



Texas Department of Housing and Community Affairs
Manufactured Housing Board Meeting
January 15, 2010

Michael H. Bray, Chair

Devora D. Mitchell, Member

Pablo Schneider, Member

Sheila M. Vallés-Pankratz, Member

Donnie W. Wisenbaker, Member

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

January 15, 2010

ROLL CALL

| | <u>Present</u> | <u>Absent</u> |
|-----------------------------------|----------------|---------------|
| Michael H. Bray, Chair | _____ | _____ |
| Devora D. Mitchell, Member | _____ | _____ |
| Pablo Schneider, 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 E2.036
Austin, Texas 78701

January 15, 2010 10:00 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 6, 2009. | Chair |
| Item 2. | Presentation, discussion and action to consider approving the renewal of Texas Manufactured Housing Association (TMHA) as a continuing education provider. | Jim Hicks |
| Item 3. | Presentation, discussion and consideration to approve proposed amended rules to 10 TAC, Chapter 80 for publication as proposed in the Texas Register for public comment. | Joe Garcia |

REPORT ITEMS

- | | |
|--------------------------------|------------|
| 1. Executive Director's Report | 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.

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

On Friday, November 6, 2009, at 10:15 a.m., there was a regular meeting of the Manufactured Housing Board (the "Board") in Room 203E of the Twin Towers Office Complex, 1106 Clayton Lane, Austin, Texas. Michael Bray presided. Devora Mitchell, Sheila Vallés-Pankratz, Pablo Schneider and Donnie Wisenbaker, constituting a quorum, attended. The following Manufactured Housing Division (the "MHD") staff were present: Joe Garcia, Amy Morehouse, Kassu Asfaw, Jim Hicks, Jennifer Dillard, and Sharon Choate. From the Texas Department of Housing and Community Affairs (other than the MHD) Elena Peinado was present.

Michael Bray called the roll, confirmed the presence of a quorum, and asked for a motion to approve the minutes from the board meeting on August 7, 2009. Upon motion of Sheila Vallés-Pankratz, duly seconded by Donnie Wisenbaker, the minutes of the previous meeting were unanimously approved.

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

Joe Garcia presented and discussed for approval the adoption of proposed amendments to 10 TAC, Chapter 80, for publication as adopted in the Texas Register. The Board recommended amendments to the rules. Upon motion of Sheila Vallés-Pankratz, duly seconded by Pablo Schneider, the rules with amendments to reword the first paragraph of page two of the Notice of Installation Form and the Provisional Notice of Installation form were unanimously approved.

Joe Garcia delivered the Executive Director's Report.

The Board did not convene into an Executive Session.

The next board meeting was tentatively set for Friday, January 15, 2010, at 10:00 a.m.

There being no further business to come before the board, the meeting was adjourned at 11:51 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

Board Members

Presiding Officer, Michael H. Bray
Devora D. Mitchell
Pablo Schneider
Sheila M. Vallés-Pankratz
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 Association Request for Approval to Continue
as a Continuing Education Provider

DATE: January 4, 2010

Texas Manufactured Housing Association ("TMHA") is currently approved as a Continuing Education Provider offering classroom classes until January 17, 2010. 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.

Agenda Action Item No. 3

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

The Manufactured Housing Division of the Texas Department of Housing and Community Affairs (the "Department") proposes to amend 10 TAC, Chapter 80, §§80.3, 80.37, 80.40, 80.41 and 80.100 relating to the regulation of the manufactured housing program. The rules are revised for clarification purposes and to include additional services relating to inspections and applying for a new or updated Statement of Ownership and Location.

Section 80.3(j): Added a new subsection to include a fee to perform an inspection to verify a home's identity, location, identification numbers or ownership. A fee is necessary to cover the Department's travel costs. The subsequent subsections are re-lettered (k) through (n).

Section 80.3(k)(5): Re-lettered current subsection from (l) to (k) and added paragraph (5) to add a fee for Priority Handling Service for customers needing their application processed sooner.

Section 80.37(b): Clarified the warranty period for the manufacturer's, retailer's, and installer's warranty. The current subsection does not include the installer's warranty period, which may be confusing.

Section 80.40: Renamed rule from Security and Insurance Requirements to Security Requirements because insurance is no longer required pursuant to the September 2009 statute change.

Section 80.40(c): Changed the word "terminated" to "suspended" because the rule is currently in conflict with §1201.109(a) of the Standards Act, which requires suspension as opposed to termination if a bond is cancelled.

Section 80.41(c)(3): Removed the requirement to have the salesperson attend the next initial licensing class and replaced it with the requirement that a salesperson attend the initial licensing class within 90 days. The salesperson is no longer required to take the next initial licensing education class pursuant to the September 2009 statute change.

Section 80.90(i): Added a new subsection to add procedures for requesting Priority Handling Service.

Figure: 10 TAC §80.100(b)(19): Revised the Application for Statement of Ownership and Location by adding a section to select regular or priority handling service.

Joe A. Garcia, Executive Director of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs, has determined that for the first five-year period that the proposed rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering these sections.

The following are the anticipated economic costs to persons/businesses that are required to comply with the proposed rules.

Section 80.3(j) adds a fee of \$100 per inspection for any customer requesting the Department perform a field verification inspection to confirm a home's identity, location, identification numbers,

or ownership. This is not a mandated inspection, so the fee will only apply upon request of the special inspection.

Section 80.3(k)(5) adds a fee of \$55 if a customer request priority handling service of their application for a Statement of Ownership and Location. This is not a required service, so the fee will only apply upon request of the additional service.

Except for the above, there are no other proposed amendments expected to have material economic costs to persons/businesses that are required to comply with the proposed rules.

Mr. Garcia also has determined that for each year of the first five years that the proposed rules are in effect the public benefit as a result of enforcing the amendments will be to provide clarification of procedures and to provide additional customer service.

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

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

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

The amended sections are proposed 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.

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

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

Proposed 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**

§80.3. Fees.

(a) – (i) (No change.)

(j) There is a fee of \$100 for the Department to go to a site and perform a field verification confirming a home's identity, location, identification numbers, or ownership.

Rationale: A fee is necessary to cover the Department's travel costs.

(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;
- (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.
- (4) When multiple applications are submitted, the Form M set forth in Subchapter I of this chapter (relating to Forms) 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.

(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.

Rationale: This additional service will assist customers needing their application processed sooner.

(l)⊕ Method of Payment.

- (1) All checks shall be made payable to the Texas Department of Housing and Community Affairs or TDHCA.
- (2) All fees for available electronic transactions may also be paid by credit card or ACH, if submitted through Texas Online.

(m)(4) Loss of Check Writing Privileges. Any person who has more than one (1) time paid for anything requiring a fee under these rules with a check that is returned uncollectible, whether “NSF,” closed account, refer to maker, or for any similar reason, is required to make all future payments, if any, by means of money order or cashier’s check.

(n)(m) The director may approve a refund of all or a portion of any fee collected if he or she makes a documented determination showing that:

- (1) The fee was for a service applied for in error based on incorrect advice from the Department;
- (2) The fee represented a duplicate payment for a service for which money had already been collected by the Department or a licensee; or
- (3) A refund is justified and warranted.

SUBCHAPTER C. LICENSEES’ RESPONSIBILITIES AND REQUIREMENTS

§80.37. *Correction Requirements.*

- (a) (No change.)
- (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 not more than thirty (30) 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 given within the one (1) year manufacturer's and retailer's warranty period for new homes, within two (2) years for the installer's warranty period and for used homes within sixty-five (65) calendar days after the date of the sale or installation, whichever is later.

Rationale: This rule currently does not take into consideration the 2 year installation warranty and may be confusing.

- (c) (No change.)

SUBCHAPTER E. LICENSING

§80.40. Security ~~and Insurance~~ Requirements.

Rationale: Insurance is no longer required pursuant to the September 2009 statute change.

- (a) – (b) (No change.)
- (c) If a required bond is canceled during the license period, the license shall be automatically ~~suspended~~ terminated on the date bond coverage ceases.

Rationale: This rule is currently in conflict with TEX. OCC. CODE §1201.109(a) which requires suspension as opposed to termination if a bond is cancelled.

- (d) – (f) (No change.)

§80.41. License Requirements.

- (a) – (b) (No change.)
- (c) Education.
 - (1) – (2) (No change.)
 - (3) For initial licensing of a salesperson, if the salesperson does not attend and successfully complete the ~~next~~ initial licensing class provided by the Department within 90 days after the date of licensure, the license will automatically be terminated until the salesperson has attended and successfully completed that class.

Rationale: No longer required to take next initial class pursuant to the September 2009 statute change.

- (4) – (6) (No change.)
- (d) – (f) (No change.)

SUBCHAPTER H. STATEMENTS OF OWNERSHIP AND LOCATION

§80.90. Issuance of Statements of Ownership and Location.

- (a) – (h) (No change.)
- (i) A Priority Handling Service may be offered by the Department for an additional fee of \$55, each time an application for statement of ownership and location (SOL) is reviewed on a priority basis, whether the application is complete or incomplete. Initial or resubmitted applications submitted with priority handling requested and including the additional fee, will be processed within five working days from the

date the application is recognized as received in the Department (applications received after 3:30 pm become part of the following day's mail).

- (1) If the application is received complete, a Statement of Ownership and Location will be issued and mailed within the established time.
- (2) If the application is received incomplete, a Request for Additional Information will be issued and mailed within the established time.
- (3) Applications requiring habitability or salvage rebuilding inspections are not eligible for the Priority Handling Service.

Rationale: This additional service will assist customers needing their application processed sooner.

SUBCHAPTER I. FORMS

§80.100. List of Forms.

- (a) (No change.)
- (b) Forms.
 - (1) – (18) (No change.)
 - (19) Application for Statement of Ownership and Location.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

MANUFACTURED HOUSING DIVISION

P. O. BOX 12489 Austin, Texas 78711-2489
 (800) 500-7074, (512) 475-2200 FAX (512) 475-3506

Internet Address: www.tdhca.state.tx.us/mh/index.htm

APPLICATION FOR STATEMENT OF OWNERSHIP AND LOCATION

The filing of an application for the issuance of a Statement of Ownership and Location, later than sixty (60) days after the date of a sale to a consumer for residential use, may result in a fee of up to one hundred dollars (\$100). Any such application that is submitted late may be delayed until the fee is paid in full.

BLOCK 1: Transaction Identification

| | | | |
|---|---|---|-----------------------------------|
| <u>Type of Transaction This application is for:</u> | | <u>Regular or Priority Handling</u> | (For Department Use Only) Coding: |
| <u>Personal Property Transaction</u> | <u>Real Property Transaction</u> | <input type="checkbox"/> <u>Regular Handling</u> Completed applications will be processed within 15 working days from date received. <input type="checkbox"/> <u>Priority Handling Requested</u> An additional \$55 is included with payment to review application within 5 working days from date received. | Lien on file: Y / N |
| <input type="checkbox"/> New <input type="checkbox"/> Used <input type="checkbox"/> Lien Assignment <input type="checkbox"/> Other | <input type="checkbox"/> New <input type="checkbox"/> Used | | Lienholder Code |
| | | | County Code: |
| | | | Right of Surv.: Y / N |
| | | | Retailer #: |
| | | | Manufacturer #: |

BLOCK 2(a): Home Information (required)

| | | | |
|--------------------|--|----------------------|--|
| Manufacturer Name: | | Model: | |
| Address: | | Date of Manufacture: | |
| City, State, Zip: | | Total Square Feet: | |
| License Number: | | Wind Zone: | |

| | Label/Seal Number | Complete Serial Number | Weight | Size* | *NOTE: Size must be reported as the outside dimensions (length and width) of the home as measured to the nearest 1/2 foot at the base of the home, exclusive of the tongue or other towing device. |
|------------|-------------------|------------------------|--------|-------|--|
| Section 1: | | | | X | |
| Section 2: | | | | X | |
| Section 3: | | | | X | |
| Section 4: | | | | X | |

2(b) Is home being sold? No Yes
 If yes, and if there is/are no HUD Label(s) or Texas Seal(s) on your home, a Texas Seal will need to be purchased and will be issued to each section of your home at an additional cost of \$35.00 per section.
 Indicate which section(s) needs a Texas Seal(s): _____ (Single - \$35 Double - \$70 Triple - \$105)

BLOCK 3: Home Location (required)

| | | | | | |
|--|---|------|-------|-----|--------|
| Physical Location of Home: (or 911 address) | Physical Address (cannot be a Rt. or P. O. Box) | City | State | ZIP | County |
|--|---|------|-------|-----|--------|

Was home moved for this sale? No Yes If yes, include a copy of moving permit.
 Was Home Installed for this sale? No Yes If yes, provide installer information below, if known

Installer Name, address and phone: _____

BLOCK 4: Ownership Information (required)

| 4(a) Seller(s) or Transferor(s) | | 4(b) Purchaser(s), Transferee(s), or Owner(s) | |
|---------------------------------|---------------------------|---|---------------------------|
| Name | License # if Retailer: | Name | License # if Retailer: |
| Name | | Name | |
| Mailing Address | | Mailing Address | |
| City/State/Zip | | City/State/Zip | |
| Daytime Phone Number () - | | Daytime Phone Number () - | |

4(c) Date of sale, transfer or ownership change: _____

4(d) Did the buyer trade-in a home to purchase this home? No Yes If yes, the application transferring the ownership to the Retailer must be attached to this application. Provide the following information on the home traded in:
 HUD Label _____, Serial No. _____

| | | |
|---------------------|------------------|-----------------------------|
| HUD Label #: | Serial #: | GF# (for title co.): |
|---------------------|------------------|-----------------------------|

BLOCK 5: Right of Survivorship (if no box is checked, joint owners will NOT have right of survivorship)

If joint owners desire right of survivorship, check the applicable box below:

Husband and wife will be the only owners and agree that the ownership of the above described manufactured home shall, from this day forward, be held jointly and in the event of death, shall pass to the surviving owner.

Joint owners are other than husband and wife, desire right of survivorship, **and** have attached a completed Affidavit of Fact for Right of Survivorship or other affidavits as necessary to meet the requirements of §1201.213 of the Standards Act.

BLOCK 6: Personal/Real Property Election - Purchaser(s)/Transferee(s)/Owner(s) check one election type

Personal Property – Applicant elects to treat this home as personal property. All documents affecting title to the home will be filed in the records of the Department.

Real Property – I (we) elect to treat this home as real property and certify that I am (we are) entitled to make this election in accordance with Section 1201.2055 of the Occupations Code because (**one** box **must** be checked):

I (we) own the real property that the home is attached to. I (we) have a qualifying long-term lease for the land that the home is attached to.

The applicant or their authorized representative is the holder or servicer of the loan.

I (We) understand that the home will not be considered to be real property until a certified copy of the SOL has been filed in the real property records of the county in which the home is located AND a copy stamped "Filed" has been submitted to the Department.

Legal description must be provided for real property: _____

If a title company, list your file or GF #: _____

Inventory – (FOR RETAILER USE ONLY) Retailer number must be provided in Block 4b if this election is checked.

BLOCK 7: Designated Use - to be designated by purchaser(s), transferee(s), or owner(s)

Residential Use (as a dwelling) OR

Non-Residential - Check **one** of the following: *Business Use* *Salvage*

BLOCK 8: Liens – Will there be any liens on the home (other than a tax lien)? **No** **Yes** **If yes, complete the below lien information.**

| | | | |
|---------------------------|--|----------------------------|--|
| Date of First Lien: | | Date of Second Lien: | |
| Name of First Lienholder: | | Name of Second Lienholder: | |
| Mailing Address: | | Mailing Address: | |
| City/State/Zip: | | City/State/Zip: | |
| Daytime Phone: | | Daytime Phone: | |

BLOCK 9: Special Mailing Instructions

| | | |
|--|-------------------|--|
| IF a copy of an SOL is to be mailed to anyone other than the owner or lienholder of record (such as a closing agent), please provide that mailing address here. | Name: | |
| | Company: | |
| | Street Address: | |
| | City, State, Zip: | |
| | Area Code/Phone | |

BLOCK 10: Signatures (Notarization is Optional)

| 10(a) Signatures of each seller/transfereor | 10(b) Signatures of each purchaser/transferee or owner |
|---|--|
| <p style="text-align: center;">_____ <i>Signature of owner or authorized seller</i></p> <p>Sworn and subscribed before me this ____ day of _____, 20__</p> <p style="text-align: center;">_____ <i>Signature of Notary</i> SEAL</p> | <p style="text-align: center;">_____ <i>Signature of purchaser/transferee or owner</i></p> <p>Sworn and subscribed before me this ____ day of _____, 20__</p> <p style="text-align: center;">_____ <i>Signature of Notary</i> SEAL</p> |
| <p style="text-align: center;">_____ <i>Signature of owner or authorized seller</i></p> <p>Sworn and subscribed before me this ____ day of _____, 20__</p> <p style="text-align: center;">_____ <i>Signature of Notary</i> SEAL</p> | <p style="text-align: center;">_____ <i>Signature of purchaser/transferee or owner</i></p> <p>Sworn and subscribed before me this ____ day of _____, 20__</p> <p style="text-align: center;">_____ <i>Signature of Notary</i> SEAL</p> |

10(c) For Lien Assignments Only

| | |
|--|---|
| <p style="text-align: center;">_____ <i>Signature of authorized representative for previous lienholder</i></p> | <p style="text-align: center;">_____ <i>Signature of authorized representative for new lender</i></p> |
|--|---|

(20) – (46) (No change.)