



Texas Department of Housing and Community Affairs
Manufactured Housing Board Meeting
February 10, 2012

Michael H. Bray, Chair

Anthony G. Burks, Member

Sheila M. Vallés-Pankratz, Member

Donnie W. Wisenbaker, Member

Texas Department of Housing and Community Affairs
Manufactured Housing Board Meeting
February 10, 2012

ROLL CALL

	<u>Present</u>	<u>Absent</u>
Michael H. Bray, Chair	_____	_____
Anthony G. Burks, Member	_____	_____
Sheila M. Vallés-Pankratz, Member	_____	_____
Donnie W. Wisenbaker, Member	_____	_____
Number Present	_____	
Number Absent		_____

_____, Presiding Officer

MANUFACTURED HOUSING BOARD MEETING
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
1500 N. Congress, Capitol Extension Committee Room E2.028
Austin, Texas 78701

February 10, 2012 11:00 a.m.

AGENDA

CALL TO ORDER, ROLL CALL Chair

CERTIFICATION OF QUORUM Chair

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. Consideration and action to approve the minutes of the board meeting on November 4, 2011. Chair
- Item 2. Presentation, discussion and action concerning the consideration of SOAH Proposal for Decision: In the Matter of the Complaint of TDHCA vs. La Tasha Turner, Complaint No. MHD2011000338-LRV, Docket Number: 332-11-7287.MHD. Amy Morehouse
The Board may go into executive session for consultation with attorney on the above order pursuant to Sec. 551.071, Texas Government Code.
- Item 3. Presentation, discussion and action for approval of Texas Manufactured Housing Association and Texas Manufactured Housing School to continue as Continuing Education providers. Eric Franklin
- Item 4. Presentation, discussion and possible action to approve adoption of proposed amendments to 10 Texas Administrative Code Chapter 80 for publication in the Texas Register as adopted. Joe Garcia

REPORT ITEMS

1. Executive Director's Report to include issues relating to operations, budget and performance of the Manufactured Housing Division. Joe Garcia

PUBLIC COMMENT Chair

EXECUTIVE SESSION Chair

Note: The Board may go into executive session (close its meeting to the public) on any agenda item if appropriate and authorized by the Open Meetings Act, Texas Government Code, Chapter 551.

- (a) If necessary, the Board will go into executive session to discuss Personnel Matters pursuant to Sec. 551.074, Texas Government Code.
- (b) If necessary, the Board will go into executive session for Consultation with Attorney pursuant to Sec. 551.071, Texas Government Code.

RECONVENE Chair

Reconvene in public session and take action on any matters coming out of Executive Session.

ADJOURN Chair

To access this agenda or request information, please visit our website at www.tdhca.state.tx.us or contact Sharon Choate, TDHCA/MHD, 1106 Clayton Lane, Suite 270W, Austin, Texas 78723, 512-475-2206, sharon.choate@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 Action Item No. 1

**MINUTES OF THE REGULAR MEETING OF THE
MANUFACTURED HOUSING BOARD**

On Friday, November 4, 2011, at 10:44 a.m., there was a regular meeting of the Manufactured Housing Board (the "Board") at 1500 N. Congress, Capitol Extension Committee Room E2.028. Michael Bray presided. Anthony Burks, Sheila Vallés-Pankratz and Donnie Wisenbaker constituting a quorum, attended. The following Manufactured Housing Division (the "MHD") staff were present: Joe Garcia, Amy Morehouse, and Connie Hendon.

Michael Bray called the roll and confirmed the presence of a quorum.

Michael Bray asked for a motion to approve the minutes from the board meeting on September 23, 2011. Upon motion of Sheila Vallés-Pankratz, duly seconded by Anthony Burks, the minutes of the previous meeting were unanimously approved.

Joe Garcia presented and discussed for approval the proposed amendments to 10 Texas Administrative Code Chapter 80 for publication in the Texas Register as proposed rules. Upon motion of Sheila Vallés-Pankratz, duly seconded by Anthony Burks, the motion was unanimously approved.

The Board did not go into an Executive Session.

Joe Garcia delivered the Executive Director's Report.

The next board meeting was tentatively set for Friday, January 20, 2012, to begin at 10:30 a.m.

There being no further business to come before the board, the meeting was adjourned at 11:44 a.m.

Sharon Choate, Secretary

Approved:

Michael Bray, Presiding Chair



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MANUFACTURED HOUSING DIVISION

Rick Perry
GOVERNOR

Joe A. Garcia
EXECUTIVE DIRECTOR

Agenda Action Item No. 2

Board Members
Presiding Officer, Michael H. Bray
Anthony G. Burks
Sheila M. Valles-Pankratz
Donnie W. Wisenbaker

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

FROM: Amy Morehouse, General Counsel

THROUGH: Joe A. Garcia, Executive Director

SUBJECT: Summary of Proposal for Decision regarding La Tasha Turner's Salesperson's License

Respondent: La Tasha Turner
License type: Salesperson's License
Docket Number: 332-11-7287.MHD
Complaint Number: MHD2011000338-LRV

Background

On December 16, 2010, in Cause No. M-0740500, La Tasha Turner (Respondent) pled "No Contest" to the offense of Theft of Property of more than \$50.00 but less than \$500.00, Class B misdemeanor, in the County Court at law of Dallas, Texas. She was placed on deferred adjudication for one year. This theft involved a manufactured home retailer, that alleged money was taken from consumers by the respondent.

On April 12, 2011, in cause No CR62150, Respondent pled "Guilty" of the offense of Theft of Property by Check more than \$20.00 but less than \$500.00, Class B misdemeanor, in County Court at Law of Decatur, Texas. She was placed on deferred adjudication for one day.

On April 28, 2011, the Texas Department of Housing and Community Affairs, Manufactured Housing Division (Division) received an application for a Salesperson's License from Respondent. She is sponsored by Star Mobile Homes, an entity which holds a Retailer's/Broker's/Installer's (RBI) License (License No.RBI-35153).

The Department was unclear if the above criminal record could be used to deny a Salesperson's License; however, based on the fact that one crime was a theft charge directly related to the manufactured housing industry, the department thought this was an appropriate decision to be determined by an administrative law judge.

▪ **The Administrative Law Judge Determined:**

The Division may deny an application if the applicant acquired a criminal record during the five year period preceding the application date that, in the opinion of the director, makes the applicant unfit for licensing. TEX. OCC. CODE § 1201.551(a)(8).

The Division has adopted rules that interpret “criminal record” to mean “conviction.” 10 TEX. ADMIN. CODE § 80.41(f)(3), (f)(4), (f)(5), and (f)(6).

Dismissed and pending deferred adjudication are not findings of guilt and are not final convictions. *Taylor v. State*, 131 S.W.3d 497, 499-500 (Tex. Crim. App. 2004) (citing *Donovan v. State*, 68 S.W.3d 633, 636 (Tex. Crim. App. 2002); *Jordan v. State*, 36 S.W.3d 871, 876 (Tex. Crim. App. 2001); *McNew v. State*, 608 S.W.2d 166, 172 (Tex. Crim. App. 1978).

Respondent has not acquired a criminal record, as that term was interpreted by the Division at the time of this application, in the five years preceding her application.

Hearing before the State Office of Administrative Hearings

After proper notice, an administrative hearing was held on August 17, 2011. 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 hearing. One technical error was made in the PFD and exceptions were filed by the Department on October 12, 2011. The Administrative Law Judge agreed with the correction. The Department staff is in agreement with the Findings of Fact and Conclusions of law in this PFD with the correction.

Proposal for Decision

The Proposal for Decision dated October 6, 2011, recommends that the Department not deny the Respondent’s application for a manufactured housing Salesperson’s License based on the lack of a criminal conviction within the last five years.

Recommendation

It is recommended that the Board approve the Salesperson’s License with respect to the Respondent, as supported by the record and the PFD. Respondent’s application for a Salesperson’s License should be approved.

▪ **Rule Changes**

To ensure this is not an issue in the future the Department has already changed the rules that were in place at the time of this decision to reflect that a criminal record may now include a conviction, deferred adjudication, or community supervision.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

M A N U F A C T U R E D H O U S I N G D I V I S I O N

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GOVERNOR

Joe A. Garcia
EXECUTIVE DIRECTOR

Board Members
Presiding Officer, Michael H. Bray
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Donnie W. Wisenbaker

Agenda Action Item No. 3

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

FROM: Jim R. Hicks, Consumer Protection Manager

THROUGH: Joe A. Garcia, Executive Director

SUBJECT: Texas Manufactured Housing Association Request for Approval to Continue as a Continuing Education Provider

DATE: February 10, 2012

Texas Manufactured Housing Association (“TMHA”) is currently approved as a Continuing Education Provider offering online classes through January 17, 2011. TMHA has been an approved provider since April 27, 2004. TMHA satisfies the statutory requirements regarding providing continuing education as set forth in Section 1201.113 of the Texas Occupations Code. Changes to the course include updated laws and rules.

Management has reviewed the renewal submission, materials, and online course of TMHA and recommends that its request be approved.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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Donnie W. Wisenbaker

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

FROM: Jim R. Hicks, Consumer Protection Manager

THROUGH: Joe A. Garcia, Executive Director

SUBJECT: Texas Manufactured Housing School (TXMHS), A Division of Fact Homes, Inc. Request for Approval to Continue as a Continuing Education Provider

DATE: February 10, 2012

Texas Manufactured Housing School, A Division of Fact Homes, Inc. ("TXMHS") is currently approved as a Continuing Education Provider offering both classroom and online classes until December 31, 2011. TXMHS has been an approved provider since November 10, 2003. TXMHS satisfies the statutory requirements regarding providing continuing education as set forth in Section 1201.113 of the Texas Occupations Code. Changes to the course include updated laws and rules.

Management has reviewed the renewal submission, materials, and online course of TXMHS and recommends that its request be approved.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

MANUFACTURED HOUSING DIVISION

1106 Clayton Lane, Suite 270W, Austin, Texas 78723
P. O. Box 12489, Austin, Texas 78711-2489
512-475-2200 800-500-7074
www.tdhca.state.tx.us/mh/index.htm

Preamble to Adopt Repeal of Manufactured Housing Rules

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

The Manufactured Housing Division of the Texas Department of Housing and Community Affairs (Department) adopts repeal to 10 Texas Administrative Code §§80.40, 80.41, 80.70 - 80.73, 80.80, 80.90 - 80.94 in order to repeal Subchapters E through H and re-propose the rules as new Subchapters D through G. The repeal is adopted without changes as published in the November 18, 2011, issue of the *Texas Register* (36 TexReg 7746) and will not be republished.

The repeal is effective thirty (30) days following the date of publication with the *Texas Register* of notice that the repeal is adopted.

There were no comments received during the comment period and no requests were received for a public hearing to take comments on the proposed repealed rules.

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

No other statutes, codes, or articles are affected by adoption of the repealed rules.

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

- §80.40. Security Requirements.
- §80.41. License Requirements.
- §80.70. Enforcement.
- §80.71. Rules for Hearings.
- §80.72. Sanctions and Penalties.
- §80.73. Procedures for Handling Consumer Complaints.
- §80.80. Administration of Claims under the Manufactured Homeowners' Recovery Trust Fund.
- §80.90. Issuance of Statements of Ownership and Location.
- §80.91. Issuance of a Texas Seal.
- §80.92. Inventory Finance Liens.
- §80.93. Recording Tax Liens on Manufactured Homes.
- §80.94. Report to County Tax Assessor-Collectors and County Appraisal Districts.

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

The Manufactured Housing Division of the Texas Department of Housing and Community Affairs (the "Department") adopts without changes amendments to 10 Texas Administrative Code §80.3; and new 10 Texas Administrative Code §§80.40, 80.70 - 80.73, 80.80, and 80.91 - 80.94 relating to the regulation of the manufactured housing program. The text to the adopted rules without changes will not be republished in the *Texas Register*. Sections 80.41 and 80.90 are adopted with non-substantive changes and will be republished in the *Texas Register*. The proposed new and amended rules were published in the November 18, 2011, issue of the *Texas Register* (36 TexReg 7736).

The amendments and new rules are adopted to comply with Senate Bill 1 (82nd Legislature, 2011, 1st special session) that amends the Manufactured Housing Standards Act; to re-propose repealed rules in order to re-organize in new Subchapters D - G; to clarify the definition of a criminal record for license applicants; to remove the fee of \$1.50 for a certified copy of the Statement of Ownership and Location; and to clarify what criteria the Department will use to determine that any liens on real property have been released.

The rules are effective thirty (30) days following the date of publication with the *Texas Register* of notice that the rules are adopted.

There were no requests received for a public hearing to take comments on the rules.

Set forth below are comments from TMHA (Texas Manufactured Housing Association) suggesting revisions to the proposed rules and the analysis and recommendations of staff.

§80.90(h): TMHA commented that requiring an applicant to obtain a deed record to confirm the applicant declaring the home as abandoned is the owner of the real property can be a burdensome, timely process and contains an additional cost factor for land owners trying to declare a home abandoned. It may also be a burden on property owners that do not reside in the state or live a great distance from the county in which their property lies.

TMHA also commented that the rule may not prevent an individual from committing fraud because an unscrupulous individual can falsify or create fraudulent deed records.

TMHA recommends postponing or withdrawing the last sentence of the proposed rule for further examination and consideration.

Department Response: The Department agrees to remove the proposed last sentence in subsection (h) for further examination and consideration.

Department Correction: An error was corrected in §80.41(d)(4) by changing the wording "a letter application" to "an application."

The rules as proposed on November 18, 2011, are adopted as final rules except for changes to §80.41(d)(4) and §80.90(h).

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

Section 80.3(d) **is adopted (without changes)** to revise the education fee to comply with the changes made in SB 1 (82nd Legislature, 2011, 1st special session) by breaking down the fees into three courses (Core Education Fee, Retailer Education Fee and Installer Education Fee).

Section 80.3(e) **is adopted (without changes)** to remove text relating to approving a third-party to provide an initial licensing instruction course because the Department does not currently provide an option for third-party initial licensing instruction.

Section 80.3(k) **is adopted (without changes)** to remove the charge of \$1.50 for additional copies of the Statement of Ownership and Location because it cost more to process the payment than to provide a copy at no charge.

Subchapter D **is adopted (without changes)** to include §80.40 and §80.41 previously located in Subchapter E.

Section 80.40 **is adopted (without changes)** to place the rule in a new subchapter. The text remains the same as the repealed version.

Section 80.41 **is adopted (without changes)** to place the rule in a new subchapter.

Section 80.41(c)(1) **is adopted (without changes)** to comply with the changes made in SB 1 (82nd Legislature, 2011, 1st special session) by breaking down the hours required and types of courses (eight (8) hours for initial instruction course; four (4) hours for retailer course and four (4) hours for installer course).

Section 80.41(c)(2) **is adopted (without changes)** requiring each course be required to test separately and a score of 70% correct is required to pass each test. Also, changed the word "prepared" to "approved" relating to the approval of questions by the director.

Section 80.41(c)(3) **is adopted (without changes)** changing the word "terminated" in the first sentence to "suspended." Added a sentence explaining while the license is in a suspended status the salesperson may not act as a manufactured housing salesperson.

Section 80.41(c)(4), (5) and (6) **is adopted (without changes)** deleting the paragraphs from the new rule because there is no requirement to list the curriculum in the rules.

Section 80.41(d)(4) **is adopted (with changes)** to correct an error in by changing the wording "a letter application" to "an application."

Section 80.41(f)(3) **is adopted (without changes)** revising the criteria in determining whether to issue a license to an applicant based on the applicants criminal record, instead of only considering denial of the license or suspension if the applicant has a criminal conviction.

Section 80.41(f)(4), (5) and (6) **is adopted (without changes)** to change wording from having a criminal conviction to having a criminal record.

Subchapter E **is adopted (without changes)** to include §§80.70-80.73 previously located in Subchapter F.

Section 80.70 **is adopted (without changes)** to place the rule in a new subchapter. The text remains the same as the repealed version.

Section 80.71 **is adopted (without changes)** to place the rule in a new subchapter. The text remains the same as the repealed version.

Section 80.72 **is adopted (without changes)** to place the rule in a new subchapter. The text remains the same as the repealed version.

Section 80.73 **is adopted (without changes)** to place the rule in a new subchapter. The text remains the same as the repealed version.

Subchapter F **is adopted (without changes)** to include §80.80 previously located in Subchapter G.

Section 80.80 **is adopted (without changes)** to place the rule in a new subchapter. The text remains the same as the repealed version.

Subchapter G **is adopted (without changes)** to include §§80.90-80.94 previously located in Subchapter H.

Section 80.90 **is adopted (with changes)** to place the rule in a new subchapter. The last sentence in §80.90(h) was removed for further examination and consideration.

Section 80.90(d) **is adopted (without changes)** to remove the certified copy fee of \$1.50 because the fee is insignificant and is more costly to process for the Department when applications are rejected because the fee is missing. Providing a copy for free enables the user to reprint certified copies from their own computer which is more efficient for the consumer and the Department.

Section 80.90(f)(2)(D) and (3)(C) **is adopted (without changes)** to add new subparagraphs to clarify what criteria the Department will use to determine that any liens on real property have been released. The criteria is the same as stated in §1201.2076(b) of the Occupations Code.

Section 80.90(h) **is adopted (with changes)** by removing the proposed last sentence requiring an applicant to provide a copy of the deed to confirm that the applicant declaring the home as abandoned is the owner of the real property.

Section 80.91 **is adopted (without changes)** to place the rule in a new subchapter. The text remains the same as the repealed version.

Section 80.92 **is adopted (without changes)** to place the rule in a new subchapter. The text remains the same as the repealed version.

Section 80.93 **is adopted (without changes)** to place the rule in a new subchapter. The text remains the same as the repealed version.

Figure: 10 TAC §80.93(b) is adopted (without changes). The Tax Lien Layout form remains the same as the repealed version.

Section 80.94 **is adopted (without changes)** to place the rule in a new subchapter. The text remains the same as the repealed version.

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

No other statutes, codes, or articles are affected by adoption of the new and amended rules.

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

Adopted Manufactured Housing Rules

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

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**SUBCHAPTER A. CODES, STANDARDS, TERMS, FEES AND
ADMINISTRATION**

§80.1. Texas Manufactured Housing Standards Code.

(No change.)

§80.2. Definitions.

(No change.)

§80.3. Fees.

(a) - (c) (No change.)

(d) Education Fee:

(1) Core Education Fee: Each attendee at the regularly offered course of initial instruction in the law and consumer protection regulations for license applicants shall be assessed a fee of ~~\$150~~ **\$250**. Subject to availability of staff, the Department may provide additional initial instruction courses upon request for a fee of ~~\$150~~ **\$250** per attendee plus reimbursement to the Department for the actual costs of the training session and any related costs, such as travel, meal, and lodging.

(2) Retailer Education Fee: \$50 for each attendee.

(3) Installer Education Fee: \$50 for each attendee.

(e) There is a fee of \$300 to process an application for a contract to be approved to provide ~~an initial instruction for licensing course or~~ a continuing education program under §1201.113 of the Standards Act.

(f) - (j) (No change.)

(k) Fees Relating to Statements of Ownership and Location. Each fee shall accompany the required documents delivered or mailed to the Department at its principal office in Austin.

(1) A fee of \$55 will be required for the issuance of a Statement of Ownership and Location.

~~(2) A fee of \$1.50 will be required for each additional requested certified copy other than copies provided at issuance as required by the Standards Act.~~

(2)(3) If a correction of a document is required as a result of a mistake by the Department, there is no fee for the issuance of corrected document. However, if the error was not made by the Department, a request for correction of the error must be made on a completed Application for

Statement of Ownership and Location and submitted to the Department along with the required fee of \$55 and any necessary supporting documentation.

~~(3)~~(4) When multiple applications are submitted, the Form M set forth on the Department's website must be completed and attached to the front of the applications to identify each application and reconcile the fee for each application with the total amount of the payment. Failure to provide this form, properly completed, will delay the application's being deemed complete for processing.

~~(4)~~(5) A priority handling service may be offered by the Department for an additional fee of \$55, for each review of an application, whether the application is complete or incomplete.

(l) - (n) (No change.)

§80.4. *Advisory Committee.*

(No change.)

SUBCHAPTER B. INSTALLATION STANDARDS AND DEVICE APPROVALS

§80.20. *Requirements for Manufacturer's Designs and Installation Instructions.*

(No change.)

§80.21. *Requirements for the Installation of Manufactured Homes.*

(No change.)

§80.22. *Generic Standards for Moisture and Ground Vapor Controls.*

(No change.)

§80.23. *Generic Standards for Footers and Piers.*

(No change.)

§80.24. *Generic Standards for Anchoring Systems.*

(No change.)

§80.25. *Generic Standards for Multi-Section Connections Standards.*

(No change.)

§80.26. *Registration of Stabilizing Components and Systems.*

(No change.)

SUBCHAPTER C. LICENSEES' RESPONSIBILITIES AND REQUIREMENTS

§80.30. *All Licensees' Responsibilities.*

(No change.)

§80.31. *Manufacturers' Responsibilities and Requirements.*

(No change.)

§80.32. *Retailers' Responsibilities and Requirements.*

(No change.)

§80.33. *Installers' Responsibilities and Requirements.*

(No change.)

§80.34. *Brokers' Responsibilities and Requirements.*

(No change.)

§80.35. *Salesperson's Responsibilities and Requirements.*

(No change.)

§80.36. *Rebuilders' Responsibilities and Requirements.*

(No change.)

§80.37. *Correction Requirements.*

(No change.)

§80.38. *Right to Advance Copy of Certain Documents.*

(No change.)

SUBCHAPTER D. E. LICENSING

§80.40. *Security Requirements.*

(No change.)

§80.41. *License Requirements.*

(a) - (b) (No change.)

(c) Education.

- (1) The Standards Act requirement for an initial **eight (8) 20** hour course of instruction in the law, including instruction in consumer protection regulations;**; four (4) hour retailer education course; and/or four (4) hour installer education course** shall be offered quarterly by the Department. **Other instruction providers may offer the course, if they complete and submit the required application, together with the required fee and all required supporting documentation, including any additional documentation requested by the Department, and, based on the recommendation of the Director, they are approved by the Board.** Subject to limitations on Department resources, the Department will make special licensing classes available upon written request.
- (2) **Each The** test to be administered in connection with the course(s) will consist of a representative selection of questions from an approved set of questions **approved prepared** by the Director. The test(s) will be open-book. A score of 70% correct is required to pass **each the** test.
- (3) For initial licensing of a salesperson, if the salesperson does not attend and successfully complete the initial licensing class provided by the Department within 90 days after the date of licensure, the license will automatically be **suspended terminated** until the salesperson has attended and successfully completed that class. **While the license is in a suspended status the salesperson may not act as a manufactured housing salesperson.**
- ~~(4) The 20 hour course of instruction must include the following matters in its curriculum.~~
 - ~~(A) the Standards Act and this Chapter;~~
 - ~~(B) Texas Finance Code, Chapters 347 and 156;~~
 - ~~(C) Texas Transportation Code requirements relating to moving manufactured homes;~~
 - ~~(D) Federal Truth in Lending Act and Regulation Z;~~
 - ~~(E) Installations;~~

~~(F) — Consumer Complaints;~~

~~(G) — Enforcement;~~

~~(H) — Complaint Resolution Process; and~~

~~(I) — The Federal Manufactured Home Construction and Safety Standards (FMHCSS).~~

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

~~(6) — The Department may revoke course approval for failure to comply with the standards or procedures set forth in this Chapter or any conditions of approval. Unless the approval provides otherwise or is revoked for cause, an approval is valid for two (2) years.~~

(d) Continuing Education.

(1) - (3) (No change.)

(4) Approval of courses and providers. In order to be considered for approval by the Board to provide continuing education courses a party wishing to be considered for such approval must submit, for each course for which approval is sought, ~~a letter~~ an application, accompanied by the nonrefundable processing fee, and the following:

(A) A narrative overview of the course, describing subject matter to be covered;

(B) Brief biographies, including credentials of each instructor demonstrating in depth knowledge of the subject matter to be taught;

(C) A copy of any course materials to be used. If the course materials are deemed to be proprietary they should be placed in a separate envelope, marked confidential, and accompanied by a written statement as to why they should not be treated as open records. There is no assurance that such materials will ultimately be accorded any exemption from disclosure under the Open Records provisions of the Government Code;

(D) A schedule of any fees to be charged for the course;

(E) If completion of the course is limited to any particular group, a description of the limitation;

- (F) As such information becomes available, an indication as to the locations, times, and dates for offerings; and
 - (G) Such other information as the Department may require.
- (5) (No change.)
- (e) (No change.)
- (f) License Application or Renewal Denial.
- (1) - (2) (No change.)
- (3) In determining whether an applicant should be issued a license if that applicant states in his/her application for said license that he/she has a criminal record, record which may include a conviction, deferred adjudication, plead guilty, or nolo contendere for any felony or misdemeanor offense, other than a Class C Misdemeanor for traffic violations, of criminal convictions within five (5) years preceding the date of the application, the Director shall consider the factors set out in Texas Occupations Code, §53.022:
- (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.
- (4) In addition to the factors that may be considered in paragraph (3) of this subsection, the Department, in determining the present fitness of a person who has a criminal record 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 record conviction;
 - (D) the conduct and work activity of the person prior to and following the criminal record conviction; and
 - (E) evidence of the person's rehabilitation or attempted rehabilitation effort while incarcerated or following release.
- (5) 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.
- (6) If the Department suspends or revokes a valid license, or denies a person a license or the opportunity to be considered for a license in accordance with this subsection because of the person's prior criminal record 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. If the person does not request a hearing on the matter within thirty (30) calendar days from receipt of the Department's decision, the suspension, revocation, or denial becomes final.

SUBCHAPTER E. F. ENFORCEMENT

§80.70. Enforcement.

(No change.)

§80.71. Rules for Hearings.

(No change.)

§80.72. Sanctions and Penalties.

(No change.)

§80.73. Procedures for Handling Consumer Complaints.

(No change.)

SUBCHAPTER F. G. MANUFACTURES HOMEOWNERS' RECOVERY TRUST FUND

§80.80. Administration of Claims under the Manufactured Homeowners' Recovery Trust Fund.

(No change.)

SUBCHAPTER G. H. STATEMENTS OF OWNERSHIP AND LOCATION

§80.90. Issuance of Statements of Ownership and Location.

(a) - (c) (No change.)

(d) Upon issuance of a Statement of Ownership and Location, the Department will mail one certified copy to the owner and one certified copy to the lienholder. If an additional certified copy is desired for a third party it should be noted on the application with appropriate mailing information ~~copies are desired, an application for a certified copy must be submitted and accompanied by the additional fee.~~

(e) (No change.)

(f) Updating of Statements of Ownership and Location on Manufactured Homes Transferred as Real Property.

(1) (No change.)

(2) To convert a manufactured home from real property to personal property, the owner of the home must submit a completed Application for Statement of Ownership and Location to the Department with supporting documentation as follows:

(A) If the applicant is not the owner of record with the Department, satisfactory proof of ownership under a complete chain of title. Acceptable evidence would include, but not be limited to, authenticated copies of all intervening transfer documents, a court order confirming ownership, or title insurance policy in such owner's name issued by a title insurance company licensed to do business in Texas.

(B) Satisfactory evidence that any liens on the manufactured home have been discharged or that all lienholders have consented to the change.

(C) Evidence of either a satisfactory habitability inspection by the Department or an election to convert the status of the home to business use or salvage.

(D) For the purposes of subparagraph (B) of this subsection, the Department may rely on a commitment for title insurance, a title

insurance policy, or a lawyer's title opinion to determine that any liens on real property have been released.

(3) To update the ownership on a manufactured home already elected and perfected as real property, and remaining in the same location as real property, the new owner of the home must submit a completed Application for Statement of Ownership and Location to the Department with supporting documentation as follows:

(A) If the applicant is not the owner of record with the Department, satisfactory proof of ownership under a complete chain of title. Acceptable evidence would include, but not be limited to, authenticated copies of all intervening transfer documents, a court order confirming ownership, or title insurance policy in such owner's name issued by a title insurance company licensed to do business in Texas.

(B) Satisfactory evidence that any liens on the manufactured home have been discharged or that all lienholders have consented to the change.

(C) For the purposes of subparagraph (B) of this subsection, the Department may rely on a commitment for title insurance, a title insurance policy, or a lawyer's title opinion to determine that any liens on real property have been released.

(4) (No change.)

(g) (No change.)

(h) Submitting an application for Statement of Ownership and Location pursuant to the abandonment provision in §1201.217 of the Standards Act, should include an affidavit of fact, on the prescribed form, attesting to that all statutory notifications have been made to the appropriate parties, including the tax assessor-collector of the county where the home is located, and evidence that all notification was sent via certified mail. ~~A copy of the deed confirming that the applicant declaring the home as abandoned is the owner of the real property.~~

(i) (No change.)

§80.91. Issuance of a Texas Seal.

(No change.)

§80.92. Inventory Finance Liens.

(No change.)

§80.93. *Recording Tax Liens on Manufactured Homes.*

(No change.)

§80.94. *Report to County Tax Assessor-Collectors and County Appraisal Districts.*

(No change.)