (100 mph):

- | | |
|---------------|-------------------|
| (1) Aransas | (9) Kleberg |
| (2) Brazoria | (10) Matagorda |
| (3) Calhoun | (11) Nueces |
| (4) Cameron | (12) Orange |
| (5) Chambers | (13) Refugio |
| (6) Galveston | (14) San Patricio |
| (7) Jefferson | (15) Willacy |
| (8) Kenedy | |

All other counties are in Wind Zone I.



(b) Material Specifications:

- (1) Strapping shall be Type 1, Finish B, Grade 1 steel strapping, **1.24 [1-1/4]** inches wide and 0.035 inches in thickness, certified by a licensed professional engineer or architect as conforming with the American Society for Testing and Materials (ASTM) Standard Specification D3953 91, Standard Specification for Strapping, Flat Steel, and Seals. Tie materials shall be capable of resisting an allowable working load of 3,150 pounds with no more than 2% elongating and shall withstand a 50% overload (4,725 pounds total). Ties shall have a resistance to weather deterioration at least equivalent to that provided by coating of zinc on steel of not less than 0.30 ounces per square foot on each side of the surface coated (0.0005 inches thick), as determined by ASTM Standards Methods of Test for Weight of Coating on Zinc-coated (galvanized) Iron or Steel Articles (ASTM A 90-81). Slit or cut edges of zinc-coated steel strapping are not required to be zinc coated. **Strapping shall be marked at least every five feet with the marking described by the certifying engineer or architect.**

NOTE: Changed format of measurement to 1.25 inches from 1-1/4.

- (2) All anchoring components must be approved by the department. Installers shall only use approved anchoring components. An installer may obtain a list of approved anchoring components from the department, anchor manufacturer and/or supplier of anchoring components.

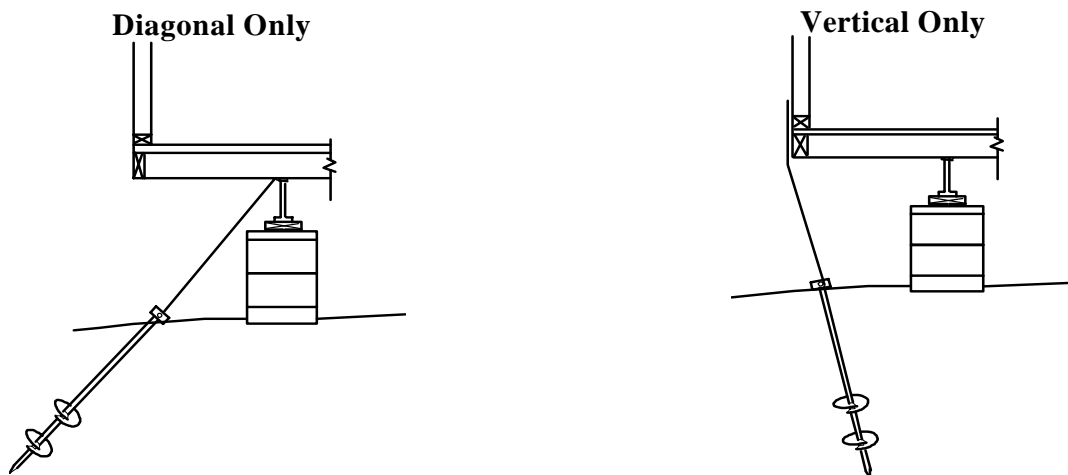
(c) Anchors shall be installed per the following details:

- (1) in direction of load,

ANCHOR INSTALLATION

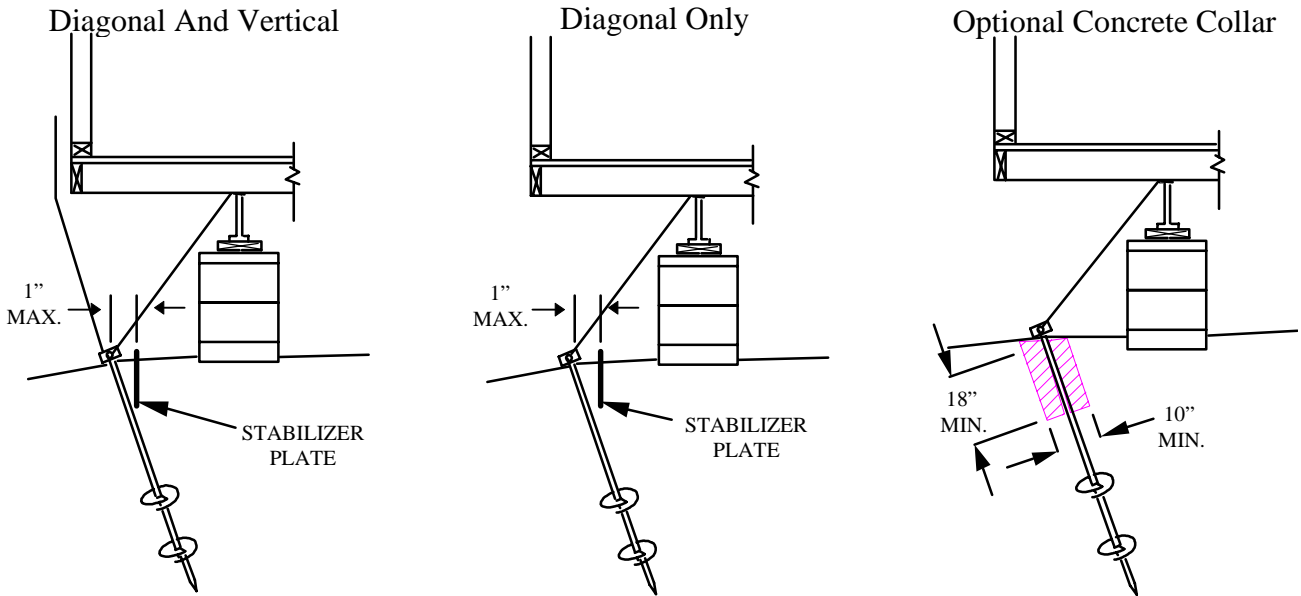
Notes:

- 1) Anchor head must be not more than 1 inch from the ground at insertion point.
- 2) Anchor head may be inset a maximum of 6 inches from the vertical outer edge of the floor framing to allow for skirting installation.



- (2) installed against direction of load (vertical and/or angled), a stabilizer plate must be installed.

PLACEMENT OF STABILIZING PLATES



Notes:

- 1) Stabilizer plate may be replaced with concrete collar **that is at least 18 inches deep and 10 inches in diameter.**
- 2) Diagonal tie must depart from the top of the I-Beam as shown.
- 3) The top of the stabilizer plate must be within 1 inch of the anchor shaft.
- 4) Stabilizer plates must be installed in accordance with the plate manufacturer's instructions.

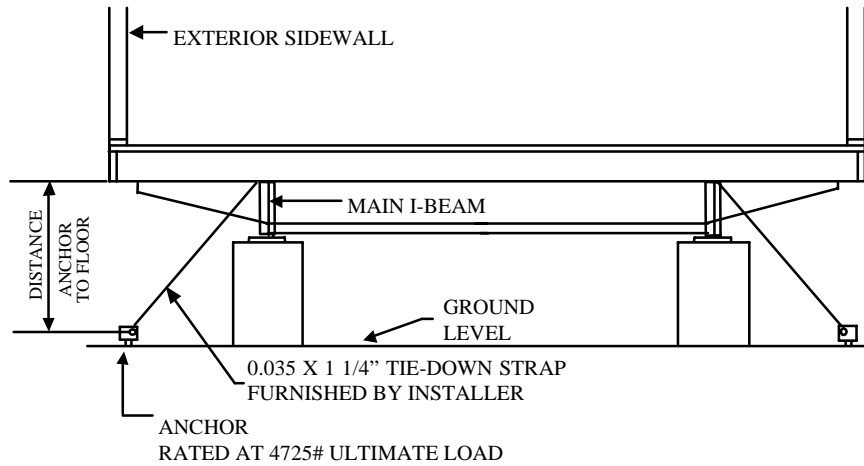
(d) WIND ZONE I Installation:

- (1) Typical anchor layout, single and multi-section units (WIND ZONE I ONLY):

WIND ZONE I – SINGLE/MULTI-SECTION INSTALLATION

(Refer to other figures for depictions of proper anchor and stabilizer device installation.)

Figure 1: Single Section

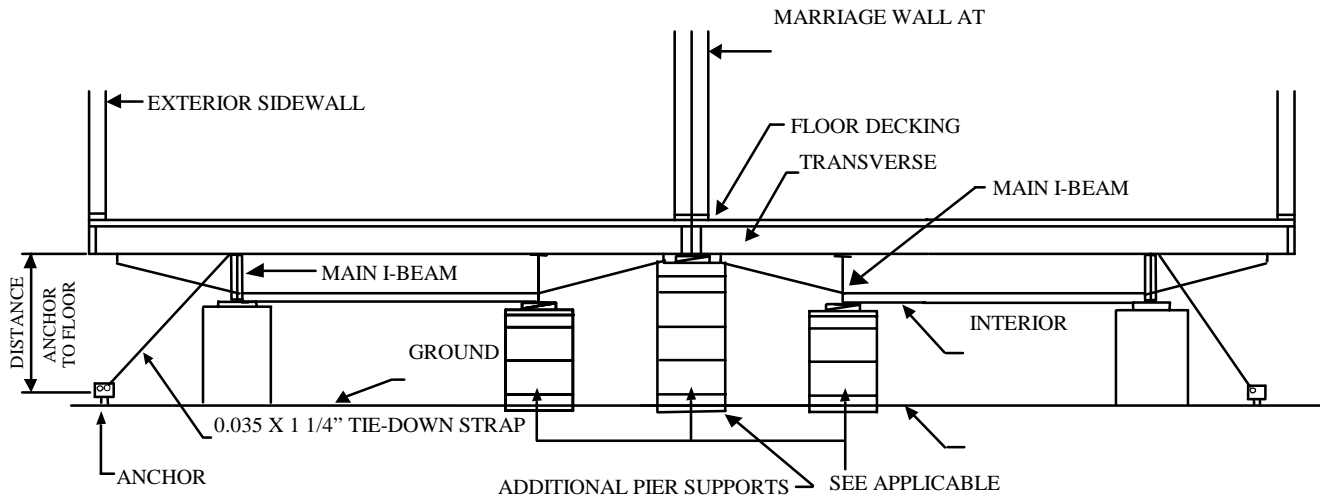


Notes:

- 1) Single section units require diagonal ties to be directly opposite each other.
- 2) All existing vertical ties must be connected to a ground anchor.
- 3) Diagonal tie spacing per Table 4A or §80.55(d)(4). Vertical distance in this table refers to the distance of the anchor head to the underside of the floor joists as shown above.

4

Figure 2: Multi-Section



Notes:

- 1) Multi-section units require diagonal ties on the outer main I-Beams only.
- 2) Diagonal ties need not be directly opposite each other.
- 3) Diagonal tie spacing per Table 4A or §80.55(d)(4). Vertical distance in this table refers to the distance of the anchor head to the underside of the floor joists as shown above.
- 4) Existing vertical ties must be connected to a ground anchor.
- 5) Diagonal tie must depart from the top of the I-Beam as shown.

- (2) Table 4A: The following table describes the maximum spacing for diagonal ties along each side of the unit.

WIND ZONE I ONLY!

<u>Minimum</u> Nominal Widths Single/Double <u>Section</u>				
<u>Max. Vertical Distance</u>	12/24 wide	14/28 wide	16/32 wide	18/36 wide
20" to 24"	11 ft	14 ft	15 ft	16 ft
25" to 29"	9 ft	12 ft	14 ft	15 ft
30" to 40"	8 ft	10 ft	12 ft	14 ft
41" to 48"	7 ft	9 ft	11 ft	13 ft
49" to 60" <u>(see note 3)</u>	6 ft	8 ft	10 ft	12 ft
<u>61" to 80"(see note 3)</u>	<u>5 ft</u>	<u>6 ft</u>	<u>8 ft</u>	<u>10 ft</u>
<u>Minimum number of longitudinal ties, each end of each section.</u>	<u>1</u> <u>at min. 58° angle from vertical</u>	<u>2</u> <u>at min. 32° angle from vertical</u>	<u>2</u> <u>at min. 38° angle from vertical</u>	<u>2</u> <u>at min. 46° angle from vertical</u>

Notes:

- 1) This chart applies to single and multi section **home [floor plans]**.
- 2) Anchoring components are rated at 4725 lbs. ultimate load. Anchoring components and equipment shall be installed in accordance with the anchoring component and equipment manufacturer's installation instructions or the generic standards in 80.55(d)(4). **[Longitudinal ties not required.]**
- 3) Single section units shall have diagonal ties directly opposite each other along the two main I-beams. Multi section units need diagonal ties on the outer-most main I-beam only. **When vertical distance exceeds 48", connect diagonal tie to opposite beam.** ~~**[Anchoring components are rated at 4725 lbs. ultimate load. Anchoring components and equipment shall be installed in accordance with the anchoring component and equipment manufacturer's installation instructions or the generic standards in 80.55(d)(4).]**~~
- 4) Ties installed at each end of the home shall be within 24 inches of each end of the applicable I-beam. ~~**[Single section units shall have diagonal ties directly opposite each other along the two main I-Beams. Multi-section units need diagonal ties on the outer-most main I-Beams only.]**~~
- 5) The distance between any two ties may be exceeded to avoid an obstruction, as long as the total number of ties remains the same, and no two anchors shall be within 4 ft of each other. See table 4 B. ~~**[Ties installed at each end shall be within 24 inches of each end.]**~~

- 6) Any vertical ties present on homes must be attached to a ground anchor. Both vertical and diagonal ties may be connected to a single double-headed anchor, when the anchor is approved for the combined loading. ~~[The distance between any two ties may be exceeded to avoid an obstruction, as long as the total number of ties remains the same and no two anchors shall be within 4 ft of each other. See table 4 B.]~~
- 7) The vertical distance is measured from the anchor head to the underside of the floor joists. ~~[Any vertical ties present on homes must be attached to a ground anchor. Both vertical and diagonal ties may be connected to a single double headed anchor, when the anchor is approved for the combined loading.]~~
- 8) No two anchors shall be within 4 ft of each other. ~~[The vertical distance is measured from the anchor head to the underside of the floor joists.]~~
- 9) Other approved stabilizing systems may replace longitudinal ties. Follow approved installation instructions. ~~[No two anchors shall be within 48 inches of each other.]~~

(3) Table 4B: Minimum number of diagonal ties required per side, per unit length. Table based on 2 feet inset of anchors at each end.

WIND ZONE I ONLY

		----- o.c. spacing (ft) -----											
unit length (ft)	4	5	6	7	8	9	10	11	12	13	14	15	16
40	10	8	7	6	6	5	5	4	4	4	4	3	3
42	11	9	7	6	6	5	5	5	4	4	4	4	3
44	11	9	8	7	6	5	5	5	4	4	4	4	4
46	12	9	8	7	6	5	5	5	5	4	4	4	4
48	12	10	8	7	7	6	5	5	5	4	4	4	4
50	13	10	9	8	7	6	6	5	5	5	4	4	4
52	13	11	9	8	7	6	6	5	5	5	4	4	4
54	14	11	9	8	7	7	6	6	5	5	5	4	4
56	14	11	10	8	8	7	6	6	5	5	5	4	4
58	15	12	10	9	8	7	6	6	6	5	5	5	4
60	15	12	10	9	8	7	7	6	6	5	5	5	5
62	16	13	11	9	8	7	7	6	6	5	5	5	5
64	16	13	11	10	9	8	7	6	6	6	5	5	5
66	17	13	11	10	9	8	7	7	6	6	5	5	5
68	17	14	12	10	9	8	7	7	6	6	6	5	5
70	18	14	12	10	9	8	8	7	7	6	6	5	5

72	18	15	12	11	10	9	8	7	7	6	6	6	5
74	19	15	13	11	10	9	8	7	7	6	6	6	5
76	19	15	13	11	10	9	8	8	7	7	6	6	6
Note: If unit length is not listed use next higher tabulated length.													

(4) When approved auger anchors cannot be inserted into a difficult soil after moistening, such as mixed soil and rock or caliche (heavily weathered limestone) that is not solid rock, approved cross drive rock anchors may be used in accordance with the values and notes for Table 4A in paragraph (2) of this subsection modified as follows:

- (A) since the ultimate anchor pull out in the difficult soil will be reduced, the maximum spacing for diagonal ties per side is one half the spacing allowed by Table 4A which will require adding one additional cross drive rock anchor for each anchor specified **for the sides and ends**;
- (B) the rods of the approved cross drive rock anchors must be fully inserted, have at least 24 inches of the rod lengths embedded in the difficult soil, and be restrained from horizontal movement, when feasible, by a stabilizer plate between the rods and the home; and
- (C) each cross drive rock anchor is connected to one diagonal tie and is not connected to a vertical tie.

(e) WIND ZONE II Installation:

(1) In place of the requirements as shown in subsection (d) of this section, units designed for Wind Zone I and built prior to September 1, 1997, and units designed for Wind Zone II and built prior to July 13, 1994, require diagonal ties as set forth in Table 5A when these units are installed in Wind Zone II. See also §80.50 of this title (relating to Wind Zone Regulations). Items not specifically addressed in this section are the same as for Wind Zone I installations.

**TABLE 5A: MAXIMUM SPACING FOR DIAGONAL TIES
PER SIDE OF THE ASSEMBLED UNIT**

<u>Max. Vertical Distance</u>	<u>Minimum Nominal Widths Single/Double Section</u>			
	12/24 wide	14/28 wide	16/32 wide	18/36 wide
20" to 24"	7 ft	8 ft	8 ft	8 ft
25" to 29"	6 ft	7 ft	8 ft	8 ft
30" to 40"	5 ft	6 ft	7 ft	8 ft
41" to 48"	4 ft	5 ft	6 ft	7 ft
49" to 60"	4 ft [n/a]	6 ft [4-ft]	6 ft [5-ft]	6 ft

(see note 3)				
61" to <u>80"</u> [78] (see note 3)	<u>4 ft</u> [Not Allowed]	<u>4 ft</u> [Not Allowed]	<u>4 ft</u>	<u>4</u> [5] ft
<u>Minimum number of longitudinal ties, each end of each section.</u>	<u>2</u> at min. <u>58°</u> angle from vertical	<u>2</u> at min. <u>32°</u> angle from vertical	<u>3</u> at min. <u>38°</u> angle from vertical	<u>3</u> at min. <u>46°</u> angle from vertical

Notes:

- 1) This chart applies to single and multi section homes [floor plans].
 - 2) Anchor components are rated at 4725 lbs. ultimate load. [~~Longitudinal ties shall be required at each end of each section.~~]
 - 3) Single section units shall have diagonal ties directly opposite each other along the two main I-beams. Multi section units need diagonal ties on the outer-most main I-beam only. When vertical distance exceeds 48", connect diagonal tie to opposite beam. [~~Anchor components are rated at 4725 lbs. ultimate load.~~]
 - 4) Ties installed at each end of the home shall be within 24 inches of each end of the applicable I-beam. [~~Single section units shall have diagonal ties directly opposite each other along the two main I-Beams. Multi section units need diagonal ties on the outer-most main I-Beam only.~~]
 - 5) The distance between any two ties may be exceeded to avoid an obstruction, as long as the total number of ties remains the same, and no two anchors shall be within 4 ft of each other. See table 4 B. [~~Diagonal ties installed at each end shall be within 24 inches of each end.~~]
 - 6) Any vertical ties present on homes must be attached to a ground anchor. Both vertical and diagonal ties may be connected to a single double-headed anchor, when the anchor is approved for the combined loading. [~~The distance between any two ties may be exceeded to avoid an obstruction, as long as the total number of ties remains the same, and no two anchors shall be within 4 ft of each other. See table 4 B.~~]
 - 7) The vertical distance is measured from the anchor head to the underside of the floor joists. [~~Any vertical ties present on homes must be attached to a ground anchor. Both vertical and diagonal ties may be connected to a single double-headed anchor, when the anchor is approved for the combined loading.~~]
 - 8) No two anchors shall be within 4 ft of each other. [~~The vertical distance is measured from the anchor head to the underside of the floor joists.~~]
 - 9) Other approved stabilizing systems may replace longitudinal ties. Follow approved installation instructions. [~~Longitudinal ties installed at each end do not count as sidewall ties.~~]
- [10]—~~No two anchors shall be within 48 inches of each other.~~]

(2) Units built to Wind Zone II on or after July 13, 1994.

(A) Units built to Wind Zone II on or after July 13, 1994, should have either built-in, or provisions for connecting, vertical ties along the sidewall(s) of each unit(s). A diagonal tie must be installed at each vertical tie location (except for designated shearwall tie). Built-in vertical ties shall be connected to anchors. If there are brackets or

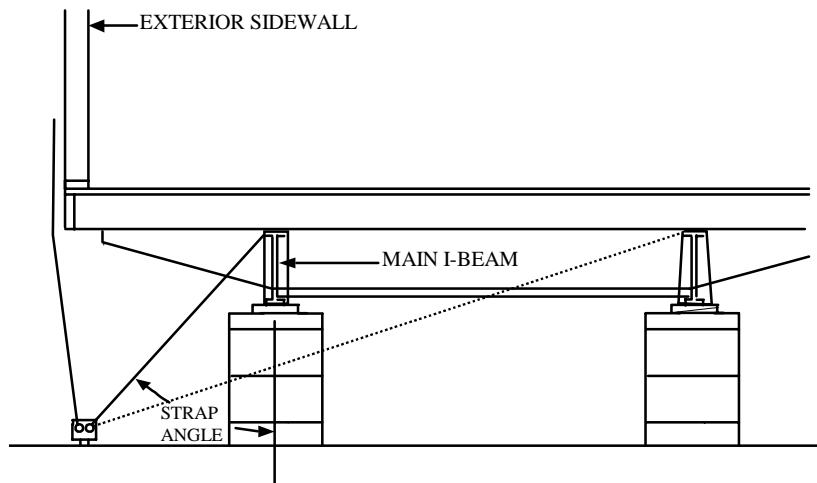
other provisions for connecting vertical ties, vertical ties shall be added at the brackets or provisions and connected to anchors.

- (B) Only factory installed vertical ties may be closer than 4 feet from each other.
- (C) Where tie locations are clearly marked as a shear wall strap, a perimeter pier must be installed at that location. See subsection [§80.54\(d\)](#) [~~§80.54(e)~~] of this title (relating to Standards for the Installation of Manufactured Homes) for perimeter pier construction. Diagonal tie is not required.
- (D) Where the vertical tie spacing exceeds 8'-0" on-center (see also note 6 in table 5A for exception), the anchoring system must be approved by the home manufacturer's installation manual, or designed by a professional engineer or architect licensed in the state of Texas.
- (E) Where pier heights exceed 36 inches in height, the diagonal strap shall be connected to the opposite I-Beam (see Figure 1).

DIAGONAL STRAP PLACEMENT FOR PIERS EXCEEDING 36 INCHES IN HEIGHT

(Refer to other figures for depiction of proper anchor and stabilizer device installation.)

Figure 1

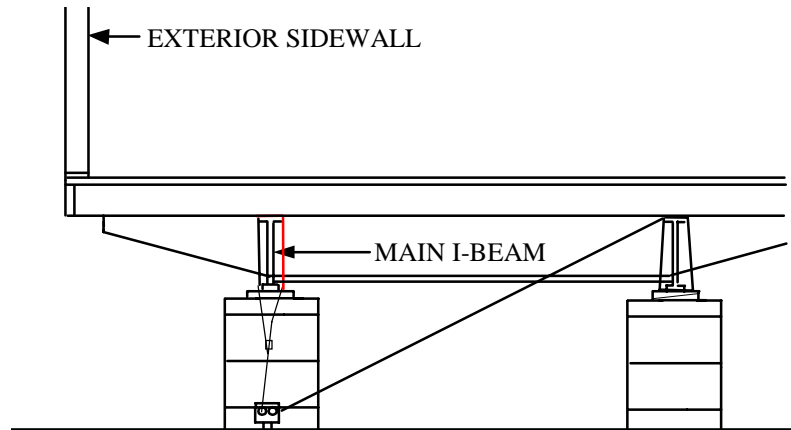


- (F) Where vertical tie locations are not easily discernable, the vertical ties may be connected to the main I-Beam rails and the anchor installed directly below that connection point. The diagonal tie must be connected to the opposite main I-Beam. In no case shall the distance between those ties exceed 5'-4" on-center (see Figure 2).

DIAGONAL AND VERTICAL TIES

(Refer to other figures for depiction of proper anchor and stabilizer device installation.)

Figure 2



- (3) Multi-section centerline anchoring requirements (Wind Zone II only):
- (A) centerline anchor ties are required for ALL Wind Zone II installations, regardless of the date the unit was manufactured, when installation occurs on or after the effective date of these rules.
 - (B) factory installed centerline vertical ties, brackets, buckles or any other connecting devices must be connected to a ground anchor. No additional anchors as described in subparagraph (D) of this paragraph are required.
 - (C) to avoid obstructions and/or piers and footers, the anchor may be offset up to 12 inches perpendicular to the centerline.
 - (D) where factory preparations do not exist, install anchors and angle iron brackets at each side of mating line openings wider than 48 inches per table 5B (see Figure 5B for detail).
 - (i) Where equal spans exist opposite each other (i.e., each section), a double bracket assembly may be used. The maximum opening is per table 5B. Total uplift load may not exceed the anchor and/or strap capacity (i.e., 3150 pounds).
 - (ii) the angle iron bracket is minimum 11 gauge. The holes for the lag screws are a maximum of 4 inches apart.
 - (iii) lag screws/bolts are minimum 5/16 x 3 inches, full thread.
- (4) For openings separated by a wall or post 16 inches or less in width, the opening span is the total of the spans on each side of the wall/post.

(f) Bracket Installation.

- (1) Table 5B: Maximum Centerline wall opening for column uplift brackets (*see figure 5B for typical installation details*).

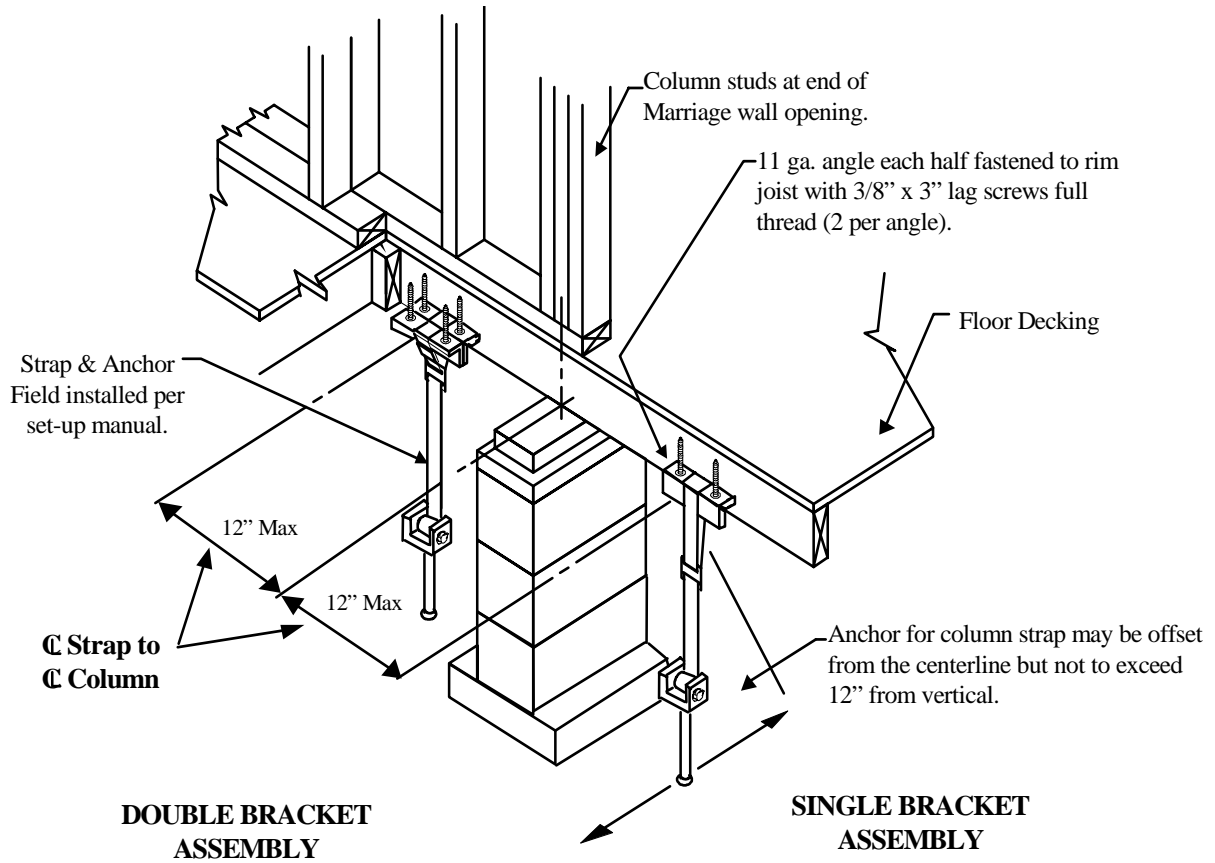
----- **Maximum opening based on floor widths** -----

	12 Wide (140"max)	14 Wide (164"max.)	16 Wide (186" max.)	18 Wide (210" max.)
One Single Bracket (2-lags) either side of column.	17'-6"	15'-0"	13'-3"	11'-9"
Two Single Brackets (2-lags each), one each side of column.	35'-0"	30'-0"	26'-6"	23'-6"
One Double Bracket (4-lags) either side of column. Spans are on both sections, opposite each other.	31'-9"	27'-2"	23'-11"	21'-2"
*Two Double Brackets (4-lags) either side of column. Spans are on both sections, opposite each other.	40'-0"	40'-0"	40'-0"	40'-0"
* For openings larger than 40'-0", consult a local licensed professional engineer or architect.				

- (2) Figure 5B shows both single and double bracket assemblies for illustration purposes only. Use a single bracket for openings which exist on one section only. Use double bracket where openings are opposite each other on two sections of the home.
- (3) When only one bracket assembly is required, it may be installed on either side of the column/opening stud(s), but no more than 12 inches from the column or opening stud(s). (See examples in figure 5C.)
- (4) When two bracket assemblies are required, they must be installed on each side of the column/opening stud(s), but no more than 12 inches from the column/opening stud(s) (see examples in figure 5C), and they must be angled away from each other a minimum of 12 inches.

TYPICAL INSTALLATION DETAILS

Figure 5B

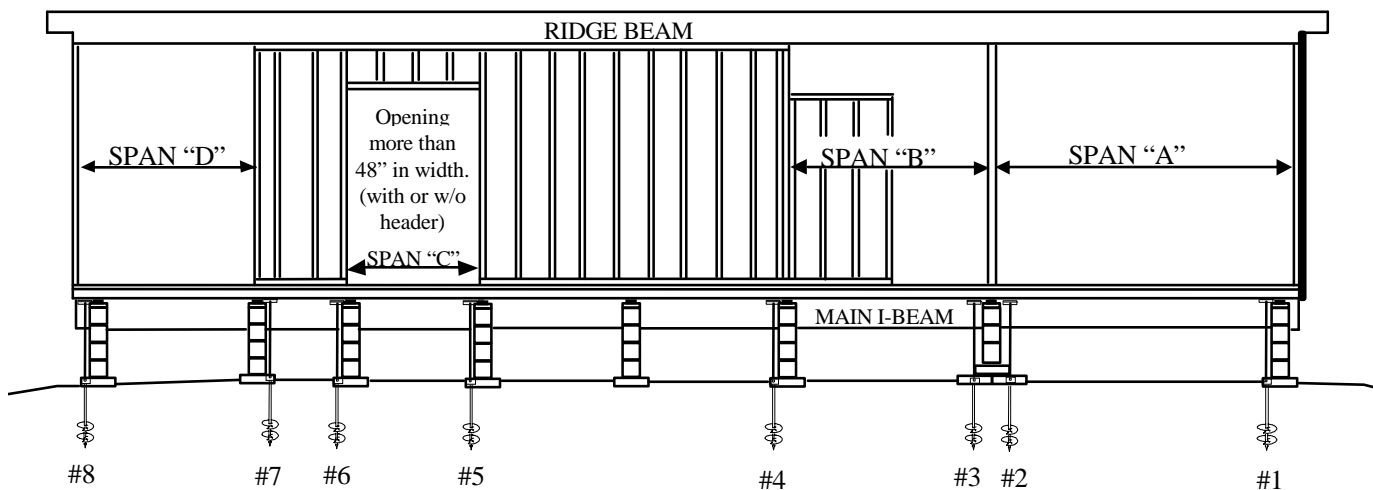


Note: Anchors, straps, buckles and crimps shown are for illustration purposes only. All components used must be approved by the department.

- (5) Example: A double section unit with each section being 14 feet wide;
- (A) Span "A" is 18'-0", matching span both sections;
 - (B) Span "B" is 14'-8", matching span both sections;
 - (C) Span "C" is 6'-8", matching span both sections; and
 - (D) Span "D" is 13'-4", one side only.

ANCHOR SPAN

Figure 5C



Determine type and number of brackets needed at each opening.

- Anchor #1:** From Table 5B, row 3 in the 14 ft. wide column, the maximum span for this condition is 27'-2". Actual span is 18'-0" =====> one double bracket is ok.
- Anchor #2 & #3:** Since the wall between spans "A" and "B" is less than 16 inches in width the two spans must be added together to determine number and type of brackets.
 Span "A" (18'-0") + Span "B" (14'-8") = 32'-8"
 From table 5B, row 3 in the 14 ft. wide column, the maximum span for one double bracket is 27'-2". Actual span is 32'-8" =====> two double brackets required.
- Anchor #4:** Span "B" is on both sections @ 14'-8". From table 5B, row 3 in the 14 ft. wide column, the maximum span for one double bracket is 27'-2" =====> ok
- Anchor #5:** Same as anchor # 4, except for 6'-8" span.
- Anchor #6 & #7:** This span is on one section only. Therefore a single bracket may be used. From table 5B, row 1 in the 14 ft. wide column, the maximum span for a single bracket is 15'-0". Actual span is 13'-8" =====> single bracket is ok.

(6) Longitudinal ties:

- (A) Longitudinal ties are required for ALL wind zone **[H]** installations, regardless of the date of manufacture, when installation occurs after the effective date of these rules.
- (B) Longitudinal ties are designed to prevent lateral movement along the length of the home.
- (C) **When conventional anchors and straps are used, install the required number of ties per Table 4A or Table 5A as appropriate. The strap(s)[strap] may be connected or wrapped around front or rear chassis header members, around existing [chassis] cross members[-] or spring hangers. A strap must be within 3 inches of where the cross member attaches to the main I-beam.**

Alternatively, brackets to receive the strap(s) may be welded to the bottom flange of the main I-beams. The ~~[Their]~~ location of the connection points along the length of the I-beams ~~[home-is]~~ are not critical, as long as the number of longitudinal ties required for each end of each home section are installed with their pull in opposite directions. No two anchors shall be within 4 ft of each other. No two ties shall be attached to the same structural member of the home, other than a main longitudinal frame member or a front or rear chassis header member. ~~[See Figures 1 and 2 in subparagraph (D) of this paragraph.]~~

NOTE: The sentence "A strap must be within 3 inches of where the..." was taken out of the Longitudinal Ties drawing, but it should be in the rules.

- (D) Anchors require stabilizer plates when the anchor shaft is not in line with strap (plus or minus 10 degrees). ~~[Units less than 60 feet in box length require at least two longitudinal ties per end per section. These longitudinal ties are in addition to the sidewall ties.]~~

LONGITUDINAL TIES

Figure 1

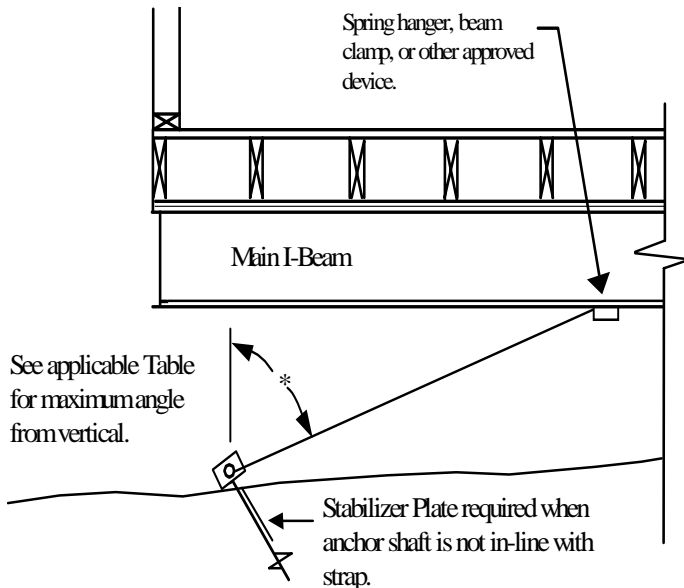


Figure 2

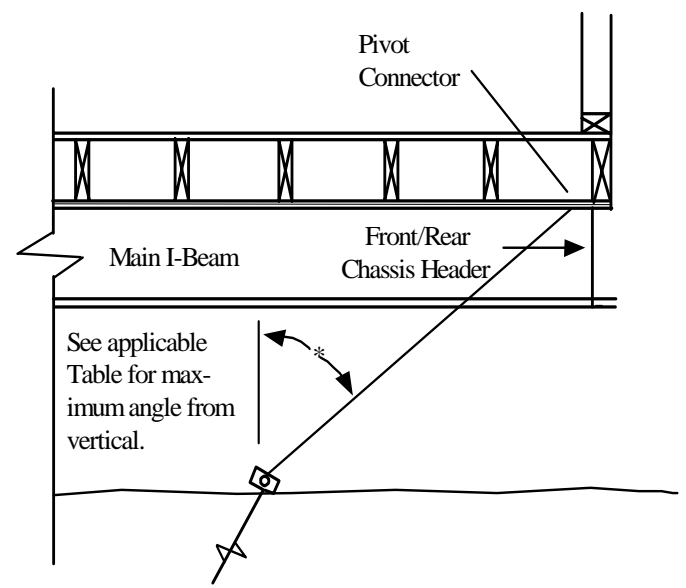


Figure 1: Connection to existing spring hangers, factory installed or site installed beam clamps.
~~[Connection to cross member or spring hanger~~
Note: Strap must be within 3 inches of where the cross member attaches to the main I-Beam.]

Figure 2: Connection to front or rear chassis headers. Strap must be installed within 12" of where the header member connects to the main I-beam.
~~[Connection to front/rear chassis header~~
Note: Strap must be within 12 inches of where the header member connects to the main I-Beam.]

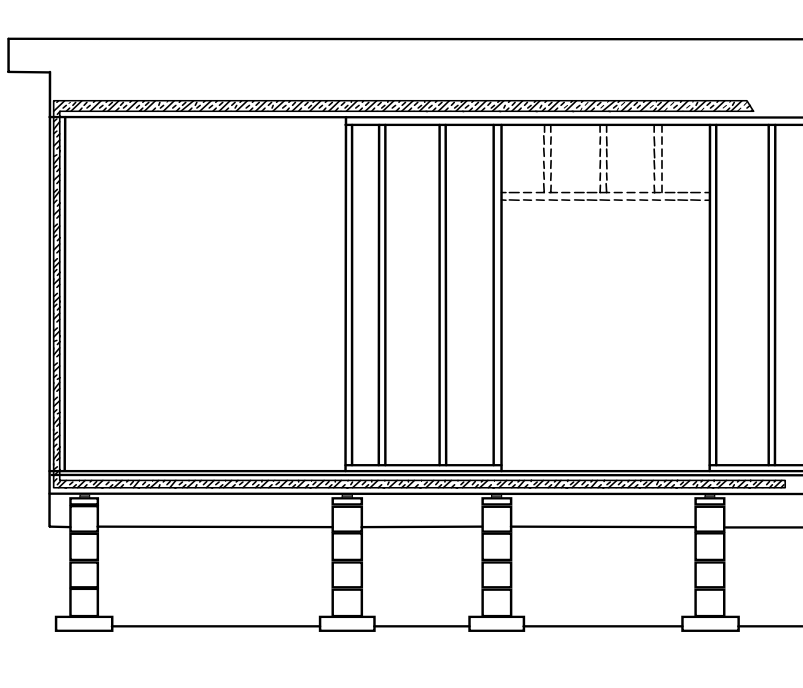
§80.56. *Multi-Section Connection Standards.*

- (a) Air infiltration and water vapor migration at mating surfaces: Before [before] positioning additional sections, the mating line surfaces along the floor, endwall and ceiling, require material or procedures to limit air infiltration and water vapor migration. The following are acceptable materials and/or procedures:
- (1) Expanding Foam: Foam may be used along surfaces that are accessible after the units have been joined. Where mating line walls line up between sections, non-porous materials must be installed prior to joining the units. [expanding foam this may also be applied after the units are joined];
 - (2) Caulking: Caulking may be used along surfaces that are accessible after the units have been joined. Where mating line walls line up between sections, non-porous materials must be installed prior to joining the units. [carpet or carpet pad (should be held in place with fasteners); and]
 - (3) Non-porous gasket installed along the perimeter of all mating lines. [insulation, sill sealer (should be held in place with fasteners).]
 - (4) Insulation, carpet, carpet pad or other porous materials are not acceptable.

MATING LINE SURFACES

Figure 56(a)

Mating line surfaces are along the floor, up the front and rear endwalls and along the ceiling line.



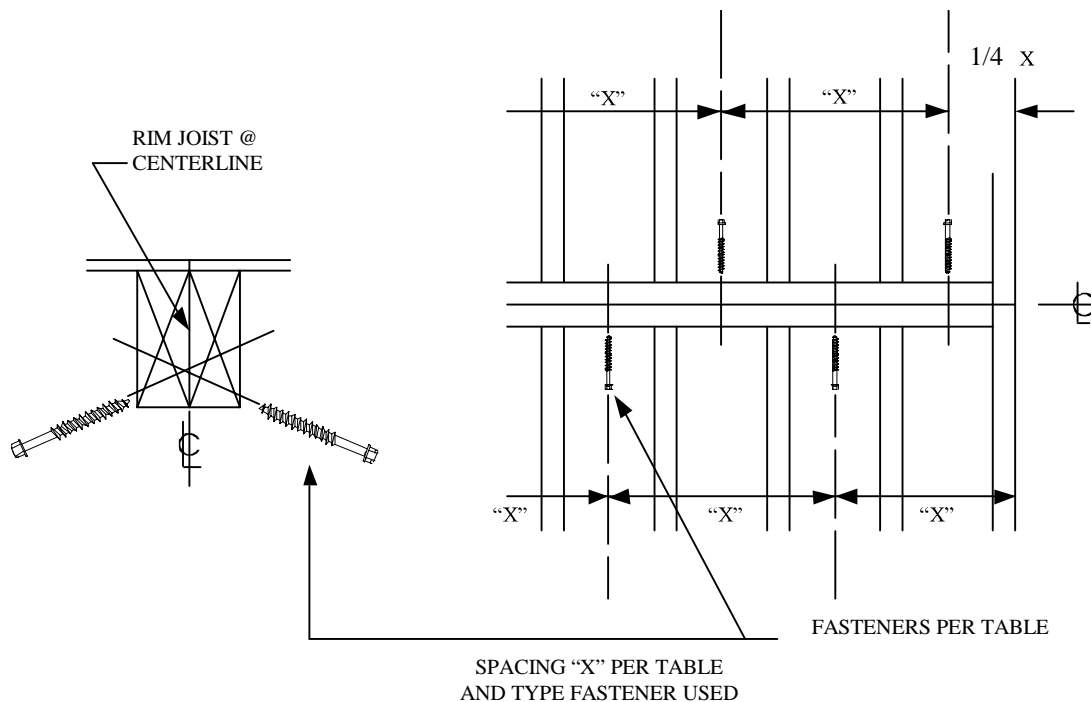
(b) Floor Connections:

- (1) gaps between floors up to 1-1/2 inches maximum which do not extend the full length of the floor may be filled with lumber, plywood or other suitable shimming materials. Fastener lengths in shimmed areas may need to be increased to provide minimum 1-1/4 inches penetration into opposite floor rim joist.
- (2) gaps less than 1/2 inch width need not be shimmed.
- (3) the floor assemblies of multi-section units must be fastened together. Fastener options and maximum spacings are listed in table 6A in paragraph (5) of this subsection.
- (4) any tears or damages to the bottom board due to fastener installation must be repaired.
- (5) Table 6A: Floor connections - Wind Zone I and II:

	min 5/16 lag screw	# 10 wood screw
Wind Zone I	max. 36"	max. 24"
Wind Zone II	max. 24"	max. 12"

FLOOR CONNECTIONS

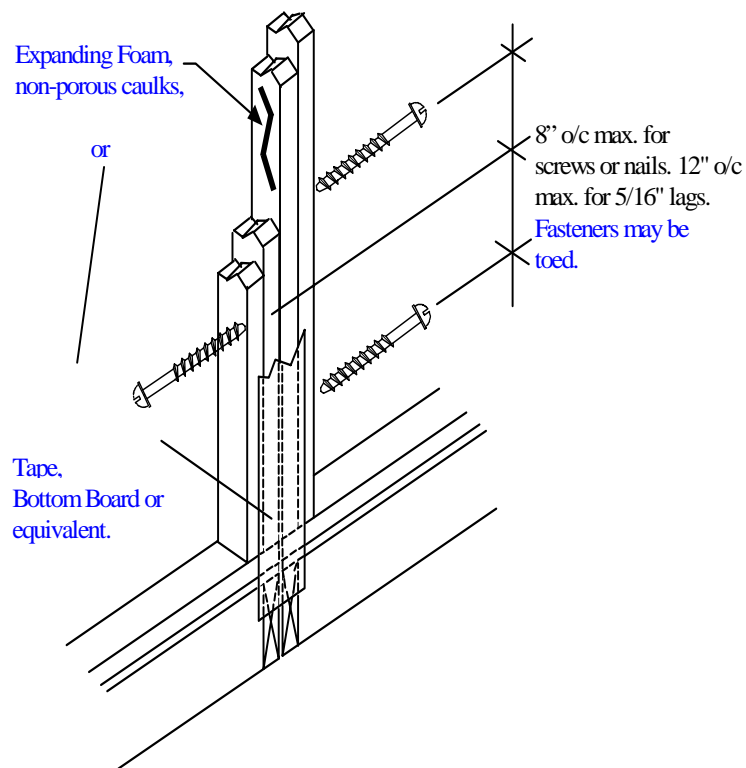
Figure 6A



(c) Endwall Connections:

- (1) endwalls must be fastened together at the mating line with minimum #8x4 inch wood screws or 16d nails at maximum 8 inches on-center or 12 inches on-center maximum for 5/16 lags; toed or driven straight; and
- (2) fastener length may need to be adjusted for gaps and/or toeing, to provide minimum 1-1/2 inch penetration into opposite endwall stud.

ENDWALL CONNECTIONS



(d) Roof Connection: *(Note: Fasteners must not be used to pull the sections together.)*

- (1) **Roof [roofs]** shall be connected with the fasteners and spacings specified in Table 56(d)(3). [~~6(e);~~]
- (2) **Gaps [gaps]** between the roof sections (at ridge beam and/or open beam ledgers) of up to 1-1/2 inches wide maximum which do not extend the full length of the roof must be filled with lumber and/or plywood shims. Gaps up to 1/2 inch need not be shimmed. The fastener length used in the shimmed

area may need to be increased to provide a minimum 1-1/4 inch penetration into the adjacent roof structural member. [§]

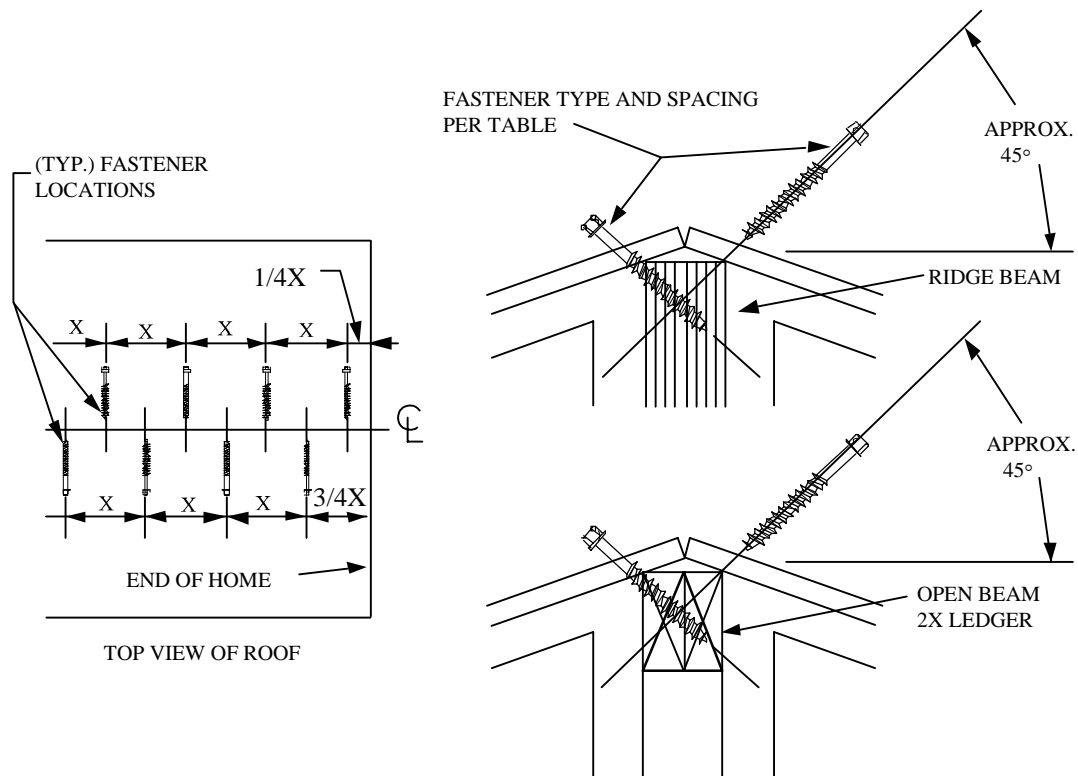
(3) Table 56(d)(3): Roof Connection - Fastener type and spacing:

	----- maximum o.c. spacing (in) -----		
	3/8 Lag	1/4 Lag	#10 wood screw
Wind Zone I	36"	24"	24"
Wind Zone II	20"	16"	12"

(4) Figure 56(d)(4) [(6)(e)].

ROOF CONNECTION

Figure 56(d)(4) [(6)(e)]

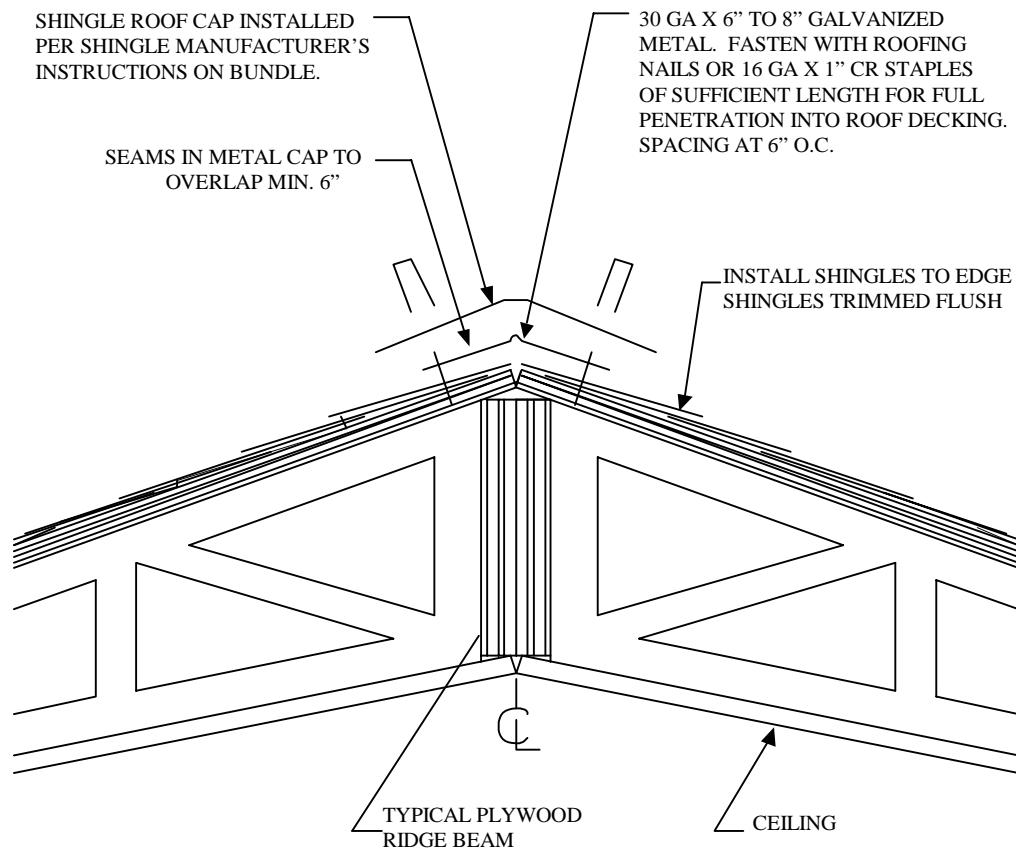


(e) Exterior Roof Close Up:

- (1) Ensure that shingles are installed to edge of roof decking at peak. Follow nailing instructions on the shingle wrapper. Note: Wind Zone II (high wind) installations require additional fasteners.
- (2) Before installing ridge cap shingles, a minimum 6 inch wide piece of 30 gauge galvanized flashing must be installed the length of the roof.

- (3) When flashing is not continuous, lap individual pieces a minimum of 6 inches.
- (4) Fasten flashing into roof sheathing with minimum 16 gauge staples with 1 inch crown or roofing nails of sufficient length to penetrate roof decking. Maximum fastener spacing is 6 inches on-center each roof section. Place fasteners a minimum of 3/4 inches along edge of flashing.
- (5) Install ridge shingles directly on top of flashing.
- (6) Check remainder of roof for any damaged or loose shingles, remove any shipping plastic or netting, wind deflectors, etc. Make sure to seal any fastener holes with roofing cement.

EXTERIOR ROOF CLOSE UP

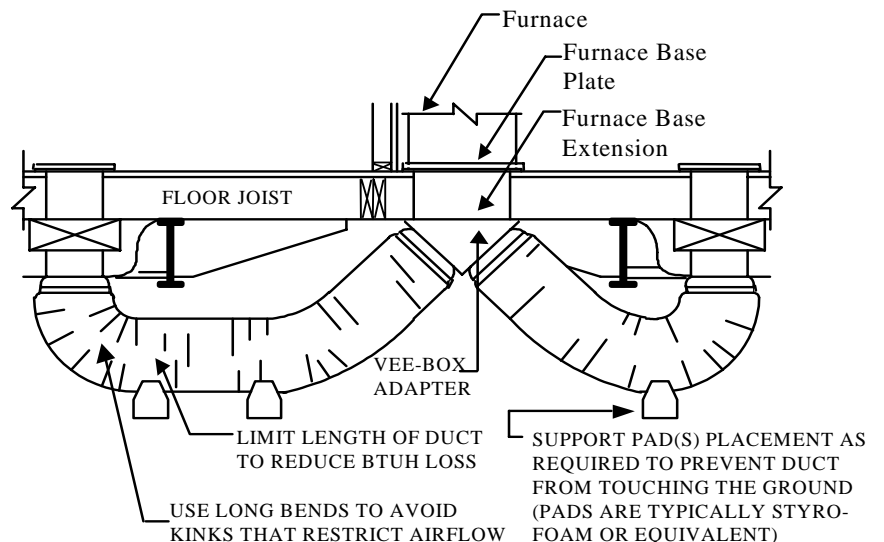
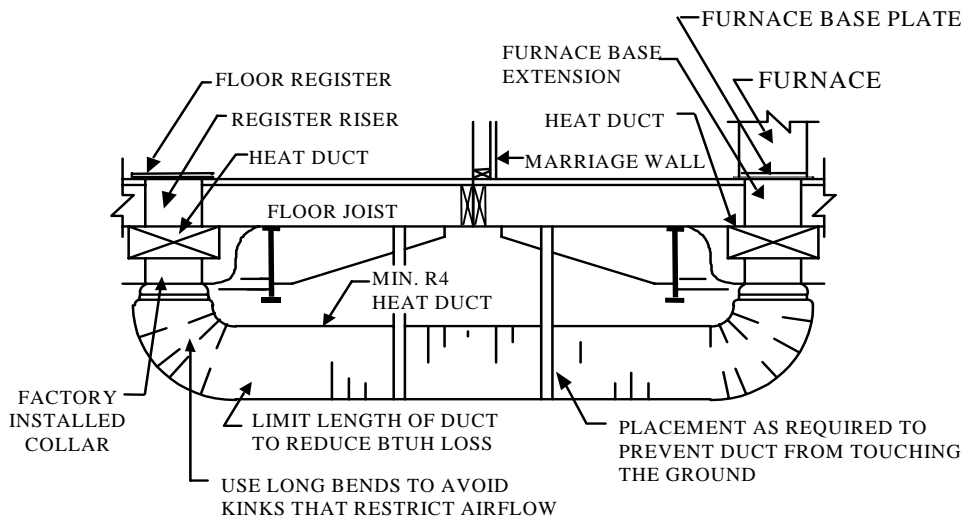


- (f) Exterior Endwall Close Up: Cut closure material to the shape and size required and secure in place, starting from the bottom up, i.e.: bottom starter, vertical or horizontal siding, then roof overhang, soffit and fascia. All closure material should be fitted and sealed as required to protect the structure or interior from the elements.

(g) HVAC (heat/cooling) Duct Crossover:

- (1) Crossover duct must be listed for EXTERIOR use.
- (2) Duct R-value shall be a minimum of R-4.
- (3) The duct must be supported 48 inches on-center (maximum) and must not be allowed to touch the ground. Either strapping, to hang the duct from the floor, or pads to support it off the ground are acceptable.
- (4) The duct to the collar or plenum connections must be secured with bands or straps approved for such use. Keep duct as straight as possible to avoid kinks or bends that may restrict the airflow. Extra length must be cut off.

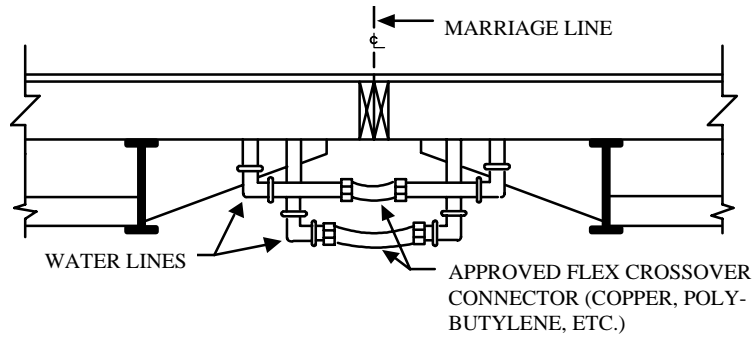
HVAC (HEAT/COOLING) DUCT CROSSOVER



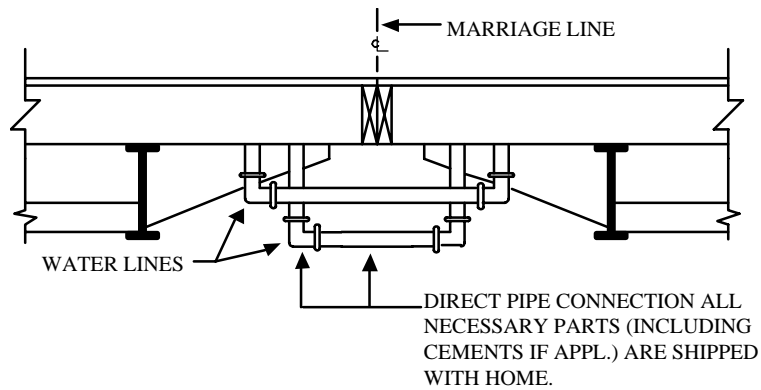
- (h) Water Crossover Connection (multi-sections only):
- (1) If there is water service to other sections, connect the water supply crossover lines as shown in the applicable detail.

MULTI-SECTION WATER CROSSOVER CONNECTIONS

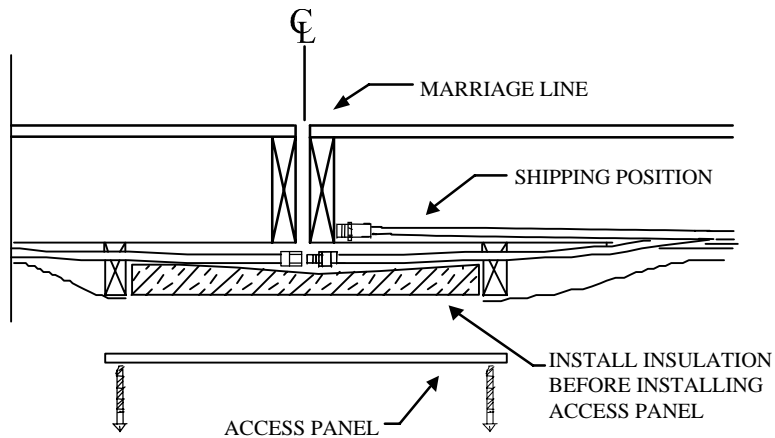
METHOD A



METHOD B

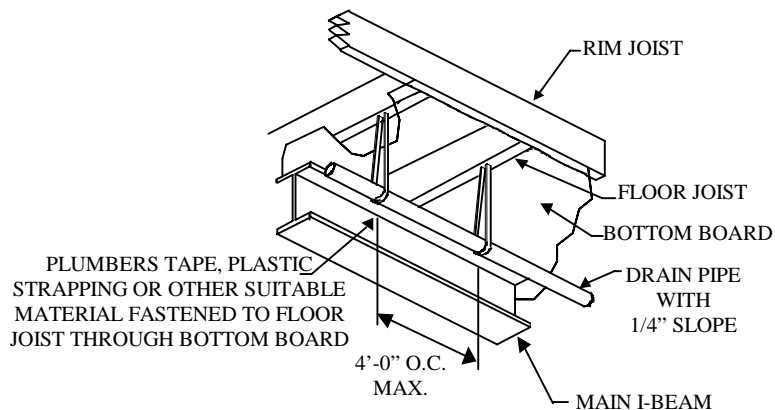
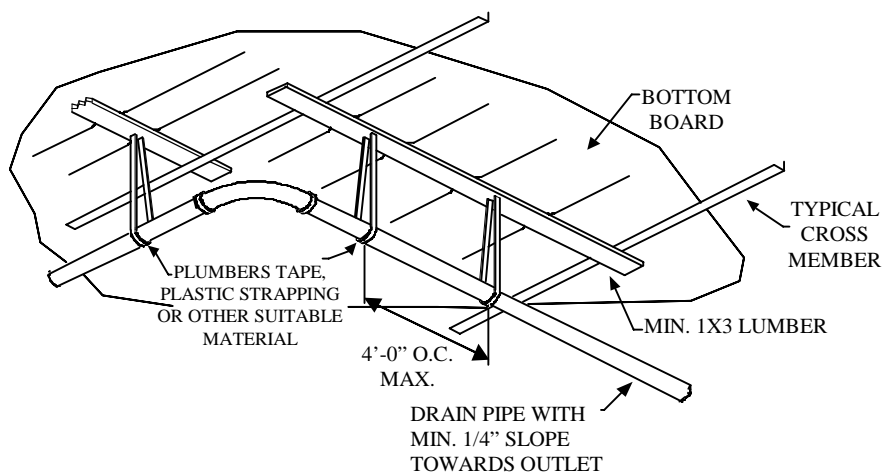
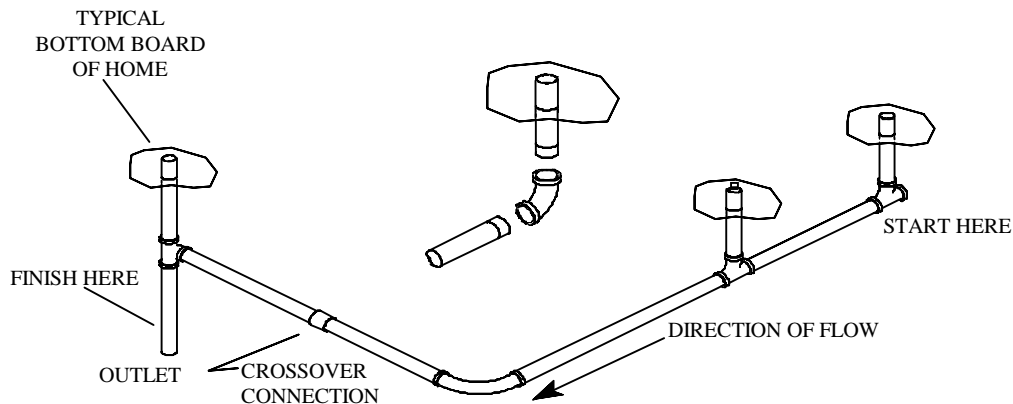


METHOD C



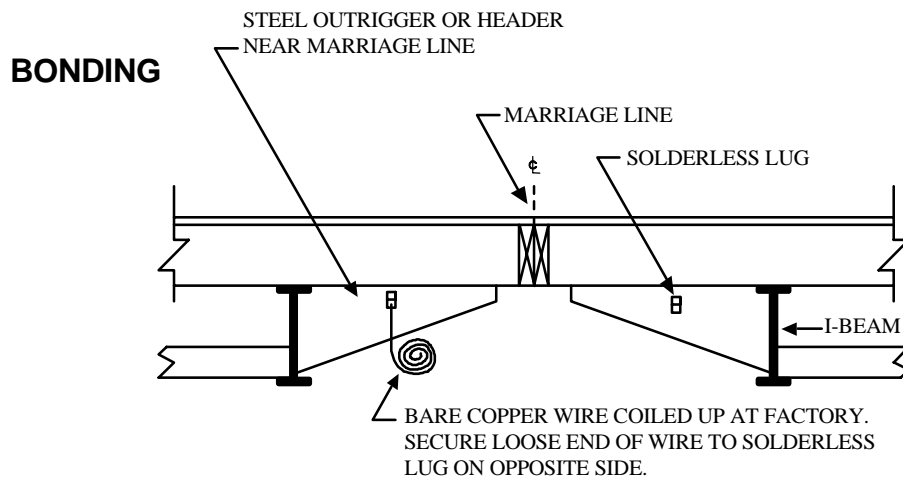
- (2) If the water crossover connection is not within the insulated floor envelopes, wrap the exposed water lines in insulation and secure with a good pressure sensitive tape or nonabrasive strap, or enclose the exposed portion with an insulated box.
 - (3) If water piping at the inlet is exposed, a heat tape should be installed to prevent freezing. A heat tape receptacle has been provided near the water inlet. When purchasing a heat tape, it must be listed for manufactured home use, and it must be installed per manufacturer's instructions.
- (i) Drain, Waste and Vent System (DWV):
- (1) Portions of the DWV system which are below the floor may not have been installed, to prevent damage to the piping during transport. Typically, the DWV layout is designed to terminate at a single connection point to connect to the on-site sewer system. For a new home where on-site DWV connections are not assembled per the manufacturer's instructions, the DWV system must be assembled in accordance with Part 3280 of the FMHCSS.
 - (2) The following guidelines apply:
 - (A) All portions of the DWV system shall be installed to provide a minimum of 1/4 inch slope per foot, in the direction of the flow.
 - (B) Changes in direction from vertical to horizontal, and horizontal to horizontal, shall be made using long sweep elbows and/or tees.
 - (C) All drain piping shall be supported at intervals not to exceed 4 feet on-center. The support may be either blocking or strapping. When strapping is used, it should be nonabrasive.
 - (D) Piping must be assembled with the appropriate cleaners, primers and solvents (note: both ABS and PVC systems are common, but require different adhesives). Be sure to follow the instructions of the product used.
 - (E) A cleanout must be installed at the upper (most remote) end of the floor piping system (see diagrams in subparagraph (F) in this paragraph).
 - (F) Typical details:

DRAIN, WASTE AND VENT FLOOR PIPING SYSTEM



- (j) Electrical Connections: Depending on the model and/or manufacturer of the home, electrical crossovers may be located in either the front end and/or rear end of the home. Check along mating line for other labeled access panels.
- (1) Crossover connections may be one of the following:
- (A) approved snap or plug-in type;
 - (B) junction boxes inside floor cavity (note: crossover wiring routed outside the floor cavity must be enclosed in conduit). If the boxes and/or covers are metal, they must be grounded by the use of the ground wire; or
 - (C) pigtail between receptacles/switches between sections (one circuit only).
- (2) Chassis Bonding: Each chassis shall be bonded to the adjacent chassis with a solid or stranded, green insulated or bare, number 8 copper conductor. The conductor is connected to the steel chassis with a solderless lug. *Alternate bonding: A 4 inch wide by 30 gauge continuous metal strap may be used as an alternate, when attached to the chassis members with two #8x 3/4 inch self tapping metal screws each end of the strap.*

CHASSIS BONDING

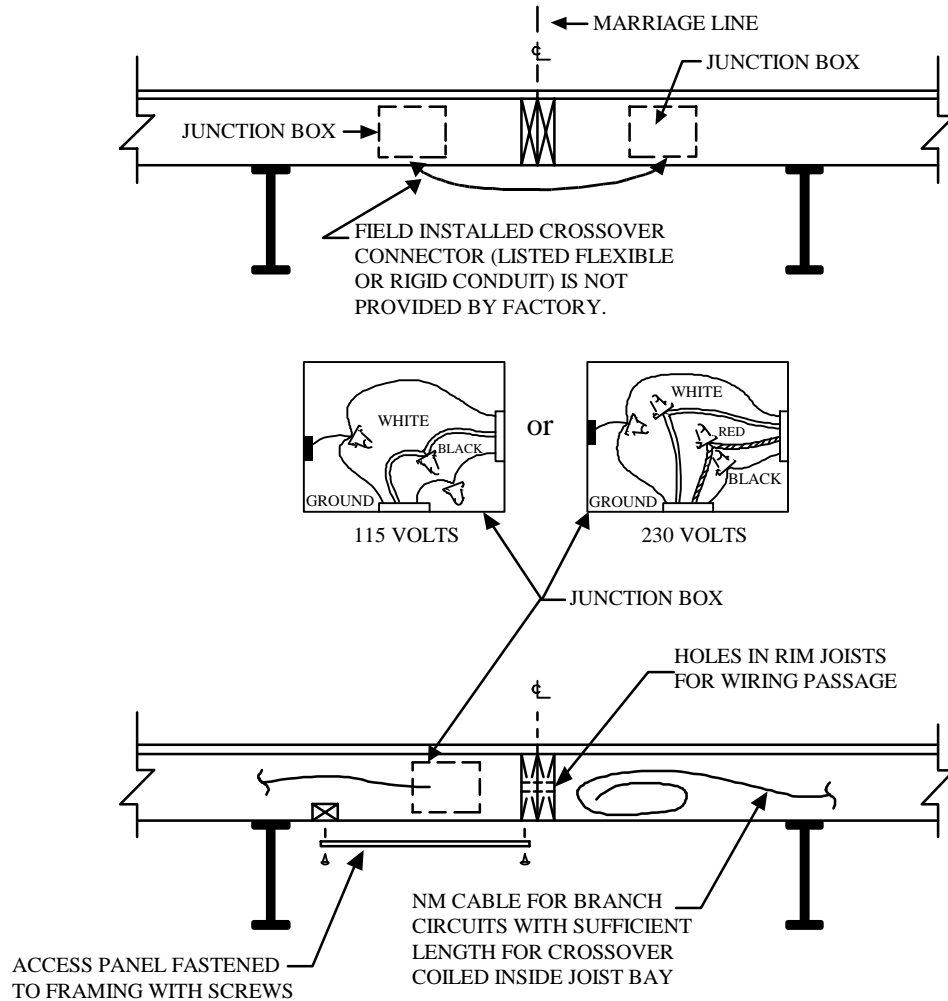


NOTE:

A 4" BONDING STRAP MAY BE USED INSTEAD OF COPPER WIRE BY ATTACHING THE STRAP TO BOTH UNITS WITH 2-#8X3/4" SELF-TAPPING METAL SCREWS ON EACH SIDE. BONDING STRAPS AND SCREWS FURNISHED BY THE MFR.

(3) typical crossover details:

ELECTRICAL CROSSOVER



NOTE:
 ANY EXPOSED NM CABLE MUST BE PROTECTED BY CONDUIT AND INSTALLED IN ACCORDANCE WITH THE N.E.C.

(4) Shipped loose equipment:

(A) Electrical equipment such as ceiling fans, chandeliers, exterior lights, etc., which may have been shipped loose, must be installed in accordance with the adopted National Electric Code (NEC). Connect all corresponding color coded or otherwise marked conductors per the applicable sections of the NEC.

- (B) Bonding strap removal: 240 volt appliances (range, dryer, etc.) shall have the bonding strap removed between the ground and the neutral conductors. Cords used to connect those appliances shall be four conductor, four prong.
- (5) Electrical testing: At the time of installation, the following tests must be performed:
- (A) all site installed or shipped loose fixtures shall be subjected to a polarity test to determine that the connections have been properly made.
 - (B) all grounding and bonding conductors installed or connected during the home installation shall be tested for continuity, and
 - (C) all electrical lights, equipment, ground fault circuit interrupters and appliances shall be subjected to an operational test to demonstrate that all equipment is connected and functioning properly.
- (6) Main panel box feeder connection: The main panel box is wired with the grounding system separated from the neutral system (4-wire feeder). The grounding bus in the panel must be connected through a properly sized green colored insulated conductor to the service entrance equipment (meter base) located on or adjacent to the home. Refer to the following table for proper feeder conductor sizes.

MAIN PANEL BOX FEEDER CONDUCTOR SIZES

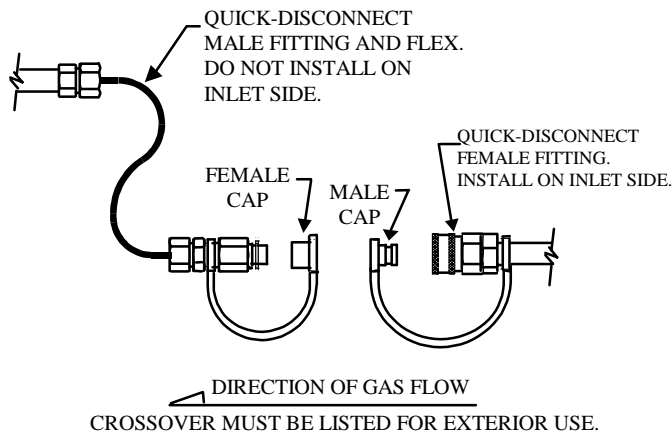
Main Breaker size (amps)	Raceway diameter	Red/Black (power)	White (neutral)	Green (grounding)
50	1	#6	#6	#8
100	1 1/4	#2 or #3	#2 or #3	#6
150	1 1/2	#1/0 or #2/0	#2	#6
200	2	#3/0	#2	#6

- (k) Fuel Gas Piping Systems:
- (1) Crossover Connections: All underfloor fuel gas pipe crossover connections shall be accessible and be made with the connectors supplied by the home manufacturer, or, if not available, with flexible connectors listed for exterior use and a listed quick disconnect (Method A), or a shut-off valve (Method B). When shut-off valve is used, it must be installed on the supply side of the gas piping system. The crossover connector must have a capacity rating (btuh) of at least the total btuh's of all appliances it serves.
 - (2) Testing: The fuel gas piping system shall be subjected to an air pressure test of no less than 6 ounces and no more than 8 ounces. While the gas piping

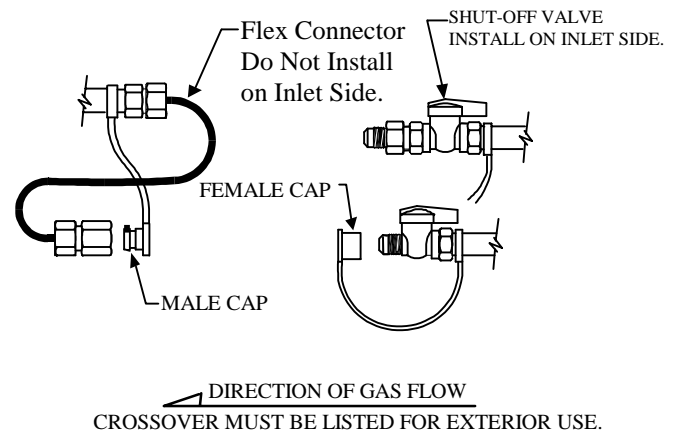
system is pressurized with air, the appliance and crossover connections shall be tested for leakage with soapy water or bubble solution. This test is required of the person connecting the gas supply to the home, but may also be performed by the gas utility or supply company.

FUEL GAS PIPE CROSSOVER CONNECTIONS

Method A



Method B



§80.62. *Approval of Stabilizing Components and Systems.*

- (a) Installers shall only use prefabricated or site built stabilizing components and systems approved by the department, specified by the home manufacturer's DAPIA approved installation instructions, or specified for one or more homes in a particular area by a Texas licensed engineer or architect. Before granting approval for any prefabricated stabilizing component or system that will be used for more than one home, the department will require the component or system to be certified by an engineer, architect, or independent testing laboratory. The engineer or architect may be licensed in any state. The independent testing laboratory must have at least one engineer or architect licensed in at least one state. The producer or vendor of the component or system seeking department approval must send a request letter to the department with at least two copies of the certification report. The department may accept certification reports in electronic formats. The certification report copies must have letter size (8.5 inch by 11 inch) or smaller pages. In the request letter, the producer or vendor must grant the department the right to reproduce the certification report. If the department approves the certification report, the department shall place a stamp of approval on the copies, keep one copy, and return all other stamped copies to the producer or vendor. The stamp of approval will have the following information:

- (1) the title "Texas Department of Housing and Community Affairs";

- (2) the phrase "Approved stabilizing component or system"; and
 - (3) date of approval.
- (b) The department will maintain a list of stabilizing components and systems that have been approved by the department for use in Texas.
- (c) A report that certifies a stabilizing component or system shall contain, at the minimum, the following:
- (1) the name, address, phone number, facsimile number, and trademark of the agency issuing the certification report or the name, signature, license number, state where licensed, address, phone number, facsimile number, and seal of the engineer or architect;
 - (2) date of certification report;
 - (3) the name, address, phone number, and facsimile number of the vendor or producer of the component or system;
 - (4) drawing or photograph of component or system;
 - (5) a description of the vendor's or producer's method for identifying the component or system;
 - (6) at least a 2 inch by 4 inch blank space for the department approval stamp on each page or the cover page of a bound document;
 - (7) a unique number or other identification for the certification report;
 - (8) the initial qualifying test report or information about how the report can be obtained;
 - (9) a description of the continuing validation system and the time period of the certification;
 - (10) installation instructions for the component or system that are shipped to each purchaser;
 - (11) a description of the working load capacity for the component or system. If the component is a ground anchor, the anchor shall be certified by a professional engineer, architect or nationally recognized testing laboratory as to its resistance, based on the maximum angle of diagonal tie and/or vertical tie loading and angle of anchor installation, and type of soil in which the anchor is to be installed;
 - (12) a description of all allowable conditions for use of the component or system such as (but not limited to) types of soil, weather exposure, atmospheric

environment (rural, industrial, coastal), and characteristics of other associated components; and

- (13) a statement that the certifying independent testing laboratory, certifying engineer, or certifying architect certifies the component or system to be in conformance with a specific standard adopted by the department. This statement shall be on each page or shall be on the cover sheet of a bound document.
- (d) The department adopts the applicable standards and publications set forth in Chapter **43 [47]** of the **International Code Council, 2000 International Residential Code [Council of American Building Officials (CABO) One and Two Family Dwelling Code, 1995 Edition,]** for materials used to fabricate stabilizing components and systems. The department adopts the stabilizing component destruction test failure criteria of the **FMHCSS (24 CFR, Part 3280) and the 2000 International Residential Code, Appendix E. [following publications:]**
- [(1) — The FMHCSS, 24 CFR, Part 3280;]**
[(2) — Appendix A — CABO One and Two Family Dwelling Code, 1995 Edition, published by CABO, 5203 Leesburg Pike, Suite 708, Falls Church, Virginia 22041; and]
[(3) — Appendix H — Standard Building Code, 1994 Edition, published by Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206.]
- (e) Applicable reports of the **following organizations are acceptable as certification reports: National Evaluation Service, Inc.; International Conference of Building Officials (ICBO) Evaluation Service, Inc.; Southern Building Code Congress International (SBCCI) Public Safety Testing and Evaluation Services, Inc.; Building Officials and Code Administrators International (BOCA) Evaluation Reports, Inc.; the International Code Council (ICC); or a successor of any of these organizations. [National Evaluation Service Committee of the Council of American Building Officials, applicable evaluation reports from the International Conference of Building Officials (ICBO) Evaluation Service, Inc. of the ICBO, Southern Building Code Congress International, or applicable reports from a successor of any of the preceding organizations are acceptable as certification reports.]**
- (f) The department may withhold approval if the certification information:
- (1) is incomplete;
 - (2) does not conform to the rules of the department;
 - (3) contradicts the qualifying tests; or
 - (4) has contradictory statements.

- (g) Conditions that may cause the executive director to issue an administrative order that withdraws approval (or a renewal of approval) from a stabilizing component or system may include but are not limited to:
- (1) the engineer, architect, or independent testing laboratory withdraws the certification;
 - (2) the engineer, architect, or independent testing laboratory improperly certified the component or system;
 - (3) a significant characteristic of a device or system has been changed without a revision of the original certification;
 - (4) the producer distributes installation instructions that are substantively different from those in the certification or original qualifying tests;
 - (5) changes in the law, rules, or standards;
 - (6) the continuing validation system for a component has been changed without a revision of the original certification;
 - (7) information provided by the original certification is obsolete;
 - (8) the department receives evidence that the component or system often fails to anchor or support the home, and
 - (9) the producer fails to provide test results after the department directs the producer to test the component or system. The test will be performed by a recognized independent testing laboratory under the observation of a qualified representative or designee of the department.
- (h) Notice of withdrawal of approval of a component or system must be given to all license holders.
- (i) The department's approval letters for stabilizing components and systems are valid for a period of ten (10) years or for the time period of certification, whichever is less. The approval letter expires at the end of the shorter period.
- (1) If the time period for certification exceeds the ten (10) year approval period, the producer of the stabilizing components and systems may apply for a renewal of the approval letter. The renewal shall be valid for an additional period:
 - (A) of ten (10) years; or
 - (B) if the time period of certification expires prior to the end of the ten (10) year period, for a lesser period ending with the expiration of the time period of certification.

- (2) All department approval letters issued prior to the effective date of this section remain valid for a period of ten (10) years and expire ten (10) years following the effective date of this section.
- (j) The vendor or producer of the component or system must apply for a renewal letter at least ninety (90) calendar days prior to the date the approval letter expires and supply the information necessary for the department to issue a renewal letter. The department may issue a temporary renewal letter for a period of not more than six (6) months in order to have time to review all the information submitted by a producer or vendor. The contents of a renewal letter issued by the department are as follows:
 - (1) conditions of the renewal with a description of the department approval stamp that will appear on the document shipped by the producer or vendor to purchasers;
 - (2) a unique number or other identification for the renewal letter;
 - (3) the name, address, phone and facsimile number of the producer or vendor of the device or system;
 - (4) a description of the continuing validation system and the time period of the renewal;
 - (5) a reference to the document (single sheet or bound document) attached to the renewal letter which is shipped to each purchaser by the producer or vendor which includes:
 - (A) the name, address, phone and facsimile number of the vendor of the component or system;
 - (B) a description of the vendor's method of marking the component or system;
 - (C) drawing or photograph of component or system with a reference to the detailed drawing stamped by an engineer or architect;
 - (D) installation instructions;
 - (E) reference to the initial qualifying test report;
 - (F) reference to a previous Texas approval letter;
 - (G) at least a 2 inch by 4 inch blank space for the department approval stamp on each page or a cover page for a bound document;
 - (H) description of method for identifying the soil for ground anchors and footings;

- (I) a description of the working load capacity for the component or system;
 - (J) if the component is a ground anchor, a certification by a professional engineer, architect, or nationally recognized testing laboratory as to its resistance, based on the maximum angle of diagonal tie and/or vertical tie loading and angle of anchor installation, and type of soil in which the anchor is to be installed; and
 - (K) a description of all allowable conditions for use of the component or system such as (but not limited to) types of soil, weather exposure, atmospheric environment (rural, industrial, coastal), and characteristics of other associated devices.
- (k) Approved components and systems sold to retailers or installers prior to the expiration of the applicable approval letter or renewal letter may be used and installed for a period of not more than ninety (90) calendar days following the date of expiration of the approval or renewal letter.
 - (l) In December of each year, the department shall mail to all licensed installers, retailers, and manufacturers a list of all approved components and systems and the date on which the approval letter for each component or system expires.

§80.63. Other Materials and Methods for Manufactured Homes.

- (a) Unique stabilizing systems to be used on more than one home, designed for a particular area with similar soil properties according to county soil survey maps, must be approved by an engineer or architect, licensed in Texas, or the home manufacturer's DAPIA.
- (b) Stabilizing components or systems which are unique for one identified home at one identified location shall be designed by an engineer or architect, licensed in Texas, and the design documents shall be filed with the installation report. No department approval letter is required.
- (c) All stabilizing components must be resistant to all effects of weathering including that encountered along the Texas gulf coast. Nonconcrete stabilizing components and systems for use within 1500 feet of the coastline shall be specifically certified for this use. Preservation treated (PT) wood components shall conform to the applicable standards issued by the American Wood Preserver's Association and referenced by the 2000 International Residential Code. ~~Treated wood components shall only be used in permanent foundations conforming to the CABO One and Two Family Dwelling Code, 1995 Edition.~~
- (d) All stabilizing components shall be installed in accordance with the provisions of this chapter and to resist overturning and lateral movement of the home.

- (e) The following types of stabilizing systems are special stabilizing systems, not associated with a particular location, and shall meet the requirements of subsection (f) of this section:
- (1) a preapproved permanent foundation system;
 - (2) a stabilizing system with piers over 60 inches high (measured from top of footing to top of the last concrete block) which have diagonal tie angles over 50 degrees;
 - (3) a stabilizing system designed to resist damage due to flooding;
 - (4) a stabilizing system for manufactured homes located within 1500 feet of the coastline, unless approved by the manufacturer's DAPIA; and
 - (5) a site built stabilizing component or system with materials and methods in accordance with the applicable standards and publications set forth in Chapter [43 \[47\]](#) of the [2000 International Residential Code \[CABO One and Two Family Dwelling Code, 1995 Edition\]](#).
- (f) This subsection refers only to special systems as listed in subsection (e) of this section. A Texas licensed engineer or architect must design a special stabilizing system. If a special stabilizing component, device, or system is not designed for a particular area with similar soil properties according to county soil survey maps, the department must also approve the stabilization system drawing, photographs, calculations, test reports, and specifications before any home is installed on the special stabilizing system. The department will issue a letter that references the submitted documents and describes any conditions of approval. An approval letter will have an expiration date. The department may renew an approval letter for a special stabilizing system if the owner of the documents describing the special stabilizing system notifies the department and requests another review. The department will review to determine if the special stabilizing system still conforms to present standards. DAPIA approved stabilizing system designs with appropriate effective dates for specified makes and models of homes shall not require an approval letter from the department. The installer shall send the department a copy of the DAPIA approved stabilizing system design before the home is installed. The prefabricated components and stabilizing systems specified by the DAPIA approved stabilizing system shall be installed in accordance with the applicable conditions and instructions for the components and systems.

§80.64. Procedures for Alterations.

- (a) No alteration shall be made by a retailer or installer without prior approval of the department. A written request for any alteration approval shall be filed with the department, except for the alterations which are pre-approved as described in this section.

- (1) If the alteration is not approved, the department will notify the retailer in writing of the reason for the refusal. If additional information is necessary to complete the evaluation of the request for approval, the retailer shall furnish any additional information deemed necessary by the department.
 - (2) If the alteration is approved, the alteration shall be completed in accordance with the department's approval and any requirements made as a condition of the approval. Following completion of an approved alteration, the retailer shall notify the department in writing, and the department may accept the certification of the retailer that the alteration was made as approved. The department may inspect the home, as altered, to assure compliance with the applicable standards.
- (b) The installation of self-contained or split system ("A" coil) comfort cooling equipment and devices shall not be considered an alteration, if the installation is performed in accordance with the specific instructions of the manufacturer of the home as approved by the manufacturer's DAPIA, and if the specific equipment and devices used have been expressly approved by the manufacturer's DAPIA.
 - (c) Other than as set forth in subsection (b) of this section, the installation of self-contained or split system ("A" coil) comfort cooling equipment and devices is an alteration and is pre-approved if done by a state licensed air conditioning contractor.
 - (d) If the sale of a home includes air conditioning, the selling retailer shall maintain in the sales file a record of the name and license number of the air conditioning contractor which installed the air conditioning system.

§80.66. *Rebuilding or Repairing a "Salvaged" Manufactured Home.*

- (a) Any home which has sustained sufficient damage to be declared salvage as defined in [§8 of the Standards Act](#), [\[§8,\]](#) may be rebuilt/repared for purposes of issuance of a manufactured home document of title at the option of the department after inspection in accordance with department procedures. Notification in writing to the department at its Austin headquarter's office shall be required before rebuilding/repair begins.
- (b) The rebuilder must:
 - (1) notify the department in writing ten (10) working days before rebuilding (or monthly for continuous activity) and provide the following, if available:
 - (A) HUD or Texas Seal number;
 - (B) data plate and comfort cooling certificate information (applicable wind and roof load zones, manufacturer's name and address, home model, list of appliance models, home production date, thermal zones, transmission coefficients, furnace certification temperatures, and duct capacity for cooling);

- (C) copy of salvage declaration report;
 - (D) description of damage;
 - (E) description of cause of damage (water, wind, impact, fire, etc.); and
 - (F) location of home during rebuilding.
- (2) provide a plan for rebuilding, sealed by a licensed professional engineer, that contains the following:
- (A) drawings and specifications that describe the rebuilding;
 - (B) if more than one home is rebuilt in any one (1) month period, then a quality assurance manual that describes the following:
 - (i) system testing;
 - (ii) inspection process of cavities before concealment; and
 - (iii) record keeping.
 - (C) list of new parts and appliances;
 - (D) list of reused or salvaged parts and appliances; and
 - (E) rebuilder's data plate (if applicable).
- (3) notify the department when concealed cavities will be exposed for department inspectors;
- (4) remove damaged material and equipment;
- (5) add new or used materials and equipment;
- (6) repair all defects; and
- (7) repair and test all systems.
- (c) The department may schedule inspections of the home during the rebuilding process.
- (d) Any person who purchased a rebuilt manufactured home and received a salvage title as evidence of ownership after June 18, 1987, may be issued a document of title upon application to the department.
- (e) A manufactured home which has not sustained sufficient damage to be declared salvage may be refurbished to its original structural configuration so that it is habitable as defined by §8 of the Standards Act.**

SUBCHAPTER E. GENERAL REQUIREMENTS

§80.119. Installation Responsibilities.

- (a) For new manufactured homes, the retailer is the installer and must warrant the proper installation of the home. If the retailer subcontracts with an independent licensed installer, then the subcontractor is jointly and severally liable for the portion of the installation that the subcontractor performed.

- (b) For used manufactured homes, the person contracting with the consumer for the installation of the home is the installer and must warrant the proper installation of the home. If the contracting installer subcontracts with an independent licensed installer, then the subcontractor is jointly and severally liable for the portion of the installation that the subcontractor performed. The contracting installer is responsible to furnish the consumer with the installation warranty and site preparation notice. All verification and copies of the installation warranty and site preparation notice must be maintained in the installer's installation file for a period of no fewer than six (6) years from the date of installation.
 - (1) The person contracting directly with the consumer for only the transportation of the used home to a manufactured home site is not an installer if the person does not contract to perform or perform any installation functions. In this case, the installer is the person that contracts for the construction of the foundation systems, whether temporary or permanent, and the placement and erection of the used home and its components on the foundation system.

 - (2) The selling retailer may sell a used home and deliver possession to the consumer at the sales location (e.g. F.O.B. the sales location). In this case, the retailer shall not perform any installation functions nor transport the home to the home site.

- (c) The installer is fully responsible for the complete installation even though the installer may subcontract certain installation functions to independent contractors pursuant to [§7\(i\) of the Standards Act](#)~~[, §7(j)]~~. It is unlawful for a subcontractor who is acting as an agent for a licensed installer to advertise and/or offer installation services to any person unless the licensed installer's name appears prominently in the advertisement.

- (d) The sale of a new or used home by a retailer which includes an agreement to deliver the home and install the home at the home site is not completed until possession of the home is tendered to the consumer at the home site.

- (e) Electrical, fuel, mechanical, and plumbing system crossover connections for multi-section homes, and completions of drain lines underneath all homes in accordance with DAPIA approved on-site assembly drawings are installer responsibilities and cannot be excluded by wording of the installation contract. The installation of air conditioning at the home site must be performed by a licensed air conditioning

contractor. The installation and ventilation of skirting or other material that encloses the crawl space underneath a manufactured home is an installer responsibility, if it is part of the sales or installation contract.

- (f) **For all secondary moves (where there is not title transfer) the Notice of Installation Affidavit and the required fee must be submitted to the department within ten (10) working days after the installation is completed.**

~~[(1) Except as otherwise specified for permanent foundations, the installer shall forward the installation report (Form T) to the department within ten (10) working days after the installation is completed. The installation report form shall be furnished by the department.]~~

~~[(A) When the installation occurs in conjunction with a title transfer, the installation report must be sent to the appropriate TDHCA field office. DO NOT SEND INSTALLATION FEES TO THE FIELD OFFICE.]~~

~~[(B) For secondary moves (when there is no title transfer), the installation report and the required installation fee must be submitted to the department.]~~

~~[(2) In addition, if the home is a multi-section home, the installer must notify the appropriate TDHCA field office by telephone, facsimile, or in person, the last working day prior to the day that the sections are scheduled to be connected. This notification must include the home serial numbers, label/seal numbers, names and addresses of the purchaser, the manufacturer, the retailer, the installer and the installer's phone and facsimile numbers, the exact location of the home and complete directions and instructions for the inspector to find the home, and an approximate time when the sections will be joined together. This notice may be satisfied by submitting a completed Form T with an added note of the approximate time the sections will be joined together. No additional notice is required if the scheduled connection of the sections is delayed for any reason; however, installers are expected to cooperate with the inspector and provide accurate information regarding any changes to previous installation plans, upon request.]~~

- (g) **When the installer selects the department to inspect the permanent foundation before concealment, the [The] installer shall file an application to install a manufactured home on a permanent foundation on a form approved by the department. The \$100 fee for the permanent foundation installation report shall be forwarded with the application. After the department inspects the permanent foundation and indicates acceptance of the permanent foundation on the form, the title company, attorney, retailer, or retailer's agent later files the Notice of Installation Affidavit, including a copy of the form, with the public land records of the county and forwards a copy to the department. The \$100 reporting fee does not have to be paid to the department again.**

- (1) Unless the retailer/installer follows the home installation manual or a department pre-approved foundation systems, a [A] copy of the foundation system drawing as stamped and signed by the licensed engineer or architect must be filed with the application.
- (2) The application must be received by the department at least ten (10) calendar days prior to the date on which construction of the permanent foundation system is scheduled to begin. No additional notice is required if the scheduled construction is delayed.
- (3) Installers shall provide a copy of the application and the foundation system drawing to the department [TDHCA] inspector at the time an inspection is performed.
- (4) If the permanent foundation system design is approved by the authorized local government official and if the applicable building inspection fees are paid to the local government, the provisions of this section do not apply. The installer must, however, file a sworn statement of these facts with the Notice of Installation Affidavit [department prior to the date on which the construction of the foundation system is scheduled to begin].
- (5) If the permanent foundation for a home acquired and installed before January 1, 2002 is certified by the consumer/mortgagor and the lender/mortgagee in a real estate transaction, or is certified by the owner if there is no lien or the lien has been released, as having permanently affixed the structure to the real estate, the provisions of this section do not apply. The \$100 fee for the [permanent] foundation installation must be paid and sent to the department along with the certification.
- (6) When specifically requested in writing by the department with a Department Real Estate Inspection Request Form, a contracting local government shall make and perform inspection and enforcement activities related to the construction of the foundation that permanently affixes a manufactured home to real estate. If the permanent foundation system and other site improvements are inspected and accepted by a contracting local government official before concealment, the local government records may be the verification required by Section 19A(c) of the Standards Act [TMHSA]. The retailer/installer must file a Notice of Installation, including a copy of the local government inspection report, with the public land records of the county and forward a copy of the Notice of Installation to the department with the \$100 reporting fee.

NOTE: Changed reference description for consistency with the rules.

- (7) If the site suitability, site preparation, site improvement, foundation construction, and installation for a home acquired on or after January 1, 2002 are verified by a retailer or installer, the provisions of this section do not apply, but the title company, attorney, retailer, or retailer's agent

must file a Notice of Installation with the public land records of the county and forward a copy of the Notice of Installation to the department with the \$100 reporting fee.

- (h) If a manufactured home will be installed as personal property on land not owned by the consumer, the retailer/installer [~~The installer~~] must complete the installation in accordance with the standards and requirements of this chapter and file the Notice of Installation Affidavit, marked as "Method A," and shall accompany title application within **ten (10)** working days after the installation is completed.

NOTE: Added the word "ten" to be consistent with the rules.

§80.120. Manufacturer's Responsibilities.

Manufacturers licensed with the department shall:

- (1) Submit the reports required by §80.203 of this title (relating to Manufacturer's Monthly Shipment Report);
- (2) Use the Manufacturer's Certificate of Origin (MCO) prescribed by the department for homes shipped to retailers in Texas; and
- (3) Supply to the department current and revised copies of approved installation manuals required by §80.51 of this title (relating to Manufactured Home Installation Requirements).

§80.121. Retailer's Responsibilities.

- (a) Manufactured housing retailers shall retain as part of each sales record and make available for copying and review by department personnel, upon request during normal business hours, the following information:
- (1) For all manufactured homes:
 - (A) name and address of the purchaser and the date of purchase;
 - (B) verification that the purchaser received the Formaldehyde Health Notice required by §20 of the Standards Act~~[-§20]~~;
 - (C) verification that the purchaser was advised of the Wind Zone, thermal zone, and roof load zone for which the home was constructed. If this information is not available for a used home, the purchaser will be advised of this fact and the used home will be disclosed as being constructed to Wind Zone I, thermal zone 1, and the roof load design for the South;
 - (D) verification that the purchaser received the Wind Zone notice as required by §80.50 of this title (relating to Wind Zone Regulations);

- (E) verification that the purchaser received the site preparation notice; ~~[and]~~
- (F) verification that the purchaser received written notice of the two (2) year limitation of notice for filing a claim with the department; ~~[.]~~
- (G) verification that the Covenant Disclosure Notice Affidavit was provided to the purchaser prior to completing a credit application;
- (H) copies of the Notice of Installation Affidavit and attached documents, for a manufactured home installed as personal property;
- (I) copies of the documents that substantiated the Notice of Installation Affidavit, for a manufactured home installed as real property;
- (J) if the sale of a home includes air conditioning, the name and license number of the air conditioning contractor which installed the air conditioning system in accordance with §80.64(d) of this title (relating to Procedures for Alterations); and
- (K) complete records of all alterations, in accordance with 24 CFR §3282.254.

(2) For all new manufactured homes:

- (A) verification that a copy or the general description of the manufacturer's new home warranty and installation warranty were given to the consumer prior to the retailer's signing of any binding retail installment sales contract or other mutually binding agreement.
- ~~(B) [(A)]~~ verification that the manufacturer's new home warranty, consumer's manual, and retailer's installation warranty were delivered to the purchaser;
- ~~(C) [(B)]~~ verification of the date that the manufactured home information card was mailed to the manufacturer; and
- ~~(D) [(C)]~~ verification of delivery of conspicuous notice relating to defect or damage under the new home warranty as required by §14(D) of the Standards Act~~[, §14(H)]~~.

(3) For used manufactured homes:

- (A) verification that the purchaser received the written 60-day habitability warranty; ~~[and]~~
- (B) verification that a copy or the general description of the retailer's installation warranty were given to the consumer prior to signing of any binding retail installment sales contract or other mutually binding agreement, if the retailer contracted for the installation as a part of the sales agreement; and
- (C) ~~[(B)]~~ verification that the purchaser received the retailer's installation warranty if the retailer contracted for the installation as a part of the sales agreement.
- (b) All verifications and copies of notices required by this chapter must be maintained in the retailer's sales file, and the sales file must be maintained for a period of not less than six (6) years from the date of sale. If a retailer has more than one sales location and wishes to maintain all of its records at a central location, it may do so provided that the retailer notifies the department more than sixty (60) days in advance that its records are being maintained at a central location by providing the address of such location. Absent such notice the records of a particular home must be maintained at the address where the home is in inventory and from which it was sold. If the retailer wishes to discontinue the centralization of its records or to change the address where its records are kept, the retailer must notify the department more than sixty (60) days in advance of the change of the location and the address and effective date of the new location.
- (c) For new homes or used homes manufactured on or after September 1, 1997, a manufactured housing license holder shall not contract for sale or installation of any home under which the home would be installed in a wind zone, thermal zone, or roof load zone other than that allowed on the data plate.

§80.122. Security Requirements.

- (a) For purposes of meeting the security requirements of §13 of the Standards Act, ~~[§13,]~~ "other security" means an assignment of a certificate of deposit from or on a state or federally chartered bank or savings and loan association, properly signed and filed with the department. If other security is posted, the other security must be maintained in or by a banking institution located in this state. Such deposits are hereinafter referred to as security. Forms shall be furnished by the department for filing an assignment of such security. If such security is reduced by a claim, the license holder shall, within twenty (20) calendar days, make up the deficit as required by §13(i) of the Standards Act~~[, §13(i)]~~. No advance notice is required by the department to the license holder, but the department shall verify receipt of the deposit.
- (b) An assignment of such security filed with the department for compliance with §13 of the Standards Act, ~~[§13,]~~ shall remain on file with the department for two (2) years after the person ceases doing business as a manufacturer, retailer, broker, rebuilder,

or installer, or until such later time as the director may determine that no claims exist against the security. A bond or certificate of deposit may be filed in lieu of or to replace the assigned security. In the event a bond is filed to replace the assigned security and the initial effective date of the bond is the same or prior to the date of the assignment of security, such security or deposit may be immediately withdrawn upon request.

- (c) If the security requirement of a license holder is canceled during the annual license period, the license shall be automatically canceled on the date security coverage ceases.
- (d) To be exempt from the additional security as required by [§13\(f\) of the Standards Act](#), ~~§13(f)~~, a manufacturer who does not have a manufacturing plant in this state must have a bona fide service facility.
 - (1) The manufacturer shall provide the department with the name, address and phone number of the service facility, conspicuous notice of which shall be provided to each Texas retailer who purchases homes from the manufacturer.
 - (2) The service facility shall be capable of compliance with the provisions of Sub-part I of the procedural and enforcement regulations promulgated by HUD, and capable of providing warranty service within the reasonable time requirements set by the department, and shall be subject to periodic review and inspection by department personnel.
 - (3) If the department determines that the requirements of paragraph (2) of this subsection have not been met, notice must be sent of that determination and of the requirement of an additional bond amount.

§80.123. License Requirements.

- (a) **Manufacturer.** Any person constructing or assembling new manufactured housing for sale, exchange, or lease purchase within this state shall be licensed as a manufacturer. An application shall be submitted on the form required by the department and shall be completed giving all the requested information. The application shall be accompanied by the required security, [Articles of Incorporation or Assumed Name Certificate](#), and payment of the license fee. Every distinct corporate entity must be separately licensed. Each separate plant location operated by a license holder which is not on property which is contiguous to or located within 300 feet of the license holder's licensed manufacturing facility requires a separate license and security.
- (b) **Retailer.** Any person engaged in the business of buying for resale, selling, or exchanging manufactured homes or offering such for sale, exchange, or lease purchase to consumers shall be licensed as a retailer. An application for license shall be submitted on the form required by the department and be completed giving all the requested information. The application shall be accompanied by the required security, [Articles of Incorporation or Assumed Name Certificate](#), and payment of

the license fee. No person shall be considered a retailer unless engaged in the sale, exchange, or lease purchase of two or more manufactured homes to consumers in any consecutive twelve (12) month period. Sales, exchanges, or lease purchases by any employee or agent of a business entity are deemed to be sales of the business entity. Each separate sales location which is not on property which is contiguous to or located within 300 feet of a licensed sales location requires a separate license and security.

(c) Broker.

- (1) Any person engaged by one or more other persons to negotiate or offer to negotiate bargains or contracts for the sale, exchange, or lease purchase of a manufactured home to which a certificate or document of title has been issued and is outstanding shall be licensed as a manufactured housing broker. An application for license shall be submitted on the form required by the department and be completed giving all the requested information. The application shall be accompanied by the required security, [Articles of Incorporation or Assumed Name Certificate](#), and payment of the license fee. Each office location of the broker shall be licensed and proper security posted unless an office is on property which is contiguous to or located within 300 feet of an office licensed with the department.
- (2) A broker shall not maintain a location for the display of manufactured homes without being licensed as a retailer.
- (3) Paragraphs (1) and (2) of this subsection shall not apply to the sale, exchange, or lease purchase of a manufactured home in a single real estate transaction when the home and land are sold as realty with improvements.

- (d) Rebuilder. Any person who desires to be [licensed](#) ~~[certified]~~ by the department to alter, repair, or otherwise rebuild a salvaged manufactured home, as that term is defined in [§8\(g\) of](#) the Standards Act, ~~[§8(g),]~~ within this state, shall be licensed. An application shall be submitted on the form required by the department and shall be completed, giving all the requested information. The application shall be accompanied by the required license fee [and Articles of Incorporation or Assumed Name Certificate](#). ~~[In addition to the license requirements, the licensed rebuilder must be certified by the department. In order to be certified by the department, the department must observe the rebuilding process of the first home to verify that the manufactured home will be rebuilt in accordance with applicable laws, codes, standards, rules, orders, and directives of the department. The department will certify the applicant as a rebuilder once all requirements have been met.]~~

(e) Installer.

(1) Every person who contracts to perform or performs installations shall submit the required security, complete the necessary license forms and any other information needed, and be issued a license prior to performing an installation function. The required license fee must accompany the application for license and Articles of Incorporation or Assumed Name Certificate.

(A) Each applicant for license shall have public liability insurance coverage, including completed operations coverage in an amount of not less than \$300,000 for bodily injury each occurrence and property damage insurance in an amount of not less than \$100,000 each occurrence. A combined single limit of \$300,000 will be considered to be in compliance with this section. If the applicant will be engaged in the transportation of manufactured housing incidental to the installation, the applicant must also have motor vehicle liability insurance coverage in an amount of not less than \$250,000 bodily injury each person, \$500,000 bodily injury each occurrence, \$100,000 property damage each occurrence. A combined single limit of \$500,000 will be considered to be in compliance with this section. Cargo insurance on each home or transportable section of not less than \$50,000 per towing motor vehicle is required.

(B) At the time of initial license and on renewal, a certificate of insurance must be filed with the department by the insurance carrier or its authorized agent certifying the kind, type and amount of insurance coverage and which provides for thirty (30) calendar days notice of cancellation. If the applicant does not provide proof of the required motor vehicle liability insurance and the cargo coverage, the applicant must sign an affidavit that the applicant will not engage in any transportation of manufactured housing. If the applicant transports only his/her own property, and furnishes the department with an affidavit attesting to that fact, cargo coverage is not required.

(C) An installer, also licensed as a retailer, may satisfy the insurance requirements by filing a certificate of insurance which shows that the license holder has motor vehicle-garage liability coverage including completed operations, and has dealer's physical damage (open lot) including transit insurance coverage in amounts not less than those set forth in subparagraph (A) of this paragraph ~~subsection (e)(A) of this section~~.

(D) If the required insurance coverage expires or is canceled, and proof of replacement coverage is not received prior to the expiration date or date of cancellation, the installer's license is automatically terminated.

- (2) The installer responsible for the installation in accordance with the provisions of §80.119 of this title (relating to Installation Responsibilities) shall maintain a file containing a copy of the installation report as filed with the department.

(f) Homeowner's Temporary Installation.

- (1) A homeowner may apply for a temporary license as an installer for the purpose of installing such owner's used manufactured home. The application shall be submitted on a form and contain such information as required by the department, and it must be accompanied by a cashier's check or money order payable to TDHCA in payment for the required fee. The issuance of a homeowner's temporary installer's license by the department shall not relieve any warranty responsibility required by the Standards Act except for damage or defects which may occur as a result of the installation of the home by the homeowner.
- (2) The application must be accompanied by a certificate of insurance issued by the insurance carrier or its authorized agent to prove insurance coverage for the installation of the home as follows: public liability insurance coverage including completed operations in an amount of not less than \$300,000 for bodily injury each occurrence and property damage insurance in an amount of not less than \$100,000 each occurrence, for which a combined single limit of \$300,000 will be considered to be in compliance with this section; and motor vehicle liability insurance coverage of not less than \$250,000 bodily injury each person, \$500,000 bodily injury each occurrence and \$100,000 property damage each occurrence, for which a combined single limit of \$500,000 will be considered to be in compliance with this section. A copy of the home manufacturer's installation instructions, custom designed [or] installation instructions stamped by a Texas licensed professional engineer or architect, or an installation plan with details and specifications conforming to the state's generic standards shall accompany the application.
- (3) Upon approval of the application, the homeowner will be issued a temporary license for the installation of that home set out in the application and a temporary installer's (TI) number. The temporary license shall be valid only for thirty (30) calendar days [the period of time set forth on the license certificate].
- (4) The temporary installer's (TI) number must be displayed on the back of the home in letters and figures not less than 8 inches in height when the home is moved over the roads, streets, or highways in this state.

(g) Salesperson.

- (1) A salesperson means an individual, partnership, company, corporation, association, or other group who, for any form of compensation, sells or lease-purchases or offers to sell or lease-purchase manufactured housing to

consumers as an employee or agent of a retailer or broker. A person or entity licensed as a retailer or broker with the department is not required to be licensed [register] as a salesperson, and the owner of a sole proprietorship, a partner in a partnership, or an officer in a corporation which is duly licensed does not need [have to register as] a salesperson's [salesperson] license so long as such individual is [properly] listed in the ownership of the application filed with the department [retailer's or broker's application for license].

- (2) The salesperson is an agent of the retailer or broker for whom sales or lease-purchases, or offers, are made. This includes the general manager, sales manager, office manager or anyone involved in showing and offering homes for sale. The retailer or broker is liable and responsible for the acts or omissions of a salesperson in connection with the sale or lease-purchase of a manufactured home. It is a violation of the Standards Act and this chapter for a retailer or broker of manufactured housing to employ a salesperson who is not licensed with the department.
- (3) An application for license must be made by every salesperson. Each applicant for [certificate of license as] a salesperson's [salesperson] license must file with the department an application for license on a form provided by the department containing:
 - (A) the full legal name, permanent mailing address, date of birth, telephone number, Texas driver's license number or Texas identification number, and social security number of the applicant;
 - (B) places of employment of the applicant for the preceding three (3) years, providing the name of firm(s), address(es), and dates of employment;
 - (C) a statement that the applicant is the authorized agent for a manufactured housing retailer or broker; the statement shall be signed by the employer. If there is a change in name, address, telephone, email address, or employer, an amended application must be submitted to the department within ten (10) calendar days of this change.
- (4) Except as may otherwise be authorized, the fee for a salesperson's license shall be submitted to the department in the form of a cashier's check or money order. Salesperson licenses shall be valid for a period of one (1) year from the date of issuance.
- (5) ~~[Salesperson annual renewal license forms shall be available at manufactured housing retailer and broker locations, or any office of the department. Renewal forms and]~~ Payment [payment] of the renewal fee shall be made by the salesperson and submitted to the department along

with the completed license renewal notice prior to the expiration of the current license.

- (6) Salespersons shall be issued a license card by the department containing effective date and license number. The salespersons shall be required to present a valid license card upon request.
- (h) Applicable License Holder Ownership Changes.
 - (1) A license holder shall not change the location of a licensed business unless the license holder first files with the department:
 - (A) a written notification of the address of the new location; **[and]**
 - (B) an endorsement to the bond reflecting the change of location; **[and]**
 - (C) original license.**
 - (2) The change of location is not effective until the notification and endorsement are received by the department.
 - (3) For a change in ownership of less than fifty percent (50%) of the licensed business entity, no new license is required provided that the existing bond or other security continues in effect. **However, the current Articles of Incorporation or Assumed Name Certificate must accompany the request.**
 - (4) For a change in ownership of fifty percent (50%) or more, the license holder must file with the department, along with the appropriate fee **and Articles of Incorporation or Assumed Name Certificate:**
 - (A) a license **addendum [application]** by the purchaser providing information as may be required by the department; and
 - (B) certification by the surety that the bond for the licensed business entity continues in effect after the change in ownership; or
 - (C) an application for a new license along with a new bond or other security and proof that the education requirements of **§7(p) of** the Standards Act, **[§7(p),]** have been met.
- (i) Education Requirements. Effective September 1, 1987, all applicants for license, except salespersons, shall attend and complete 20 hours of educational instruction as required by the Standards Act and this **chapter [title]**. A manufacturer may request a one-day in-plant training session be presented by the department in lieu of completing the instruction requirement. The license will not be issued until the owner, partner, corporate officer, or other person who will personally have the day-to-day management responsibility for the business location, or the salesperson to be

licensed, attends and completes this educational requirement. This section shall not apply to the renewal of licenses, nor to the license of additional business locations.

(j) Approving a training program conducted by a nonprofit educational institution or foundation as sanctioned by §7(q) of the Standards Act.

(1) An organization requesting approval to conduct the educational course required by the Standards Act must file a course approval request and course materials at least **ninety (90)** calendar days before the date of the first scheduled presentation. The director shall deliver a written notice of approval or disapproval no later than **thirty (30)** calendar days after receiving the request. If disapproved, the requestor may resubmit the course with corrections. The director will deliver a written notice of approval or disapproval no later than **fifteen (15)** calendar days after receiving the re-submittal.

NOTE: The words **ninety, thirty, and fifteen** were inserted before the numeric numbers to be consistent with the rules.

(A) Approval of Training Program: The director will approve the training program if the requirements in this subsection are met and the materials submitted comply with the required course topics in paragraph (3) of this subsection.

(B) Disapproval of Training Program: The director will not approve the training program if the requirements are not met and the materials submitted do not comply with the required course topics in paragraph (3) of the subsection. The requestor will receive a written notice detailing the reason(s) for the disapproval. The requestor may re-submit the course with corrections as mentioned in paragraph (1) of this subsection.

(2) As a prerequisite for a license, the course must be twenty (20) hours in length and instruct the potential attendee in the law and consumer protection regulations.

(3) An educational training course shall consist of the following topics:

(A) Presentation of the Law and Rules.

(i) Article 5221f, the Standards Act

(ii) Chapter 80, Texas Administrative Code, Administrative Rules

(iii) Texas Finance Code (applicable sections)

(iv) Texas Transportation Code (applicable sections)

(v) Federal Truth -in-Lending Act

(vi) Property Code

(B) Titling.

- (i) Seals
- (ii) Titling Fees
- (iii) Titling Process
- (iv) Description of Forms
- (v) Title Cancellation and Reinstatement Process

(C) Licensing.

- (i) Manufacturer Application Form Requirements
- (ii) Retailer Application Form Requirements
- (iii) Installer Application Form Requirements
- (iv) Salesperson Application Form Requirements
- (v) Broker Application Form Requirements
- (vi) Salvage/Rebuilder Application Form Requirements
- (vii) Insurance and Bond Requirements
- (viii) License Renewal and Revision Requirements
- (ix) Sale of non-habitable homes
- (x) Retailer and Installer Responsibilities

(D) Installations.

- (i) Anchoring, supporting, and multi-section connecting standards
- (ii) Requirements for Completing the Installation Inspection Report Form

(E) Consumer Complaints.

- (i) Consumer Complaint Process
- (ii) Delivery of Warranty
- (iii) Correction Requirements
- (iv) Requirements for Completing the Complaint Forms

(F) Dispute Resolution.

- (i) Dispute Resolution Process
- (ii) Texas Government Code, Chapter 2306
- (iii) Federal Trade Commission Manual: "How to Advertise Consumer Credit"
- (iv) Business & Commerce Code, Deceptive Trade Practices (applicable sections)

(4) The training organization must provide each attendee of the class with written proof of having completed the entire 20 hour course

(5) The primary administrator for the training program will be notified by the director of changes to the Law and Rules and the date that the changes will become effective.

(6) The director may revoke course approval for failure to comply with the standards or procedures set forth in this subsection. Unless surrendered or revoked for cause, the approval will be valid for a period of two (2) years.

(k) Denial, Suspension, Renewal Denial, or Revocation of License Relating to Repeat Violations of the Standards Act or Department Rules.

(1) The following criteria shall be utilized to determine whether an applicant shall be issued or renewed a license if the applicant within the last two years from the date of the application has:

(A) two Agreed Final Orders of the same kind or type of violations;
or

(B) one Final Order of the same kind or type of violations.

(2) If the department suspends, revokes, or denies renewal of a valid license, or denies a person's license or the opportunity to be examined for a license in accordance with this subsection because of the person's prior violations history, the department shall:

(A) notify the person in writing stating reasons for the suspension, revocation, renewal denial, denial of disqualification; and

(B) offer the person the opportunity for a hearing on the prior violation history.

(l) Denial, Suspension, Renewal Denial, or Revocation of License relating to the history of non-compliance with the Standards Act and Rules.

(1) The department will consider the background of the applicant, license holder, sole proprietor, partner officer, managing employee, chief executive officer, chief executive operating officer, and directors of a corporation.

(2) In the evaluation the department will consider the non-compliance history with the Standards Act and this chapter and will comply with the Texas Government Code, Chapter 2001, in proceeding with denial, suspension, or revocation of a license.

(m) [j] Denial, Suspension, Renewal Denial, or Revocation of License Relating to Criminal Background.

- (1) The following criteria shall be utilized to determine whether an applicant shall be issued a license if that applicant states in his/her application for said license that he/she has a record of criminal convictions within five (5) years preceding the date of the application:
 - (A) the nature and seriousness of the crime;
 - (B) the relationship of the crime to the intended manufactured housing business activity;
 - (C) the extent to which a license holder might engage in further criminal activity of the same or similar type as that in which the applicant previously had been involved;
 - (D) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the functions and responsibilities of the license holder's occupation or industry; and
 - (E) whether the offenses were defined as crimes of moral turpitude by statute or common law, from Class A misdemeanors to first, second, and third degree felonies carrying fines and/or imprisonment or both. Special emphasis shall be given to the crimes of robbery, burglary, theft, embezzlement, sexual assault, and conversion.

- (2) In addition to the factors that may be considered in paragraph (1) of this subsection, the department, in determining the present fitness of a person who has been convicted of a crime, may consider the following:
 - (A) the extended nature of the person's past criminal activity;
 - (B) the age of the person at the time of the commission of the crime;
 - (C) the amount of time that has elapsed since the person's last criminal conviction;
 - (D) the conduct and work activity of the person prior to and following the criminal conviction;
 - (E) evidence of the person's rehabilitation or attempted rehabilitation effort while incarcerated or following release; and
 - (F) other evidence of the person's present fitness, including letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person; the sheriff and chief of police in the community where the person resides; and any other persons in contact with the convicted person.

- (3) It shall be the responsibility of the applicant to the extent possible to secure and provide to the department the recommendations of the prosecution, law enforcement, and correctional authorities as required by this subsection.
- (4) The applicant shall furnish proof in any form, as may be required by the department, that he/she has maintained a record of steady employment and has otherwise maintained a record of good conduct and has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which the applicant was convicted.
- (5) If the department suspends or revokes a valid license, or denies a person a license or the opportunity to be examined for a license in accordance with this subsection because of the person's prior conviction of a crime and the relationship of the crime to the license, the department shall:
 - (A) notify the person in writing stating reasons for the suspension, revocation, denial, or disqualification; and
 - (B) offer the person the opportunity for a hearing on the record.

(n) [(k)] License Renewal Requirements. It is the responsibility of the license holder to renew the license prior to its expiration date.~~;~~ ~~however,~~

- (1) ~~The~~ ~~the~~ department will mail each license holder a renewal notice and application for renewal at least forty-five (45) calendar days prior to the date on which the current license expires. Notice will be mailed to the last known address indicated in department records.~~;~~
- (2) ~~In~~ ~~in~~ order to prevent the expiration of a certificate of license, all applications for license renewals must be received by the department prior to the date on which the current license expires.~~;~~ ~~and~~
- (3) ~~If~~ ~~if~~ an application for license renewal is received by the department after the date on which the current license expires, the license will not be reinstated except with approval of the director. The director may require a hearing prior to reinstatement.
- (4) All renewal licenses and a reinstatement license approved by the director shall be dated as of the day following the date on which the current license expires.

(o) [(h)] Application and Appeals.

- (1) Initial application processing.
 - (A) It is the policy of the department to issue the license within seven (7) working days after receipt of all required information and the following conditions have been met:

- (i) all required forms are properly executed; and
- (ii) all requirements of applicable statutes and department rules have been met.

~~[(B) Applicants may make application for license in person at the department's headquarters office in Austin during regular working hours. However, the issuance of a license number will be delayed until the application has been thoroughly reviewed.]~~

~~(B)~~ ~~(C)~~ License applications and accompanying documents received shall be processed and issued within seven (7) working days if all conditions for license have been met.

~~(C)~~ ~~(D)~~ ~~[Within seven (7) working days of the date received by the department,]~~ License ~~[license]~~ applications and accompanying documents found to be incomplete or not properly executed shall be returned to the applicant with an explanation of the specific reason and what information is required to complete license. Upon receipt of all required information, the license will be issued within seven (7) working days.

~~(D)~~ ~~(E)~~ Upon written request, the department will call the license holder and provide the license number assigned.

- (2) Appeals. Applicants may appeal any dispute arising from a violation of the time periods set for processing an application. An appeal is perfected by filing with the director a letter explaining the time period dispute. The letter of appeal must be received by the director no later than twenty (20) calendar days after the date of the letter of explanation from the department outlined in paragraph (1)(C) ~~[subparagraph (D)]~~ of this subsection. The department will decide the appeal within twenty (20) calendar days of the receipt of the letter of appeal by the director.

New §80.124. Deposits and Down Payments.

(a) The retailer, salesperson, or agency of the retailer shall not retain or keep a deposit except in accordance with this section.

(b) A deposit on a home in inventory must be refunded within fifteen (15) calendar days following the date of written notice from the depositing consumer requesting the refund. The retailer must hold the home in inventory for purchase by the consumer making the deposit until the deposit is refunded. The retailer may refund the deposit at any time to the depositing consumer, but the retailer must not sell the home to any other consumer until the deposit on the home in inventory has been refunded.

- (c) A deposit on a special ordered home which is not in inventory must be refunded within fifteen (15) calendar days following the date of written notice from the depositing consumer requesting the refund if the retailer, salesperson, or agent fails to provide or perform the following:
- (1) Has record of the consumer being given conspicuous written notice of the requirements for retaining the deposit as set forth by §6(n) in the Standards Act, along with all of the notices and forms required by §6(n) in the Standards Act to be given to the consumer prior to the execution of any mutually binding contract.
 - (2) The special ordered home is delivered or ready to be delivered and fails to conform to the specifications or representations, if any, made to the consumer by the retailer.
- (d) On a special ordered home which is not in inventory, the retailer may retain the deposit provided that:
- (1) the home conforms to the specifications of the special order and the representations, if any, made to the consumer are not altered without the consumer's consent;
 - (2) the consumer fails or refuses to accept delivery and installation of the home by the retailer;
 - (3) the consumer is given conspicuous written notice of the requirements for retaining the deposit as set forth in this subsection along with all of the notices and forms required by this chapter to be given the consumer prior to the execution of any mutually binding contract.
- (e) the retailer may not retain more than five percent (5%) of the estimated cash price of the home which is specially ordered, and the retailer must refund any amount of the deposit which exceeds five percent (5%); and
- (f) In a financed transaction, the deposit becomes the down payment, or part thereof, following credit approval and the execution of a retail installment sales contract, and the provisions of this section do not apply.
- (g) To ensure that the down payment required by the creditor in a financed transaction is actually received by the retailer at the time of the execution of the contract or document, the actual source of the funds for the down payment must be verified by the consumer, the retailer, and the salesperson on a form prescribed by the department. The Down Payment Verification Affidavit must be signed and notarized by the consumer, the retailer, and the salesperson prior to the execution of a retail installment sales contract or agreement.

(h) This Down Payment Verification Affidavit must denote in at least 14 point bold font "The amount of my down payment is the true amount noted on my retail installment contract."

(i) The provisions of this section do not apply to a deposit or funds held in an escrow account in connection with a real estate transaction.

§80.125. Advertising Regulations.

- (a) A license holder is prohibited from publishing or distributing any form of advertising which is false, deceptive, or misleading.
- (b) There are no restrictions on:
 - (1) the use of any advertising medium;
 - (2) a person's personal appearance or the use of a person's voice in an advertisement;
 - (3) the size or duration of an advertisement; or
 - (4) the use of a trade name in an advertisement.
- (c) A retailer or broker must not advertise any interest rate or finance charge which is not expressed as an annual percentage rate and must comply with the disclosure requirements of the federal Truth-in-Lending Act.

§80.126. Rules for Hearings.

- (a) Unless otherwise expressly set forth in the Standards Act or this chapter, all hearings shall be held and conducted pursuant to the applicable provisions of Government Code, Chapter 2001.
- (b) Any party to a hearing may request that a record of the hearing be made and transcribed by an independent court reporter, other than an employee of the department. Such request must be made not later than seven (7) calendar days prior to the hearing. The additional cost and expense of the independent court reporter may be assessed against the party making the request. In all hearings, the published rules and regulations of the secretary of HUD shall be considered, if relevant. If the department believes that such rules and regulations are relevant to any issue to be involved in the hearing, the notice of hearing shall specifically refer to such HUD rules and regulations.
- (c) If, after receiving notice of a hearing, a party fails to appear in person or by representative on the day and time set for hearing or fails to appear by telephone in accordance with Government Code, Chapter 2001, the hearing may proceed in that party's absence and a default judgment may be entered.

- (d) Any person for whom a license was revoked, denied, or suspended by a final order issued after a hearing under Government Code, Chapter 2001, may only be issued a new license after a hearing under Government Code, Chapter 2001, and determination by the director that the certificate of license may be issued.
- (e) Pursuant to the Administrative Procedures Act, each party has the right to file exceptions to the Proposal for Decision and present a brief with respect to the exceptions. All exceptions must be filed with the department within ten (10) working days of the Proposal for Decision, with replies to be filed ten (10) working days after the filing of exceptions.

§80.127. Sanctions and Penalties.

- (a) In accordance with the provisions of Government Code, Chapter 2306, §2306.604, the director may assess and enforce penalties and sanctions against a person who violates any applicable law, rule, regulation, or administrative order of the department. The director may:
 - (1) issue to the person a written reprimand that specifies the violation;
 - (2) revoke or suspend the persons license;
 - (3) place on probation a person whose license is suspended; or
 - (4) assess an administrative penalty in an amount not to exceed \$1,000 for each violation in lieu of, or in addition to, any other sanction or penalty.
- (b) In determining the amount of a sanction or penalty, the board and the director shall consider:
 - (1) the kind or type of violation and the seriousness of the violation;
 - (2) the history of previous violations; the kind or type of previous violations, and the length of time between violations;
 - (3) the amount necessary to deter future violations;
 - (4) the efforts made to correct the violation or previous violations; and
 - (5) any other matters that justice may require.
- (c) Violations will be subject to sanctions and penalties as set forth in Government Code, Chapter 2306.604. Revocation or suspension of a license may be assessed only for multiple, consistent, and/or repeated violations. For first-time violations of a department rule which does not relate to the construction or installation of the home, a voluntary letter of compliance will be issued in lieu of other sanctions.

- (d) Consumer complaints relating to warranties are not considered violations until there has been a determination that the complaint is subject to a warranty and the license holder giving the warranty fails or refuses to respond to a warranty order of the department for correction of the warranty item. The failure to correct a serious defect, an imminent safety hazard, or a defect pursuant to applicable state and federal regulations and/or warranty orders is a violation.
- (e) All written notices and preliminary reports of violations shall specify in detail the particular law, rule, regulation, or administrative order alleged to have been violated along with a detailed statement of the facts on which the allegation is based.
- (f) The respondent in an administrative hearing shall be entitled to due process and a hearing under the provisions of Government Code, Chapter 2001 and Chapter 2306. The respondent and the director may enter into a compromise settlement agreement in any contested matter prior to signing of the final order.

§80.128. Arbitration Rules.

- (a) *Definitions For Arbitration.* The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:
 - (1) Authorized representative - An attorney authorized to practice law in the State of Texas or a person designated by a party to represent the party.
 - (2) Award - The written decision of the arbitrator.
 - (3) Chief judge - The chief administrative law judge of the State Office of Administrative Hearings (SOAH) or his/her designee.
 - (4) Department - The [Manufactured Housing Division of the](#) Texas Department of Housing and Community Affairs (TDHCA).
 - (5) Dispute - The factual and/or legal controversy including the amount of the claim.
 - (6) Manufactured Homeowners' Recovery Fund (HORF) - A special fund reserved for the payment of valid consumer claims and other authorized expenses of the department.
 - (7) Party/Parties - Consumer, manufactured housing license holder of the department, or a surety company, or the department in cases that potentially impact the HORF, and persons who hold, or have previously held, a security interest in the manufactured home, and any other person involved in the dispute who agrees to the arbitration.
 - (8) Surety bond - A bond or security filed with the department which shall be open to successive claims.

- (9) Surety - Person or organization which undertakes to pay money or perform another act if his principal fails to do so.
- (b) Election of Arbitration and Options.
- (1) The department finds that the manufacture and sale of manufactured homes affects interstate commerce; accordingly, the parties may agree on binding arbitration under Title 9, United States Code.
 - (2) The binding arbitration shall not supersede nor interfere with the department's informal dispute resolution process. The parties must submit all disputes involving warranties to the department for processing through the informal dispute resolution process.
 - (3) The parties may elect to use private, local, regional, or national arbitration services or may select arbitrators proposed by the SOAH as set forth in this section. This election must be set forth in the written agreement for binding arbitration.
 - (4) Arbitrators shall be selected by mutual agreement of the parties or in accordance with the specific provisions of the written agreement for binding arbitration.
- (c) *Qualifications for Arbitrators.* Unless provided by the SOAH, potential arbitrators must have the following minimum standards:
- (1) at least five (5) years of experience in the legal profession; or
 - (2) at least five (5) years experience in the resolution of claims with experience as a presiding officer; or
 - (3) at least ten (10) years of experience in the regulation of the manufactured housing industry; and
 - (4) the attributes necessary to be a successful arbitrator, including expertise, honesty, integrity, impartiality, and the ability to manage the arbitration process.
- (d) Awards.
- (1) The arbitrator may grant any remedy or relief that the arbitrator deems just and equitable within the scope of the parties, including, but not limited to, specific performance of a contract. However, the award must be consistent with applicable state and federal law, including the Standards Act, Government Code, Chapter 2306, Title 9, United States Code, and this chapter.

- (2) The award shall be based on the facts established in the arbitration proceeding, in the opinion of the arbitrator or a majority of the arbitrators, including stipulations of the parties and on the state and federal statutes and formal rules and regulations, as properly applied to those facts.
 - (3) Subject to the limitations set forth in this section, the arbitrator may assess arbitration fees, expenses, and compensation.
 - (4) If there is more than one arbitrator, all decisions must be made by a majority.
 - (5) The award must:
 - (A) be in writing;
 - (B) be dated and signed by the arbitrator or a majority of the arbitrators; and
 - (C) state the basis of, and the rationale for, the award.
 - (6) The award is final and binding on all parties. Parties may apply to the state or federal district courts for confirmation, vacation, modification, or correction of the award only to the extent allowed under Title 9, United States Code.
 - (7) Solely for the purpose of correcting clerical errors, the arbitrator retains jurisdiction of the award for twenty (20) calendar days after the date of the award.
- (e) Duties of the Arbitrator.
- (1) The arbitrator shall afford a full and equal opportunity to all parties for the presentation of any material and relevant evidence and shall protect the interests of all parties.
 - (2) If the dispute may involve the HORF, the arbitrator shall notify the department in writing as soon as she/he has knowledge of this fact and shall provide the department the opportunity to introduce evidence or present arguments relating to the claim against the HORF.
 - (3) Copies of the award shall be served on all parties and to the department.
- (f) Costs of Arbitration.
- (1) The costs of arbitration shall be paid by the parties. The arbitrator shall apportion the costs between the parties as in her/his discretion is fair, just, and equitable, subject to the limitation of consumers' costs in this subsection.
 - (2) The costs of arbitration to the consumer are limited to a maximum of:

- (A) \$250 if the claims for damages do not exceed \$50,000;
 - (B) \$500 if the claims for damages exceed \$50,000 but do not exceed \$250,000; and
 - (C) \$1,000 if the claims for damages exceed \$250,000.
- (3) The costs of arbitration shall include the fee or fees for the arbitrator or arbitrators and all incidental expenses directly related to the conduct of the arbitration proceeding.
- (4) Subject to the limitation of consumers' costs in this subsection, costs shall be paid in accordance with the rules of the arbitrator, or if the SOAH is selected to handle the arbitration, in accordance with the provisions of subsection (j) of this section.
- (g) *Notice To Department.* All notices required to be sent to the department shall be sent to TDHCA, Manufactured Housing Division, P. O. Box 12489, Austin, Texas 78711.
- (h) *Notice To Surety Companies.* Upon receipt of a notice of intent to arbitrate, the department shall furnish the selected arbitrator with a list of the surety companies of the license holders involved in the dispute to be given notice of the proceeding and an opportunity to participate.
- (i) *Arbitration Not Using SOAH.* The provisions of this subsection relate only to arbitrations for which the parties have agreed to use the services of a private, local, regional, or national arbitration service.
- (1) Subject to the provisions of subsections (a)-(h) of this section, the parties shall follow the rules of the applicable arbitration service.
 - (2) The party requesting the arbitration shall file a written notice of intent to arbitrate with the department. The written notice shall:
 - (A) contain the name, address, telephone and facsimile number of the selected arbitrator or arbitrators and, if applicable, the arbitration organization through which the arbitration will be conducted;
 - (B) contain a description of the nature of the dispute and the remedy sought along with a description of the manufactured home by HUD/Seal number and serial number and the date of sale or occurrence; and
 - (C) have attached a copy of the written agreement for the binding arbitration.
- (j) *Arbitration Using SOAH.* The provisions of this subsection relate only to arbitrations for which the parties have agreed to use the services of SOAH. Subject to the

provisions of subsections (a)-(h) of this section, the parties shall follow these additional rules.

- (1) A written notice of intent to arbitrate shall be filed with the Manufactured Housing Division of the department and all involved parties by certified mail, return receipt requested. This notice of intent shall include a written statement that contains the following:
 - (A) a statement that the parties have agreed in writing to submit their dispute to arbitration under these rules;
 - (B) the nature of the dispute that is being submitted to arbitration, including a complete description of the manufactured home by HUD/Seal and serial number, and date of sale or occurrence;
 - (C) a brief description of the factual and/or legal controversy, including the amount in controversy, if any;
 - (D) the remedy sought;
 - (E) any special information that should be considered in compiling a panel of potential arbitrators; in the event the parties fail to indicate the number of arbitrators to be used, the dispute shall be heard and determined by one arbitrator;
 - (F) a statement that the hearing locale shall be determined by the arbitrator pursuant to paragraph 14(D) of this subsection;
 - (G) a list of all parties, and their attorneys or representatives, including addresses, telephone and facsimile numbers;
 - (H) a nonrefundable filing fee of \$100 made payable to the department;
 - (I) an estimate of length of the hearing in hours. This estimate must be approved by the department before arbitration can begin; and
 - (J) a deposit equal to 150% of the estimated cost of the hearing, payable to the department. This deposit is calculated by multiplying the estimated length of number of hearing hours by \$70. This figure is then multiplied by 1.5, and the product multiplied by the number of arbitrators to be used.
- (2) Costs of Arbitration.
 - (A) The filing fee of \$100 which is nonrefundable.

- (B) Each arbitrator's fee is not to exceed \$70 an hour for case preparation, travel, pre-hearing conferences, hearings, preparation of the Award, and any other required post-hearing work.
 - (C) The unused portion of the deposit shall be refunded by the department after an accounting from the arbitrator.
 - (D) If the cost of the arbitration exceeds the deposit of the estimated cost, the department shall invoice the appropriate parties and collect any monies due the department.
 - (E) All fees and deposits are payable to the department at P. O. Box 12489, Austin, Texas 78711.
 - (F) The department shall distribute arbitration fees to SOAH in response to monthly billing statements.
- (3) **Initiation of Arbitration.**
- (A) Immediately upon receipt of notice of intent to arbitrate, the filing fee, and the deposit of estimated cost, the department shall forward the information to SOAH so that arbitration can be initiated. The department shall furnish SOAH with a list of the surety companies of the license holders involved in the dispute so that they may be given notice of the arbitration and an opportunity to seek to be made parties of the arbitration. Also the department shall furnish SOAH an accounting of the filing fee and deposit of the estimated cost. The case shall be file stamped and given a SOAH docket number which identifies it as a case submitted for arbitration. The docket number will be used on all subsequent correspondence and documents filed with SOAH relating to this arbitration.
 - (B) The party that did not initiate the arbitration must file an answering statement with SOAH within ten (10) calendar days after receipt of the notice of intent from the electing party. That answering statement shall include a statement that the party agrees to arbitrate and an indication of whether the party agrees or disagrees with the statements in the initial notice of intent to arbitrate.
- (4) *Changes of Claim.* If either party desires to make any new or different claim, it shall be made in writing and filed with SOAH. The other party shall have ten (10) calendar days from the date of such mailing in which to file an answer with SOAH. After the arbitrator is appointed, however, no new or different claim may be submitted except with the arbitrator's consent.
- (5) *Filing and Service of Documents.*

- (A) All documents filed by either party with SOAH shall be simultaneously served on the other parties, using the same method of service, if possible. Documents required to be filed with SOAH shall be delivered to the docket clerk before 5:30 p.m. local time. The time and date of filing shall be determined by the file stamp affixed by the SOAH docket clerk.
 - (B) Service may be made by first class mail, overnight courier, or certified mail return receipt requested to the party or its representative at its last known address. Documents containing 20 or fewer pages, including exhibits, may be filed with SOAH by electronic transmission according to requirements set out in its rules. All documents served on another party shall have a certificate of service signed by the party or its representative that certifies compliance with this rule. A proper certificate shall give rise to a presumption of service.
 - (C) If any document is sent to the SOAH clerk by certified mail or first class mail in an envelope or wrapper properly addressed and stamped and is deposited in the mail on or before the last day for filing same, and it is received within three (3) working days of the filing date, it shall be deemed properly filed.
 - (D) Documents filed by facsimile that are received at SOAH after 5:30 p.m. shall be deemed filed the first day following that is not a Saturday, Sunday, or official state holiday.
- (6) Selection of Arbitrator.
- (A) Any Administrative Law Judge (ALJ) employed by SOAH may be selected as an arbitrator. The parties may propose the name of a particular ALJ to arbitrate in a particular case in the notice of intent to arbitrate. However, the usual procedure will be for SOAH to provide the parties with a list of potential arbitrators, for selection to be made as described in subparagraph (B) of this paragraph.
 - (B) SOAH will provide a list of potential arbitrators to the parties in the case. The list of potential arbitrators in each case will be created by selecting persons employed as an ALJ at SOAH, giving due regard to the complexity of the dispute, the expertise needed to understand the dispute, the experience and training of the proposed arbitrators, and the requests of the parties concerning the location of the hearing.
 - (C) SOAH shall send each party an identical list of persons qualified to serve as an arbitrator in the dispute within ten (10) calendar days after receipt of the notice of intent to arbitrate by SOAH. SOAH will also give the parties a copy of the resumes of these persons. The number of persons on the list shall be equal to the sum of the number of

parties involved in the arbitration plus the number of arbitrators agreed to be used.

- (D) Each party shall have ten (10) calendar days from the transmittal date to strike one name. The remaining names should be numbered in order of preference, if such preference exists. If a party does not return the list within the time specified, all persons named therein shall be deemed acceptable. It is not necessary for the parties to exchange the name of the candidate that they are striking, nor will those names be disclosed to the candidates.
 - (E) SOAH will notify the parties of the arbitrator or arbitrators selected.
- (7) Disclosure Requirements and Challenge Procedure.
- (A) A potential arbitrator must not become or continue to be the arbitrator in any dispute if she/he believes or perceives that participation as an arbitrator would be a conflict of interest. A potential arbitrator must disclose any bias or any financial or personal interest she/he may have in the result of the particular arbitration as well as any past or present relationship with the parties, their principals, or their representatives.
 - (B) The duty to disclose is a continuing obligation throughout the arbitration process.
 - (C) Upon receipt of such information from the arbitrator or another source, SOAH shall communicate the information to the parties and, if appropriate, to the arbitrator and others. Upon objection of a party to the continued service of an arbitrator, the chief judge shall determine whether the arbitrator should be disqualified and shall inform the parties of his/her decision, which shall be conclusive.
- (8) *Vacancies.* If for any reason an arbitrator is unable to perform the duties of the office, the chief judge may, on proof satisfactory to him/her, declare the office vacant. Vacancies shall be filled in accordance with the applicable provisions of this chapter for initial appointment of an arbitrator.
- (9) *Qualifications of Arbitrators.*
- (A) The chief judge shall designate impartial third parties who shall be subject to the standards and duties prescribed by the applicable sections of the Civil Practices and Remedies Code (CPRC), and who shall have the qualified immunity prescribed therein.
 - (B) Potential arbitrators shall have a current resume on file, available to persons interested in utilizing the arbitration process, that shows her/his experience, education, professional licenses and certifications, and professional associations and publications.

- (10) *Record.* The Arbitrator may make a tape recording of the proceeding which may be destroyed after the time for final appeal has passed.
- (11) *Interpreters.* Any party intending to use an interpreter for themselves or any of their witnesses must provide the other parties notice of their intent to use an interpreter and the identity of the interpreter at least thirty (30) calendar days prior to the arbitration. The other parties may file objections to the use of that interpreter which will be ruled upon by the arbitrator or have present their own interpreter selected and paid for by them. Any other party retaining an interpreter in response to another party's designation of their intent to use an interpreter must notify the other parties within fifteen (15) calendar days prior to the arbitration proceeding of the identity of the interpreter.
- (12) *Duties of the Arbitrator.* In addition to the duties set forth in subsection (e) of this section, the arbitrator:
 - (A) shall notify the department when the arbitrator's fees and expenses have exceeded the deposit estimated by the electing party so the department can collect additional expenses; and
 - (B) shall not issue an Award until notified by the department in writing that all monies have been received by the department as described in subsection (j)(2) of this section.
- (13) *Communication of Parties with Arbitrator.* The parties shall not communicate with the arbitrator concerning the issues of the dispute other than at an oral hearing, or through properly filed documents, unless the parties and the arbitrator agree otherwise.
- (14) *Date, Time, and Place of Hearing.*
 - (A) The arbitration hearing shall be scheduled to begin no later than the ninetieth day after the date that the arbitrator is selected.
 - (B) The arbitrator shall set the date, time, and place for each hearing. She/he shall send a notice of hearing to the parties at least thirty (30) calendar days in advance of the hearing date, unless otherwise agreed to by the parties.
 - (C) The arbitrator may grant a continuance of the arbitration at the request of any party.
 - (D) All hearings shall be held in Austin or in the region where one or more parties are located, as determined by the arbitrator. Preference will be given to using government facilities.

- (15) *Representation.* Any party may be represented by counsel or other authorized representative.
- (16) *Public Hearings and Confidential Material.* The arbitrator shall maintain the privacy of the hearings unless the law provides to the contrary. Any person having a direct interest in the arbitration is entitled to attend hearings. It shall be discretionary with the arbitrator to determine the propriety of the attendance of any other person.
- (17) *Preliminary Conference.* The arbitrator may set a preliminary conference and may require parties to file a statement of position prior to that conference.
- (18) *Exchange of Information.* By the thirtieth day after the date SOAH mailed notice to the parties of the name of the appointed arbitrator, the parties shall have exchanged the following information:
- (A) list of witnesses that a party expects to call identifying the subject matter on which the witness may testify; and
 - (B) copies of documents or other tangible things relevant to the dispute.
- (19) *Discovery.* The arbitrator may authorize discovery upon a showing of good cause. Parties are to voluntarily disclose information related to the dispute being arbitrated, as provided in paragraph (18) of this subsection.
- (20) *Control of Proceedings.* The presiding arbitrator shall exercise control over the proceedings, including but not limited to, determining the consequences of any party's failure to comply with these rules and/or the rulings of the arbitrator, the manner and order of interrogating witnesses and presenting evidence so as to:
- (A) make the interrogation and presentation effective for the determination of the truth;
 - (B) avoid needless consumption of time; and
 - (C) protect witnesses from harassment or undue embarrassment.
- (21) *Evidence.*
- (A) The parties may offer evidence as they desire and shall produce additional evidence that the arbitrator considers necessary to understand and resolve the dispute. However, any documentary evidence not timely exchanged between the parties before the hearing will be excluded from consideration unless good cause is shown.
 - (B) The arbitrator is the judge of the relevance and materiality of the evidence offered. Strict conformity to the rules of judicial proceedings is

not required. The Texas Rules of Civil Evidence are not binding on the arbitrator but may be used as a guideline.

- (C) All privileges recognized by the Texas Rules of Civil Procedure may be invoked to protect privileged documents. If requested, the arbitrator shall decide whether a document is in fact privileged.
 - (D) Each party shall produce any witnesses under its control without the necessity of a subpoena. Individuals may be compelled by the arbitrator, as provided in Title 9, United States Code §7, to attend and give testimony or to produce documents at the arbitration proceeding or at a deposition authorized under subsection (j)(19) of this section.
- (22) *Witnesses.* Witnesses shall testify under oath. Testimony may be presented in a narrative, without strict adherence to a "question and answer" format.
- (23) *Exclusion of Witnesses.* Any party may request that the arbitrator exclude witnesses from the hearing except when they are testifying. If such a request is made, the arbitrator shall instruct the witnesses not to discuss the case outside the official hearing other than with the designated representatives or attorneys in the case. However, an individual who is a party or any other party representative shall not be excluded under this rule. A witness or other person violating these instructions may be punished by the exclusion of evidence as the arbitrator deems appropriate.
- (24) *Evidence by Affidavit.* The arbitrator may receive and consider evidence of witnesses by affidavit. Affidavit testimony must be filed with the arbitrator and served on the other party no later than thirty (30) calendar days before the hearing. The other party will have fifteen (15) calendar days to file any objection to the admissibility of the affidavit or to file controverting affidavits. The arbitrator shall give such evidence only such weight as the arbitrator deems it entitled to after consideration of any objection made to its admission.
- (25) *Order of Proceedings.*
- (A) The arbitrator may allow each party to make an opening statement, clarifying the issues involved.
 - (B) The parties shall present the evidence supporting their respective claims in the order directed by the arbitrator. Witnesses for each party shall answer questions propounded by the other parties and the arbitrator.
 - (C) Exhibits offered by either party may be received in evidence by the arbitrator.

(D) The parties may make oral closing statements or, at the request of the arbitrator, may submit arguments in writing.

(26) Attendance Required.

(A) The arbitrator may proceed in the absence of any party or representative of a party who, after notice of the proceeding, fails to be present or to obtain a continuance.

(B) An arbitrator may not make an award solely on the default of a party and shall require the party who is present to submit evidence, as required by the arbitrator, before making an Award.

§80.130. Delivery of Warranty.

(a) The written warranty that the manufactured home is habitable as per §8 of the Standards Act, shall have been timely delivered if given to the homeowner at or prior to the time the contract for sale is signed. [For purposes of the Standards Act, §§7, 8, and 14, the written warranty documents shall have been timely delivered if given to the homeowner at the time the contract for sale is signed.]

(b) The written manufacturer's new home construction warranty per §14 of the Standards Act, shall be timely delivered if given to the homeowner at or prior to the time of initial installation at the consumer's homesite. [The "installer" as defined in §80.119(a) of this title (relating to Installation Requirements), shall deliver the installation warranty required by the Standards Act, §14(d) and (m), to the consumer at the time of entering into the installation contract. If the retail sale of a used manufactured home includes installation, the selling retailer must, as the contracting installer, give the installation warranty. The installer must keep a copy of the installation warranty and proof of delivery to the consumer in a permanent file for review by the department.]

(c) For secondary installations, the "installer" as defined in §80.119(a) of this title (relating to Installation Requirements) shall deliver the installation warranty required by §14(d) and (m) of the Standards Act, to the consumer at the time of the installation at the consumer's homesite. The installer must keep a copy of the installation warranty and proof of delivery to the consumer in a permanent file for review by the department.

§80.131. Correction Requirements.

(a) The retailer, installer, or manufacturer shall take immediate corrective action when notification is received from a consumer and the nature of the complaint indicates an imminent safety hazard or serious defect.

(b) Except as provided in subsection (a) of this section, manufacturers, retailers, and installers shall perform their obligations in accordance with their respective written warranty within a reasonable period of time. A reasonable period of time is deemed

to be forty (40) calendar days following receipt of the consumer's written notification unless there is good cause requiring more time. The consumer's written notification must be received by the manufacturer, retailer, or installer within forty (40) calendar days following the end of the one (1) year warranty period for new homes and for used homes within sixty (60) calendar days after the date of the sale.

- (c) The manufacturer, installer, and retailer shall make available for review by department personnel, records relating to their respective warranty responsibilities, to assure that warranty work has been accomplished and that warranty work has been done in accordance with design or standards criteria and properly completed.

§80.132. *Procedures for Handling Consumer Complaints.*

In order to comply with [§2 of](#) the Standards Act, [~~§2,~~] to provide for the protection of the citizens who purchase manufactured housing and to provide fair and effective consumer remedies, the following procedures will be followed:

- (1) On initial contact by a consumer, the department will attempt to verify if the consumer has a valid complaint that is subject to the department's authority. If the department determines that the department has jurisdiction:
 - (A) If the consumer has not previously notified the manufacturer, retailer or installer in writing, the department will instruct the consumer to provide written notification to the manufacturer, retailer, or installer and give the license holder a reasonable amount of time to make repairs.
 - (B) If the consumer has previously provided written notification to the manufacturer, retailer or installer of the need for warranty service or repairs, but believes such has not been completed in a satisfactory manner, the department shall mail a complaint form to the consumer with instructions to complete it and return it to the department. On receipt of the complaint form, the department will make a determination regarding whether or not to open a consumer complaint. If a consumer complaint is opened, the department shall forward copies of the complaint form to the manufacturer, retailer and/or installer, as appropriate, by certified mail, return receipt requested. The department shall also include in the certified mail the "Manufacturer's Response Form" or "Retailer's Response Form," as appropriate, which must be completed and returned to the department within ten (10) working days. The department shall perform a home inspection, if required. If a home inspection is performed, the department will assign responsibilities for repair, and notify the manufacturer, retailer, installer, and consumer of their responsibilities to complete such warranty or service repair in accordance with §80.131(b) of this title (relating to Correction Requirements).

- (2) The department shall make a consumer complaint home inspection if a consumer, manufacturer, or retailer requests such inspection.
- (A) Consumer Request. The consumer may, at any time, request that the department perform a consumer complaint home inspection if the consumer has not been provided proper warranty service. The department may require that the request be in writing on a form provided by the department. If the department has reason to believe that the consumer complaint is covered by a warranty of a license holder, the department shall conduct a home inspection. There is no fee for an inspection performed at the request of the consumer when the department determines that a home inspection is warranted.
- (B) Industry Request. Manufacturer or retailer requests for a consumer complaint home inspection must be in writing on such form as the department may require, shall identify the home by HUD label and serial number(s), and shall provide the necessary information for the department to contact the consumer and determine the physical location of the home. The request must be accompanied by the required fee. The manufacturer or retailer may request a consumer complaint home inspection if the manufacturer or retailer:
- (i) believes that the consumer's complaints are not covered by the respective written warranty, or implied warranties; or
 - (ii) believes that the warranty service was previously properly provided; or
 - (iii) has a dispute as to the respective responsibilities pursuant to the warranties.
- (C) The department will perform the inspection within thirty (30) calendar~~[fifteen (15) working]~~ days from the date an inspection is requested. The inspector shall:
- (i) inspect all items included in the consumer complaint filed with the department and any additional items identified by the consumer prior to completion of the inspection. Any items identified by the consumer after the home inspection is complete shall be handled as a new consumer complaint.
 - (ii) For each item inspected, the inspector shall review the manufacturer's determinations in accordance with 24 CFR §3282.404(b) and evaluate [determine] whether or not the item is covered by either the manufacturer's, retailer's, or installer's warranty and, if covered, by which of the respective warranties. In addition, the inspector shall categorize items as follows:

- (I) The item is a warranty item (also identify which warranty);
 - (II) The result of normal wear and tear, not a warranty item;
 - (III) The result of owner abuse neglect or modification, not a warranty item;
 - (IV) Within commercially acceptable standards, not a warranty item;
 - (V) Meets the current federal and state standards, not a warranty item;
 - (VI) Cosmetic, not a warranty item;
 - (VII) License holder not notified within warranty period;
 - (VIII) Unable to determine, additional information is required; or
 - (IX) Other (explain).
- (D) Within ten (10) [~~five (5)~~] working days following the consumer complaint home inspection, the department shall mail its written report and orders (includes amended reports and orders), if any, to the consumer, manufacturer, retailer, and installer by certified mail, return receipt requested.
- (3) When service or repairs are completed following any notice or orders from the department pursuant to paragraph 2(D) of this section, the manufacturer, retailer, and/or installer shall forward to the department copies of service or work orders reflecting the date the work was completed, or other documentation to establish that the warranty service or repairs have been completed. If the consumer refuses to sign the service or work order, the license holder shall note this fact on the service or work order. These service or work orders must be received by the department within ten (10) calendar days after the expiration of the period of time specified in the warranty order issued by the department.
- (4) Each license holder must maintain both a current physical location address and a current mailing address with the department. Service of notice of hearing or other notice sent by certified mail will be sent to the license holder's current mailing address according to the department's records. If the department sends a notice to the manufacturer, retailer, or installer at the mailing address by certified mail, and the notice is refused or unclaimed, the

department may presume that the license holder was provided proper notice.
All written amended reports and orders will be serviced in this manner.

- (5) If service or repairs cannot be made within the specified time frame, the license holder shall notify the department in writing prior to the expiration of the specified time frame by certified mail. The notice shall list those items which have been, or will be, completed within the time frame and shall show good cause why the remainder of the service or repairs cannot be made within the specified time frame. The license holder shall request an extension for a specific time. If the department fails to respond in writing to the request within five (5) working days of the date of receipt of the notice of request for extension, the extension has been granted. [~~Once the department receives the service or work orders with the consumer's signature indicating that all items have been satisfactorily completed, the department shall send a notice to the consumer that the department has closed the complaint file.~~]
- (6) Once the department receives the service or work orders with the consumer's signature indicating that all items have been satisfactorily completed, the department shall send a written notice to the consumer, stating that if the department does not receive a written reply within the thirty (30) calendar days the complaint file will be closed. [~~If service or repairs cannot be made within the specified time frame, the license holder shall notify the department in writing prior to the expiration of the specified time frame by certified mail. The notice shall list those items which have been, or will be, completed within the time frame and shall show good cause why the remainder of the service or repairs cannot be made within the specified time frame. The license holder shall request an extension for a specific time. If the department fails to respond in writing to the request within five (5) working days of the date of receipt of the notice of request for extension, the extension has been granted.~~]
- (7) If the department decides that another inspection is necessary because of conflicts among the parties to a complaint regarding the nature or quality of the corrective work, whomever the department deems to be responsible for errors requiring the additional inspection will be required to pay the inspection fee to the department.

§80.135. *Manufactured Housing Auctions.*

- (a) Auction of Manufactured Housing to Texas Consumers.
 - (1) The person(s) selling more than one home through an auction in a twelve (12) month period must be licensed as a retailer with this department and the specific location at which the auction is to be held must be bonded in accordance with the Standards Act.

- (2) The auctioneer must be licensed as a manufactured housing salesperson with the Texas Department of Housing and Community Affairs and licensed as an auctioneer, pursuant to the Texas Auctioneer Act, Article 8700.
 - (3) The retailer must notify this department in writing at least thirty (30) calendar days prior to the auction with such notice to contain the date, time, and physical address and location of the proposed auction.
 - (4) The retailer must keep and maintain a file copy of all notices, circulars, or advertisements of any kind relating to the auction of manufactured housing.
 - (5) A manufactured home that has been salvaged or is not habitable may not be sold, conveyed, or transferred to a consumer as a manufactured home for dwelling purposes. The seller must surrender the title and HUD label or Texas Seal, or a statement that there was no label or seal, to the department along with the required fee and an application to cancel the title to business use, before the home is auctioned.
 - (6) The retailer must give notice to each person attending the auction, and the notice shall contain the following:
 - (A) a statement that the homes offered for sale are habitable pursuant to §8(b) of the Standards Act~~[, §8(b)]~~;
 - (B) a statement that any home purchased at the auction must be installed by a installer licensed with this department;
 - (C) the appropriate warning concerning formaldehyde as required by §20 of the Standards Act~~[, §20]~~; and
 - (D) the appropriate notice regarding home construction and Wind Zone standards as outlined in the Standards Act.
 - (7) The retailer shall retain sales records as required by §80.121 of this title (relating to Retailer's Responsibilities) if the home is sold to a consumer.
- (b) Auction of Manufactured Housing to Licensed Retailers.
- (1) No license with the department is required of a lender whose repossessed manufactured homes are being auctioned, if the lender is selling to a retailer who is licensed with the department. The auctioneer must be licensed only pursuant to the Texas Revised Civil Statutes, Texas Auctioneer Act, Article 8700.
 - (2) The auctioneer must notify the Texas Department of Housing and Community Affairs at least thirty (30) calendar days prior to the auction. Such notice must contain the date, time, and physical address and location of the proposed auction.

- (3) The auctioneer must keep and maintain a file copy of all notices, circulars, or advertisements of any kind relating to the auction of manufactured housing.
- (4) The auctioneer must keep and maintain an accurate register of all persons attending the auction. This register should show the name of the individual, the manufactured housing retailer business name, the address of the retailer, and the current license number of the manufactured housing retailer.
- (5) The auctioneer must keep and forward to the Texas Department of Housing and Community Affairs immediately following the auction, a complete list of all manufactured homes sold at such auction including the name of manufacturer, model, serial and HUD numbers, along with the name, address, and license number of the retailer purchasing the home.
- (6) In lieu of the auctioneer maintaining and filing the information in paragraphs (1)-(5) of this subsection with the department, the consigner of the manufactured homes may contract with the auctioneer to file the information with the department.

~~New §80.136 Homes Acquired on or after January 1, 2002.~~

~~(a) — The provisions of this section apply only to manufactured homes acquired by a consumer on or after January 1, 2002 through any means of financing. The term “acquired by a consumer” means the date on which the consumer is bound by contract to purchase the home.~~

~~(b) — Real Property:~~

~~(1) — The manufactured home is real property if the owner of the home is the same as the owner of record of the real estate and if the home is secured to a foundation and connected to a utility. If the land and manufactured home are being acquired by the consumer, and the ownership of the land and home will be the same, the home is classified as real property.~~

~~(2) — The department will not issue a document of title if the ownership of the land and the manufactured home is, or will be, the same. If a document of title has previously been issued for the home, it must be surrendered for cancellation.~~

~~(c) — With the exception of community property, when the ownership of the land and home is not the same, a document of title will be issued. The recorded ownership of the land shall be determined as of the date the home is acquired by the consumer by either executing the credit documents necessary to finance the purchase of the home or paying the cash proceeds for the purchase of the home.~~

~~(e) — The purchase of all manufactured homes considered to be real property shall be closed at the office of a federally insured financial institution, a title company, or attorney at law.~~

~~(f) — Disclosures:~~

~~(1) — Prior to the completion of a credit application, the retailer must provide the information required by §21(a) of the Standards Act.~~

~~(2) — Prior to completion of the closing, the retailer or its agent shall provide to the consumer the information required by §21(b) of the Standards Act. The retailer shall comply with the federal Truth-in-Lending Act to disclose the purchase price, agreed interest rate, and the length of time for the loan repayment required by §21(b)(1) of the Standards Act. All disclosure requirements may be in separate documents.~~

~~(3) — Within thirty (30) working days after the date on which the installation is completed for manufactured homes classified as real estate, the retailer shall file a Notice of Installation Affidavit in the public land records for the county in which the real estate is located in accordance with the provisions of §2.001(e), (f), and (g), Property Code.~~

~~(4) — When a consumer relocates a manufactured home, the relocation shall be reported as a personal property installation by the installer.~~

~~(g) — This section, as relates to the giving of disclosures required for credit transactions and as relates to the requirement of surrendering previously issued documents of title for cancellation, does not apply to transactions in which the consumer purchases the manufactured home from the retailer for cash.~~

NOTE: §80.136 is withdrawn.

SUBCHAPTER F. CONSUMER NOTICE REQUIREMENTS

§80.180. Formaldehyde Notice Requirements.

- (a) The consumer notice related to formaldehyde must be posted in the home in accordance with the FMHCSS.
- (b) In addition to the requirement of subsection (a) of this section:
 - (1) A retailer shall deliver a copy of the "Important Health Notice" prescribed by HUD to the consumer before the execution of any mutually binding sales agreement. **[If it is a cash sale, the copy of the notice must be delivered before the acceptance of payment or the execution of title transfer documents. An agreement to order a HUD-Code manufactured home from the manufacturer, or an agreement to hold a home in inventory for**

~~a period of time, which is secured by a forfeitable consumer deposit, is a "mutually binding sales agreement" for purposes of this section.~~

- (2) The consumer must sign the copy of the notice. The retailer shall keep the originally signed copy in the permanent sales file and shall give a copy to the consumer at the time the original copy is signed. If requested, the retailer shall deliver a copy of the signed notice to the manufacturer of the home.
- (3) The copy of the notice to be signed by the consumer may be reduced in size from the notice required to be posted in the home and may be entirely reproduced in either red or black. This copy of the notice must be on a form approved by the department, dated, and must contain the following certification immediately above the place for the consumer's signature in bold face type which is at least eight points in size: "I (We) certify that this Important Health Notice was prominently displayed in the kitchen of the manufactured home being purchased and further that this notice was given to me (us) on the date shown and prior to the signing of any binding agreement. I (We) have read the notice and understand it."

SUBCHAPTER G. TITLING

§80.202. Fees for Title Documents.

(a) Title Transaction Fees.

- (1) There shall be a fee of \$35 for each title transaction. ~~[Except as otherwise expressly provided,]~~ The [the] fee shall be submitted in the form of a cashier's check or money order payable to the Texas Department of Housing and Community Affairs. The fee shall accompany the required documents forwarded to the Manufactured Housing Division of the department at its principal office in Austin. Ten dollars of the fee for each title transaction shall be deposited in the HORF. A title transaction is the issuance, reissuance, reinstatement, cancellation or recordation of:
 - (A) a document of title; ~~[the issuance, reissuance, reinstatement, or cancellation of a manufactured home document of title including issuance of corrected titles (unless the correction is required because of an error by the department);]~~
 - (B) Certificate of Attachment; ~~[the issuance of a salvage title;]~~
 - (C) a salvage title; ~~[the cancellation of a manufacturer's certificate of origin;]~~
 - (D) a Manufacturer's Certificate of Origin; ~~[the filing of an inventory financing lien;]~~

- (E) the filing of an inventory financing lien; [the filing of foreclosure documents or a repossession affidavit; and]
- (F) the filing of foreclosure documents or a repossession affidavit; and [the recording of a transfer of ownership from a lienholder to or through a retailer.]
- (G) the recording of a transfer of ownership from a lienholder to or through a retailer.

(2) There shall be a separate filing fee of \$100 when a certification form is provided for a home that is permanently affixed.

(3)[(2)] There shall be a separate transaction fee of \$35 for Quick Title Service related to the issuance [or cancellation] of titles in addition to the \$35 for each title transaction. Quick Title Service shall be defined as the processing of the documents related to a title transfer [or cancellation] within three (3) working days from the day the application is received in the Manufactured Housing Division. Title transfer documents must be received in good [transfer] order in the department's manufactured housing division in Austin for the issuance of a manufactured housing title [or cancellation] on a Quick Title Service basis. Title transfer documents which are not in good transfer order or which are incomplete will be returned to the sender, and the title application will be processed within three (3) working days from the date that correct and completed documents are received. All quick title applications must be submitted by overnight mail or delivered in-person.

(b) If a correction of a document is required as a result of a mistake by the department, the issuance of a new document shall not require a fee. [The \$35 fee is payable for any subsequent issuance or reissuance of a manufactured home document of title except for the issuance of a corrected document of title in those instances where an error was made by the department in the document of title.]

(c) All persons licensed with the department as a manufacturer, retailer, broker, or installer may submit company or business firm checks in payment of any [the] fee described herein [for the issuance of titles]. All state or federally chartered banks, savings banks or savings institutions and all commercial lenders or mortgage bankers who extend credit for the retail purchase of manufactured homes may also pay any [title transaction or title search] fees with company or business firm checks at the discretion of the department. All checks shall be made payable to the Manufactured Housing Division of TDHCA [Texas Department of Housing and Community Affairs].

(d) One check may be submitted in payment of the aggregate fees for multiple [title] transactions or the issuance of more than one document [-of title]. When multiple applications are submitted, a form prescribed by the department must be included

which shall identify each application and reconcile the **[\$35]** fee for each application with the total amount of the check.

- (e) There shall be a fee of \$10 for any title search which shall be paid to the department by the requesting party in the form of a cashier's check or money order. The request must be in writing and must state the specific information being requested.

§80.203. *Manufacturer's Monthly Shipment Report.*

- (a) Every manufacturer shall submit a monthly report to the department of all manufactured homes produced during the preceding month for shipment to any point in Texas. The report shall contain the following information:
 - (1) the HUD label number(s);
 - (2) the serial number(s);
 - (3) the license number of the retailer as assigned by the department;
 - (4) a designation as to single or multiple sections; and
 - (5) the name and address of the purchaser, consignee, or person to whom it was shipped.
- (b) The manufacturer's monthly shipment report shall be filed with the department by the 15th day of the month following the manufacture of the home and/or shipment.
- (c) If a manufacturer has no sales, consignments, or shipments to any person or place during any month, the report must be filed stating such fact.

§80.204. *Titling Forms.*

- (a) Manufacturer's Certificate of Origin (MCO).
 - (1) The manufacturer shall issue a Manufacturer's Certificate of Origin (MCO) for each new home which is consigned, transferred, or sold by the manufacturer to a retailer in this state. The certificate of origin information shall be on a form prescribed by the department or it will be returned for reissuance.
 - (2) The MCO shall be surrendered to the department upon application for the issuance of an initial document of title to the home or the application for Certificate of Attachment.
 - (3) If a new home is sold by an out-of-state retailer to a consumer in this state and the MCO is not on the form prescribed by the department, there must be attached to the original MCO a separate sheet certified by the manufacturer which contains all of the information required by the Texas MCO.

- (b) Application for Issuance of Document of Title, or Certificate of Attachment to a Manufactured Home.
- (1) The manufactured home document of title, or Certificate of Attachment shall be issued on the basis of information submitted on a properly executed application for a document of title containing the following information:
- (A) a description of the home including the manufacturer's name and address;
 - (B) the model designation;
 - (C) the number of sections of the home;
 - (D) the total square feet of the home;
 - (E) the HUD label or Texas seal number and serial number;
 - (F) the weight and size of each section, excluding the hitch;
 - (G) the Wind Zone reflected on the MCO if available; and
 - (H) if available, the date of manufacture reflected on the MCO (the "date of manufacture" is the date the home was produced and the HUD label affixed to the home and is not to be construed as the "year model").
- (2) The MCO shall accompany the application for a document of title or Certificate of Attachment on the original sale from retailer to private individual.
- (3) Other information shall include, but not be limited to, the following:
- (A) the name(s) and address(es) of the seller(s) and the county where currently installed;
 - (B) the name(s) and address(es) of the purchaser(s) and the county and location where the home will be installed;
 - (C) the name and address of the lienholder, if any, and the date of the lien.
- (4) The department may [will] return [not process] the application without processing if the lienholder information is not complete or appears to have been modified.
- (5) The right of survivorship may be elected by the [when husband and wife are] purchasers or transferees. The document of title shall indicate whether the right of survivorship has been elected.

- (6) The application must contain the signatures of seller(s) and purchaser(s).
 - (7) The application and fees shall be submitted to the Manufactured Housing Division [~~Texas Department of Housing and Community Affairs~~] at the Austin headquarter's office, with supporting documents.
- (c) Installation Information.
- (1) The installation information, on forms approved by the department, must accompany each application for a document of title, or Certificate of Attachment and shall contain the following information:
 - (A) description of the home, including:
 - (i) serial number;
 - (ii) HUD label number or Texas seal number;
 - (iii) size of home;
 - (iv) name of manufacturer; ~~[and]~~
 - (v) Wind Zone, if available;~~and [-]~~
 - (vi) map of the location of the home.
 - (B) whether or not the home was, or will be, moved as a result of the sale or transfer;
 - (C) whether or not the home was, or will be, installed at a new location as a result of the sale or transfer;
 - (D) the location of the home immediately prior to the sale or transfer;
 - (E) if moved, or to be moved, the location of the home after the move and the name and address of the person or company that moved, or will move, the home; and
 - (F) if installed, or to be installed, the location of the home after installation; and the name and address of the person or company that installed, or will install, the home.
 - (2) If the home was installed as a result of the sale or transfer, the installation fee required under §80.20(b) of this title (relating to Fees) must be submitted along with the installation information (Notice of Installation Addidavit ~~[Form-E]~~). The installation fee may be combined with the titling fee for each home.
- (d) Manufactured Home Document of Title.
- (1) The department shall maintain records of ownership of manufactured homes. The department shall issue a manufactured home document of title for each

manufactured home, except of the manufactured homes that are not titled by virtue of their being [attachment to] real property, which shall set forth the ownership of the home in accordance with the records of the department.

NOTE: Replaced the term "attachment to" with "being" to avoid confusion over the term "attachment."

- (2) The document of title shall contain the following information:
 - (A) the date of the certificate and the number of the certificate;
 - (B) the name(s) and address(es) of the purchaser(s) of the home and the county where the home is installed for occupancy;
 - (C) the name and address of the manufacturer, the model designation of the home, the number of sections, and the total square feet of living space in the home;
 - (D) the HUD label and/or Texas seal number, the serial number, and the size (excluding hitch) and the weight of each transportable section of the home;
 - (E) the name and address of the seller of the home;
 - (F) the date of any lien(s) and the name(s) and address(es) of the lienholder(s);
 - (G) ~~[space for the signature(s) of the purchaser(s) and a]~~ designation of right of survivorship;
 - (H) the date of manufacture reflected on the MCO if available (the "date of manufacture" is the date the home was produced and the HUD label affixed to the home and is not to be construed as the "year model");
 - (I) Wind Zone, if available;
 - (J) a statement to the effect 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.
- (3) Each certificate shall be authenticated by the facsimile signature of the director. The facsimile signature shall be that of the person holding such position at the time the certificates are printed, and the validity of the certificates is not affected by any subsequent change.

- (4) The department shall issue a manufactured home document of title in the following cases:
- (A) after receipt of a properly executed application for a document of title, **Notice of Improvement Attachment, or Notice of Attachment,** installation information on forms approved by the department, and the MCO upon the initial retail sale; ~~[and]~~
 - (B) after receipt of a properly executed application for a document of title, **Notice of Improvement Attachment,** installation information on forms approved by the department, and the original manufactured home document of title when there is a transfer of ownership or the addition of a lien or lienholder;~~[-]~~
 - (C) **after receipt of a properly executed application by the owner for cancellation of the Certificate of Attachment due to the sale or transfer and removal of the home from the real property, and following an inspection by the department for habitability; notice of the cancellation of the Certificate of Attachment shall be filed with the county in which the real property is located.**
- (5) If the home is subject to any lien, the original of the document of title shall be mailed to the first lienholder of record. A nontransferable copy shall be mailed to the purchaser(s) and to the second lienholder, if any. If no lien exists, the original shall be mailed to the purchaser(s).

(e) **Certificate of Attachment.**

- (1) **In the event that a manufactured home is real property either because the owner has surrendered the document of title or no document of title has been issued because the manufactured home has been installed on property owned by the owner of the manufactured home, then the department shall issue a Certificate of Attachment.**
- (2) **The Certificate of Attachment shall contain the following information:**
 - (A) **the name and address of the owner of the manufactured home;**
 - (B) **the legal description of the real property where the manufactured home is installed;**
 - (C) **the name and address of the manufacturer of the manufactured home, the model designation of the home, the number of sections, the HUD label and/or Texas seal number, the serial number, and the size (excluding hitch) of the manufactured home;**

(D) certification by the department that the Manufacturer's Certificate of Origin or any document of title have been canceled; and

(E) name, address and license number of the selling retailer.

(f) Disclosure Required by §21(b) of the Standards Act.

(1) The disclosures required by §21(b) of the Standards Act are required to be given prior to the transfer of title to a manufactured home.

(2) Such disclosures are to be provided to the purchaser of a manufactured home in written form from a manufactured home retailer (or to one of the purchasers if more than one (1) purchaser). Acknowledgment of receipt by the purchaser is not required.

~~(3) In the context of a purchase which is financed through a financing source obtained by the purchaser, and in the context of a cash purchase, disclosure by the retailer in the purchase agreement between the retailer and the purchaser of the manufactured home's purchase price is sufficient to meet the requirements of §21(b)(1) of the Standards Act.~~

NOTE: Proposed paragraph (3) is withdrawn because statutory disclosure requirements are self-explanatory.

§80.205. Titling Transactions.

(a) Corrected Manufactured Housing Document of Title.

(1) The department shall make corrections to a manufactured home document of title upon receipt of a properly executed application for a document of title and the previously issued original.

(2) The corrected certificate of ownership shall be mailed to the lienholder of record if a lien is recorded and a copy shall be mailed to the purchaser(s) and any other lienholder(s). If no lien exists, the original shall be mailed to the purchaser(s).

(3) No fee shall be required for this transaction if an error was made by the department.

(b) For manufactured homes that are presumed to be personal property pursuant to §2.001 of the Property Code, the [The] department shall issue a certified copy of the original manufactured home document of title or of the nontransferable copy upon receipt of a properly executed application for a document of title. If a lien is recorded on the document of title, the certified copy of the original document of title shall be mailed to the lienholder of record.

(c) Inventory Financing Liens.

- (1) A lien and security interest on manufactured homes in the inventory of a retailer, as well as to any proceeds of the sale of those homes, is perfected by filing an inventory finance security form approved by the department and in compliance with these sections.
- (2) The creditor-lender financing the inventory and the retailer must execute a security agreement which expressly sets forth the rights and obligations of the two parties in the inventory finance arrangement.
- (3) The inventory finance security form shall contain the following:
 - (A) signatures of both the retailer and the creditor-lender; [the date of the security agreement between the parties;]
 - (B) the name, sales location, address, and license number [and chief executive office address] of the retailer; and [signatures of both the retailer and the creditor-lender;]

NOTE: Changed to reduce any ambiguity or confusion as to the affected licensee.

- (C) the name and address of the creditor-lender. [name, address, and license number of the retailer; and]
[~~(D) — the name and address of the creditor-lender.~~]
- (4) A separate form must be filed for each licensed sales location[retailer].
- (5) For manufactured homes for which no document of title has been issued, the filing of the inventory-finance security form perfects a security interest in all manufactured homes, whether then owned or thereafter acquired, as well as to any proceeds of the sale of those homes, provided that: [The filing of the inventory-finance security form perfects a security interest in all manufactured homes which have been financed by the creditor-lender or for which the creditor-lender has advanced any funds or has incurred any obligation which enabled the retailer to acquire the manufactured home. The filing of the inventory-finance security form also perfects a security interest in all manufactured homes which are thereafter acquired by the retailer, for which the creditor-lender advances any funds or incurs any obligation. The security interest for these future acquisitions attaches immediately upon the advancement of funds or the incurrence of the obligation. The creditor-lender is not required to file additional inventory-finance security forms.]
 - (A) the home is financed by the creditor-lender;
 - (B) the creditor-lender has advanced any funds for the home; or

(C) the creditor-lender has incurred any obligation for the home.

(D) This security interest attaches to a particular manufactured home only when the act described in either subparagraph (A), (B), or (C) of this paragraph would either:

(i) enable the retailer to acquire the manufactured home;

(ii) pay the existing balance of a creditor-lender for funds secured by a security interest in the manufactured home;

(iii) in the event that the retailer and manufacturer are the same entity, pay funds to the manufacturer-retailer after completion of the manufacture of the manufactured home; or

(iv) in the event that the retailer has no debt owed against untitled new inventory, enable the retailer to use the manufactured home as security for a new debt.

(6) No provision in the security agreement between the parties to an inventory financing arrangement shall in any way modify, change, or supersede the requirements of this section for the perfection of security interests in manufactured homes in the inventory of a retailer.

(d) For Release of Lien.

(1) The lienholder of a lien recorded on a manufactured home document of title with the department shall deliver a properly executed release of lien form prescribed by the department to the owner of record within thirty (30) calendar days of the satisfaction of the debt or obligation secured by the lien.

(2) The lien recorded on a manufactured home document of title recorded with the department shall be released by the department upon receipt of a release of lien form properly executed by the lienholder of record, and a new document of title shall be issued to the owner(s) of record if the manufactured home is not real property.

(e) Foreclosure or Repossession.

(1) In the event of sale after either foreclosure or repossession of a manufactured home[,] that is not real property the department shall issue a new manufactured home document of title in the name of the purchaser, [lienholder,] upon receipt of a properly executed application for title containing the following information:

- (A) The description of the home shall be included along with an indication of whether the home is a foreclosure or repossession;
- (B) The name and address of the lienholder and name of the person authorized to sign for the lienholder; and
- (C) An indication of whether the home was repossessed by judicial order or sequestration. A true copy of the order or bill of sale shall be attached.
- (D) A certification that the home will not be located on the same property of the previous owner.**
- (2) In the event of foreclosure or repossession of a manufactured **home**, **that is not real property**, the department will not issue a new manufactured home document of title until receipt of release of lien.
- (f) Surrender of Title Documents for Cancellation.
 - (1) The department shall cancel any outstanding title to a manufactured home upon receipt of a properly executed application **or Notice of Installation Affidavit**. Title documents shall be surrendered for cancellation in the following instances:
 - (A) The manufactured home, or transportable section, has been permanently affixed to real estate and is defined as real estate by the Property Code;
 - (B) The manufactured home, or transportable section, has been declared salvage as defined in **§8 of** the Standards Act~~, §8~~; or
 - (C) The manufactured home has been sold, exchanged or transferred by lease purchase for business use.
 - (2) The department will not cancel a document of title if a lien is filed with the department or recorded on the manufactured home document of title. In either such instance, the department will notify the owner and each lienholder that the title has been surrendered for cancellation, and that the department will not cancel the title unless the lien is released.
- (g) Right of Survivorship: If **two or more eligible persons** ~~**both husband and wife**~~ are shown as purchasers or transferees, they may execute the right of survivorship election on an application for title. Such election constitutes an agreement for the right of survivorship. If the survivorship election is taken, then the department will issue a new document of title to the surviving **person(s)** ~~**spouse**~~ upon receipt of a copy of the death certificate of the deceased **person(s)** ~~**spouse**~~, and a properly executed application for title.

§80.206. Assignment of Lien.

- (a) A lien may be assigned from one lienholder to another by completing a properly executed application for title requesting the assignment of lien. The application for title must be signed by both lienholders and supported by the outstanding title, a copy of the assignment agreement, and the fee.
- (b) Should two lienholders anticipate assignments of lien for a large number of homes, they may prefile a copy of the assignment agreement with the department. The department will assign a file number, and the lienholder may reference the file number in place of including a copy of the assignment agreement with each application.

§80.207. Reinstatement of Canceled Documents of Title.

- (a) A manufactured home document of title issued by the department which has been canceled because the home has been permanently affixed to real estate upon inspection by the department for habitability and upon representation by the owner of the owner's intent to transfer or sell the manufactured home may be reinstated subject to the following documents being filed with the department:
 - (1) a properly executed release of lien releasing any lien resulting from a security interest in the home from the lender;
 - (2) if no lien or security interest exists, an affidavit executed before a notary public that no lien or security interest exists;
 - (3) a properly executed application for reinstatement accompanied by a certified check or money order for \$35;
 - (4) a certification from a title insurance company authorized to do business in Texas that no other liens exist on the manufactured home and if a Certificate of Attachment [certificate of attachment] to real estate has been filed in the deed records of the county in which the real estate is located, that a notice of removal from real estate has been filed in the deed records of the county in which the real estate from which the home was removed is located; and
 - (5) written request for a habitability inspection to ensure that the home is habitable. The request must be accompanied by the required fee of \$100.
 - (6) If the title is being transferred, a properly executed application for title must be submitted along with the fee required by §80.202 of this title (relating to Fees for Title Documents).
- (b) If a manufactured home document of title has been canceled as a result of the home having been previously sold for business use, the department will reinstate the title subject to the following:

- (1) receipt of a written request for an inspection of the home to determine if the home is habitable. The required fee must accompany the application; and
- (2) following the inspection, a written finding by the inspector that the home is habitable; and, if so
- (3) the receipt of a properly executed application for reinstatement accompanied by the proper transaction fee; and
- (4) if title is being transferred, a properly executed application for title accompanied by the proper fee.

§80.208. Recording Tax Lien on Manufactured Homes.

~~[(a) The collector for a taxing unit may file notice of the unit's tax lien on a manufactured home with the department, if the tax has not been paid by January 31 of the year following the year for which the tax is assessed. The notice must include:]~~

~~[(1) name and address of owner of the manufactured home;]~~

~~[(2) address and location of the manufactured home as shown on the collector's records;]~~

~~[(3) amount of tax owed, tax year for which tax was imposed, and name of taxing unit that imposed the tax;]~~

~~[(4) tax roll account number and taxing unit identification (ID) number; and]~~

~~[(5) manufacturer name, correct serial number and HUD label number or Texas seal number.]~~

~~[(b) The notice must be on a form prescribed by the department, and will consist of four parts:]~~

~~[(1) white for TDHCA;]~~

~~[(2) blue for lienholder;]~~

~~[(3) orange for notice of cancellation;]~~

~~[(4) yellow for collector.]~~

~~[(c) The white and blue portions of the notice are sent to the department to file the notice of tax lien. The department will stamp both portions received and recorded. The white portion will be returned to the collector, and the blue portion will be returned to the lienholder, if applicable. The orange portion will be retained by the collector for notice of lien cancellation. Upon cancellation of the lien, the orange portion should be completed and sent to the department where it will be date stamped upon receipt, recorded, and returned to the collector.]~~

~~[(d) 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 department prior to September 1 of the following year. Any lien for which the notice is not received and recorded by the department by the September 1 deadline is extinguished and is not enforceable.]~~

~~[(e) If the information on the tax lien notice matches that of the title of record, the department shall record a tax lien notice, and shall indicate the existence of the lien on any document of title for the manufactured home issued by the department, until the collector for the taxing unit files a notice canceling the tax lien. Simultaneously with the recording of a tax lien, the department must mail a notice of the tax lien to any other lienholders of record.]~~

~~[(f) If the information on the tax lien notice does not match that of the title of record, the notice will be returned to the taxing unit.]~~

~~(a)~~ [(g)] For all manufactured homes sold, or to which ownership is transferred, after December 31, 1985~~;~~ and before August 31, 2001 and for all manufactured homes that are not real property sold, or to which ownership is transferred after December 31, 1985, the recording of a tax lien notice filed with the department constitutes constructive notice of the existence of the lien to all purchasers of the manufactured home who purchase it after the date or recordation of the lien and before the collector for the taxing unit files a notice canceling the tax lien.

~~(b)~~ [(h)] If a tax lien filed with the department in accordance with this section ceases to exist, the collector for the taxing unit shall file a notice with the department stating that the lien no longer exists. Such notice shall be filed no later than ten (10) calendar days after payment of the taxes.

~~[(i) For the purposes of this section, the term "manufactured housing" has the meaning assigned by the Standards Act, §3(17), but does not apply to any manufactured home which has been declared to be real estate and for which the document of title has been canceled.]~~

~~(c)~~ [(j)] A personal property tax lien may not be enforced against a manufactured home transferred to a bona fide purchaser who does not have constructive notice of the existence of the lien.

EXECUTIVE SESSION

Don Stouder

Personnel Matters under Sec. 551.074, Texas Government Code
The Board may discuss any item on this agenda in Executive Session.

OPEN SESSION

Action in Open Session on Items Discussed in Executive Session

ADJOURN

Don Stouder
Chair

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