

## **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 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. The rules are adopted without changes from the published proposed rules; therefore, the rules will not be republished in the *Texas Register*.

The proposed amendments were published in the May 6, 2022, issue of the *Texas Register* (47 TexReg 2637).

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

The rules as proposed on May 6, 2022, are adopted as final rules.

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

There was one comment received by email that appeared to be a misunderstanding relating to eliminating the Field Verification Inspection. The commenter appeared to interpret the proposal as eliminating all inspections. The Manufactured Housing Division responded to the commenter that the Field Verification Inspection is not a statutory requirement and ensured the commenter the Department will continue to conduct inspections on manufactured homes installed, consumer complaint investigations and all other inspections required per the Texas Manufactured Housing Standards Act.

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

10 Tex. Admin. Code §80.3(j) is adopted without changes to remove 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 adopted without changes 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 adopted without changes to add 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.

The amended rules 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.

# Adoption of Manufactured Housing Rules

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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) A fee of \$55 will be required for the issuance of a Statement of Ownership.
- (2) 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 submitted to the Department along with the required fee of \$55 and any necessary supporting documentation.
- (3) 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) 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.

~~(k)~~ 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.

~~(l)~~(m) 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)~~(n) 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**

#### **§80.30. 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.