

Texas Department of Housing and Community Affairs Manufactured Housing Board Meeting October 10, 2014

Michael H. Bray, Chair

Myeshi Briley, MS, HS-BCP, Member

Brenda J. Swinney, Member

Sheila M. Vallés-Pankratz, Member

Donnie W. Wisenbaker, Member

Texas Department of Housing and Community Affairs Manufactured Housing Board Meeting October 10, 2014

ROLL CALL

	<u>Present</u>	Absent
Michael H. Bray, Chair		
Myeshi Briley, MS, HS-BCP, Member		
Brenda J. Swinney, Member		
Sheila M. Vallés-Pankratz, Member		
Donnie W. Wisenbaker, Member		
Number Present		
Number Absent		
, Pres	iding Officer	

MANUFACTURED HOUSING BOARD MEETING TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

1500 N. Congress, Capitol Extension Committee Room E2.012

Austin, Texas 78701

October 10, 2014 10:30 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 August 15, 2014.

Chair

Item 2. Presentation, discussion and possible action to approve adoption of proposed amendments to 10 Joe Garcia Texas Administrative Code Chapter 80 for publication in the Texas Register as adopted.

REPORT ITEMS

1. Executive Director's Report to include issues relating 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, August 15, 2014, at 10:34 a.m., there was a regular meeting of the Manufactured Housing Board (the "Board") at 1500 N. Congress, Capitol Extension Committee Room E2.026 Austin, Texas. Michael Bray presided. Myeshi Briley, Brenda Swinney, Donnie Wisenbaker and Sheila Vallés-Pankratz constituting a quorum, attended. The following Manufactured Housing Division (the "MHD") staff were present: Joe Garcia, Amy Morehouse, Kassu Asfaw, Jim Hicks, Zainub Naeem and Sharon Choate. Elena Peinado from the Texas Department of Housing and Community Affairs (other than the MHD) was present.

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 November 15, 2013. Upon motion of Sheila Vallés-Pankratz, duly seconded by Donnie Wisenbaker, the motion was unanimously approved.

Jim Hicks presented and discussed for approval the continuation of Texas Manufactured Housing School (TXMHS) as a continuing education provider. Upon motion of Sheila Vallés-Pankratz, duly seconded by Brenda Swinney, the renewal was unanimously approved.

Kassu Asfaw presented the FY 2015 Operating Budget to the board and recommended approval. Upon motion of Donnie Wisenbaker, duly seconded by Sheila Vallés-Pankratz, the FY 2015 Operating Budget was unanimously approved.

Kassu Asfaw presented the FY 2015 Administrative Services Agreement between the Manufactured Housing Division and TDHCA and recommended approval. Upon motion of Donnie Wisenbaker, duly seconded by Sheila Vallés-Pankratz, the agreement was unanimously approved.

Kassu Asfaw presented the FY 2016 – 2017 Legislative Appropriations Request and recommended approval. Upon motion of Sheila Vallés-Pankratz, duly seconded by Brenda Swinney, the Legislative Appropriations Request was unanimously approved.

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

Nicole Kludt and Betsy Schwing delivered the presentation of the internal audit report of the Manufactured Housing Division.

Joe Garcia delivered the Executive Director's Report.

At 11:50 a.m., the board went into an Executive Session to discuss personnel matters relating to the executive director's performance evaluation and compensation review pursuant to Sec. 551.074, Texas Government Code.

The board reconvened in open session at 12:39 p.m.

Upon motion of Sheila Vallés-Pankratz to approve a one-time merit bonus of 6% based on performance, it was duly seconded by Myeshi Briley and the motion was unanimously approved.

The next board meeting was tentatively set for Friday, October 10, 2014.			
There being no further business to come before the board, the meeting was adjourned at 12:46 p.m.			
Sharon Choate, Secretary			
Approved:			
Donnie Wisenbaker, Acting Presiding Chair			

 $Pursuant \ to \ Sec.\ 551.022\ of\ the\ Texas\ Government\ Code,\ a\ copy\ of\ the\ transcript\ of\ the\ above\ mentioned\ meeting\ is\ public\ record\ and\ is\ available\ for\ inspection\ and\ copying\ on\ request\ to\ the\ governmental\ body's\ chief\ administrative\ officer\ or\ the\ officer's\ designee.$

Agenda Action Item No. 2

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, Chapter 80, §§80.3, 80.32, 80.36, 80.40, 80.41. 80.90 and 80.93 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*. The proposed amendments were published in the August 29, 2014, issue of the *Texas Register* (39 TexReg 6772).

The rules are adopted to comply with House Bill 944 and House Bill 3361 (83rd Legislature, 2013 regular session) that amends the Manufactured Housing Standards Act and for clarification purposes.

The rules as proposed on August 29, 2014, are adopted as final rules and 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 for a public hearing to take comments on the rules.

One person made general comments that cannot be addressed through the rulemaking process because they relate to statutory issues.

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

Section 80.3(a): The retailer's branch location license and rebuilders license fees are removed and a fee for reprinted licenses is added to comply with amendments to the Manufactured Housing Standards Act in HB 3361 (83rd Legislature, 2013 regular session).

Section 80.3(c): Made a correction to the name of the Application for Statement of Ownership and Location.

Section 80.3(h): Changed rebuilder references to retailer to comply with amendments to the Manufactured Housing Standards Act in HB 3361 (83rd Legislature, 2013 regular session).

Section 80.32(e): Reworded to remove rebuilder reference to comply with amendments to the Manufactured Housing Standards Act in HB 3361 (83rd Legislature, 2013 regular session).

Section 80.32(r) and (s): Removed branch location reference to comply with amendments to the Manufactured Housing Standards Act in HB 3361 (83rd Legislature, 2013 regular session).

Section 80.36: Changed rebuilder reference in title of section to retailer to comply with amendments to the Manufactured Housing Standards Act in HB 3361 (83rd Legislature, 2013 regular session).

Section 80.36(b): Changed rebuilder reference in title of subsection to retailer to comply with amendments to the Manufactured Housing Standards Act in HB 3361 (83rd Legislature, 2013 regular session).

Section 80.40(b): Removed rebuilder reference to comply with amendments to the Manufactured Housing Standards Act in HB 3361 (83rd Legislature, 2013 regular session).

Section 80.41(e)(4): Added fingerprints and criminal history check rule to comply with amendments to the Manufactured Housing Standards Act in HB 3361 (83rd Legislature, 2013 regular session).

Section 80.41(g): Added a rule for exemption of requiring a retailer's license for a one-time sale of up to three (3) manufactured homes in a 12-month period to comply with amendments to the Manufactured Housing Standards Act in HB 944 (83rd Legislature, 2013 regular session).

Section 80.90(c)(2)(A) and (B): Revised to allow the Department to correct an error on a Statement of Ownership and Location upon receipt of documentation deemed appropriate and approved by the Executive Director.

Section 80.93(b): Reworded to clarify the Tax Lien File Layout is located on the Department's website.

Figure 10 TAC §80.93(b) - Preamble: The Tax Lien File Layout is not required by statute to be part of the rules. Removing the form from the rules will be more efficient when revisions to the form are necessary since revisions will no longer be delayed by going through the rule making process.

Section 80.93(d): Reworded from future tense to past tense in regards to tax liens prior to 2001 being disregarded that were recorded after June 18, 2005.

The 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 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

(To Comply with Changes in 83rd Legislature, 2013)

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) License Fees and Renewal Fees:
 - (1) \$850 for each manufacturer's plant license;
 - (2) \$550 for each retailer's sales license;
 - (3) \$550 for each retailer's branch location sales license;
 - (4) \$550 for each rebuilder's license;
 - (3)(5) \$350 for each broker's license;
 - (4)(6) \$350 for each installer's license; and
 - (5) \$200 for each salesperson's license; and-
 - (6) \$25.00 for each reprint of a license.
- (b) Installation Fees:
 - (1) (3) (No change.)
- (c) Seal Fee: Except for an application by a tax appraiser or a tax assessor-collector, for which there is no fee, there is a fee of \$35 for the issuance of a Texas Seal for one manufactured home section. Any person who sells, exchanges, lease purchases, or offers for sale, exchange, or lease purchase one or more sections of used HUD-Code manufactured homes manufactured after June 15, 1976, that do not each have a HUD label affixed, or one or more sections of a used mobile home manufactured prior to June 15, 1976, that do not each have a Texas Seal affixed shall file an Application for Statement of Ownership and Location application for statement and location to the Department for a Texas Seal and issuance of an updated Statement of Ownership and Location. The application shall be accompanied by the seal fee of \$35 per section made payable to the Department.
- (d) (g) (No change.)

- (h) There is a fee of \$200 for the plan review and inspection of a salvaged manufactured home which is to be rebuilt. The purpose of the inspection is to determine if the home is habitable as defined by \$1201.453 of the Standards Act so that it may be designated for residential use.
 - (1) The fee and required notification shall be submitted in accordance with \$80.36 of this chapter (relating to Retailer's Rebuilding Rebuilder's Responsibilities and Requirements).
 - (2) The <u>retailerrebuilder</u> shall also be charged for mileage and per diem incurred by Department personnel traveling to and from the location of the home.
 - (3) The Department shall invoice the <u>retailerrebuilder</u> for the charges incurred, and no Statement of Ownership and Location shall be issued until all charges and fees have been paid.
- (i) (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.)

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.
 - (a) (d) (No change.)
 - (e) For each home altered or rebuilt from salvage a retailer shall retain the documentation required for rebuilding a rebuilder manufactured home that is declared salvaged.
 - (f) (q) (No change.)
 - (r) At each licensed location, including each branch location, a retailer shall display their current license for that location and the current license of each salesperson who works from that location.
 - (s) At each licensed location, including each branch location, a retailer shall conspicuously display the Consumer Protection Information sign as set forth on the Department's website.
 - (t) (v) (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.

- §80.36. Retailer's Rebuilding Rebuilders Responsibilities and Requirements.
 - (a) (No change.)

- (b) The retailer rebuilder must:
 - (1) (7) (No change.)
- (c) (d) (No change.)

§80.37. Correction Requirements.

(No change.)

§80.38. Right to Advance Copy of Certain Documents.

(No change.)

SUBCHAPTER D. LICENSING

§80.40. Security Requirements.

- (a) (No change.)
- (b) Any other security provided for compliance with §1201.105 of the Standards Act, shall remain in place and subject to a control agreement in favor of 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 other security. The Director may consent to the substitution of a bond or a different qualifying deposit for other security provided that in the event a bond is filed to replace the assigned security, the initial effective date of the bond is the same or prior to the date of the assignment of security.
- (c) (f) (No change.)

§80.41. License Requirements.

- (a) (d) (No change.)
- (e) License Application and Renewal.
 - (1) (3) (No change.)
 - (4) Fingerprints and Criminal History Check.
 - (A) Prior to initial application on or after September 1, 2013 or the first renewal of a license expiring on or after September 1, 2013, license applicants must submit a complete and legible set of fingerprints to a vendor approved by the Department of Public Safety, for the purpose of a criminal background check, which will be provided to the Department.
 - (B) The license applicant shall be responsible for the cost.

- (f) (No change.)
- (g) Exemption for Retailer's License Requirement.
 - (1) Application for Exemption of Retailer's License Requirement.
 - (A) A person requesting exemption from the Retailer's licensing requirement of §1201.101(b) of the Occupations Code, shall submit the required application outlining the circumstances under which they are requesting exemption from licensure.
 - (B) Applications should identify the HUD label or serial number(s) of the homes being sold under exemption;
 - (C) Applications will be processed within seven (7) business days after receipt of all required information.
 - (2) The circumstances under which this exemption is granted are:
 - (A) One-time sale of up to three (3) manufactured homes in a 12-month period as personal property;
 - (B) Non-profit entity transferring ownership of up to three (3) manufactured homes in a 12-month period;
 - (C) No other manufactured homes have been purchased and resold in the previous twelve (12) months, even with a previous exemption; and/or
 - (D) Other circumstances deemed appropriate by the Executive Director.
 - (3) Letter of Exemption.
 - (A) Once granted, a Letter of Exemption from licensure will be issued by the Executive Director to the applicant.
 - (B) Letter of Exemption is valid only for the manufactured home(s) specified.
 - (C) Letter of Exemption is valid only for twelve (12) months.

SUBCHAPTER E. ENFORCEMENT

§80.70. Enforcement.

(No change.)

§80.71. Rules for Hearings.

§80.72. Sanctions and Penalties.

(No change.)

§80.73. Procedures for Handling Consumer Complaints.

(No change.)

SUBCHAPTER F. MANUFACTURES HOMEOWNERS' RECOVERY TRUST FUND

§80.80. Administration of Claims under the Manufactured Homeowners' Recovery Trust Fund. (No change.)

SUBCHAPTER G. STATEMENTS OF OWNERSHIP AND LOCATION

- §80.90. Issuance of Statements of Ownership and Location.
 - (a) (b) (No change.)
 - (c) Corrections to Statements of Ownership and Location.
 - (1) If a correction is required as a result of a Department error, it will be corrected at no charge.
 - (2) If a correction is requested because of an error made by a party other than the Department, the correction will not be made until the Department receives the following:
 - (A) A complete corrected application for Statement of Ownership and Location, or and
 - (B) <u>Documentation deemed appropriate and approved by the Executive Director, pursuant to \$1201.207(c) of the Standards Act. Any necessary supporting documentation.</u>
 - (d) (i) (No change.)

§80.91. Issuance of a Texas Seal.

(No change.)

§80.92. Inventory Finance Liens.

- §80.93. Recording Tax Liens on Manufactured Homes.
 - (a) (No change.)

(b)	Electronically filed tax liens and tax lien releases shall be filed with the Department using the required format as provided in the following Tax Lien File Layout set forth on the Department's website. No other format will be accepted for electronic filing of tax liens.

Texas Department of Housing and Community Affairs Tax Lien File Layout

MUST be ASCII Fixed Record Layout (Text Format)

516 bytes total per each record

All text fields, addresses, names, etc should be left justified.

ITEM		PICTURE	OFFSET	Additional Information for Accurate Filing
Home Identification				
Label-No		Alpha 10	1-10	The label number must be exactly 10 characters - anything more or less will be invalid. Also, additional text (i.e., "Lab#" before the label or "A" or "A/B" after the number) will invalidate the field. If there is no label number, LEAVE SPACES BLANK - DO NOT enter ZEROS, UNKNOWN, NONE or anything else in this field.
Serial-No		Alpha 26	11-36	Serial numbers must only include the number of the first section - and not be prefixed with anything else (i.e., SER#, #, S#, or using both section letters as A/B). The chances of recording a lien with only a serial number are very slim. Having a label number is the best chance for a successful recording. If there is no serial number, LEAVE SPACES BLANK — DO NOT enter ZEROS, UNKNOWN, NONE or anything else in this field.
FILLER (blank spaces)		Alpha 20	37-56	Model name is no longer required, so leave the 20-spaces originally allocated for this blank.
Taxpayer Identification				
Taxpayer-Name	Left Justified	Alpha 40	57-96	
Taxpayer-Name2	Left Justified	Alpha 40	97-136	
Taxpayer-Addr1	Left Justified	Alpha 30	137-166	
Taxpayer-Addr2	Left Justified	Alpha 30	167-196	
Taxpayer-City	Left Justified	Alpha 20	197-216	
Taxpayer-State	Left Justified	Alpha 2	217-218	
Taxpayer-Zipcode		Alpha 10	219-228	

ITEM		PICTURE	OFFSET	Additional Information for Accurate Filing
Collector Identification				
Collector-Tax-Entity-ID or Central Tax Collector Number		Alpha 10	229-238	The taxing entity id or the Dept. assigned Central Tax Collector number MUST be 10 characters and in the following format XXX-XXX-XX.
Collector-Name	Left Justified	Alpha 40	239-278	Enter the name of the taxing jurisdiction.
Collector-Name2	Left Justified	Alpha 40	279-318	Enter the name of the collector.
Collector-Addr1	Left Justified	Alpha 30	319-348	
Collector-Addr2	Left Justified	Alpha 30	349-378	
Collector-City	Left Justified	Alpha 20	379-398	
Collector-State	Left Justified	Alpha 2	399-400	
Collector-Zipcode		Alpha 10	401-410	
Lien Information				
Tax-Roll-Account-No		Alpha 26	411-436	
FILLER (blank spaces)		Alpha 8	437-444	Lien date is the date the lien is received by TDHCA and will be inserted
Tax-Year - YYYY		Alpha 4	445-448	when recorded; so leave the 8-spaces originally allocated for this blank.
Tax Amount		Alpha 8	4 49-456	The tax amount is required and must be entered without a decimal point (Example: If tax amount is \$300.25, please entered as 00030025).
Release-Date – YYYYMMDD		Alpha 8	457-464	The date MUST be formatted as YYYYMMDD and have no slashes or spaces.
FILLER (blank spaces)		Alpha 49	465-513	
County Code		Alpha 3	514-516	A carriage return after entering the 3-digit County Code is needed after each record for proper formatting.

- (c) (No change.)
- (d) For tax liens recorded after June 18, 2005, but prior to the rules that were effective on January 29, 2006, those tax liens relating to tax years prior to 2001 were will be disregarded and will not be treated as having been recorded.
- (e) (No change.)

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