

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 Texas Administrative Code, Chapter 80, §§80.3, 80.30 and 80.38 relating to the regulation of the manufactured housing program. The rule revisions update eliminates the Field Verification Inspection Fee and makes changes for clarification purposes.

10 Tex. Admin. Code §80.3(j) is amended by removing the Field Verification Inspection fee of \$100, as the Department lacks the resources to complete these inspections and the Manufactured Housing Division is not statutorily required to provide this service.

10 Tex. Admin. Code §80.30(a) is amended to clarify that a licensee may maintain their files electronically as long as the Department has access upon request.

10 Tex. Admin. Code §80.38(c) is amended by adding new subsection (c) to clarify that a licensee must deliver the Formaldehyde Health Notice to the consumer before the execution of a mutually binding sales agreement or retail installment sales contract and may not transfer ownership unless the consumer receives prior delivery of the form.

Jim R. Hicks, 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. There will be no effect on small or micro-businesses because of the proposed amendments. The amendments will not cause the loss of any business opportunities or have an adverse effect on the businesses. There are no additional anticipated economic costs to persons who are required to comply with the proposed rules.

Mr. Hicks also has determined that for each year of the first five years that the proposed rules are in effect the public benefit for enforcing the amendments will be to maintain the necessary resources required to improve the general welfare and safety of purchasers of manufactured housing in this state as per §1201.002 of the Manufactured Housing Standards Act.

Mr. Hicks 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.

Mr. Hicks has also determined that for each of the first five years the proposed rules are in effect would not have a large government growth impact. The proposed rules do not create or eliminate a government program. Implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions. Implementation of the proposed rules do not require the increase or decrease in future legislative appropriations to the agency. The proposed rules eliminates a fee paid to the agency. The proposed rules do not create a new regulation. The proposed rules do not expand, limit, or repeal an existing regulation. The proposed rules do not increase or decrease the number of individuals subject to the rules

applicability. The proposed rules do not positively or adversely affect this states economy. This statement is made pursuant to the Administrative Procedures Act, Texas Government Code, §2001.0221.

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. Jim R. Hicks, 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 amendments are proposed 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 the proposed rule.

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

Manufactured Housing Proposed Rules

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

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.~~

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

(1) - (4) (No change.)

~~(k)~~ Method of Payment.

(1) - (2) (No change.)

~~(l)~~ 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.

~~(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) - (3) (No change.)

SUBCHAPTER C. LICENSEES' RESPONSIBILITIES AND REQUIREMENTS

§80.30. All Licensees' Responsibilities.

(a) A licensee, other than a salesperson, must maintain all required records at a location that meets the requirements of §1201.103(a-1) of the Standards Act. All records required by this chapter must be maintained in the licensee's files for a period of not less than six (6) years. Unless stated otherwise, a record of any disclosure to be given shall reflect that it was properly completed, executed, and dated. Files may be maintained in an electronic format, as long as they can be produced upon request by the Department for review.

(b) - (i) (No change.)

§80.38. Right to Advance Copy of Certain Documents.

(a) (No change.)

(b) Printed forms may be used to the rights as provided for in §1201.164 of the Standards Act only if:

- (1) The basic form set forth on the Department's website is used; and
- (2) The Director has reviewed and approved the language used to describe the specific declared emergency.

(c) A retailer or manufacturer may not transfer ownership of a new or used HUD-code manufactured home or otherwise sell, assign, or convey a HUD-code manufactured home to a consumer unless the retailer or manufacturer delivers to the consumer a formaldehyde health notice.

(1) The formaldehyde health notice must be delivered before the execution of a mutually binding sales agreement or retail installment sales contract.

(2) The formaldehyde health notice will be provided on the Manufactured Housing Division's website. The notice must be of the type, size and format required by the director. A retailer or manufacturer may not vary the content or form of the notice.

(3) The formaldehyde health notice may be combined with other disclosures, if deemed appropriate.