

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 amendments 10 Texas Administrative Code, Chapter 80, §80.41 and adopts repeal of §80.92 relating to the regulation of the manufactured housing program. The rules are revised to comply with House Bill 2706 (88th Legislature, 2023 regular session) that amends the Manufactured Housing Standards Act and for clarification purposes. The amendments to §80.41 and repeal of §80.92 are adopted without changes to the proposed text as published in the October 6, 2023, issue of the *Texas Register* (48 TexReg 5795). The rule and repeal will not be republished.

The adoption of the rules are effective thirty (30) days following the date of publication in the *Texas Register*.

The rules as proposed on October 6, 2023, are adopted as final rules.

No comments were received and there were no request for a public hearing to take comments on the rules.

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

10 Texas Administrative Code §80.41(c)(2)(A) - (C) is adopted without changes to assist in enforcement of §1201.551(a)(7) when an individual attempts to cheat or assist an individual with cheating on any of the Manufactured Housing Division Licensing exams.

10 Texas Administrative Code §80.41 (g)(1) and (2) is adopted without changes to update the requirements for an exemption for a retailers license and the circumstances under which an exemption is granted.

10 Texas Administrative Code §80.92 is adopted as repealed because the inventory finance liens are no longer required to be submitted to the Department.

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

No other statutes, codes, or articles are affected by 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.

Manufactured Housing Adoption of Rules

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SUBCHAPTER D. LICENSING

§80.41. License Requirements.

(a) - (b) No change.

(c) Education.

(1) (No change.)

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

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

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

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

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

(d) - (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 up to three (3) homes being sold under the exemption;~~
 - (i) of up to 3 homes being sold under the exemption found in Tex. Occ. Code §1201.1025(a); or
 - (ii) of all homes sold under the exemption Tex. Occ. Code §1201.1025(a-1).
 - (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; ~~and/or~~
 - (C) No other manufactured homes have been purchased and resold in the previous twelve (12) months, even with a previous exemption; ~~or-~~
 - (D) All manufactured homes for sale or offered to be sold by the person are located in a manufactured home community, and for sale or offered for sale to the same purchaser in connection with a sale of the real property of the community.
- (3) (No change).

SUBCHAPTER G. STATEMENTS OF OWNERSHIP

§80.92. Inventory Finance Liens.

- ~~(a) 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 this Department and in compliance with these sections. The required form is set forth on the Department's website.~~
- ~~(b) A separate form must be filed for each licensed sales location and must include a summary of homes by label or serial number, that are secured with the form.~~