



Texas Department of Housing and Community Affairs
Manufactured Housing Board Meeting
March 12, 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**

March 12, 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 E2.028
Austin, Texas 78701

March 12, 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 January 15, 2010. Chair
- Item 2. Presentation, discussion and consideration to approve adoption of proposed amended rules to 10 TAC, Chapter 80 for publication in the Texas Register as adopted. Joe Garcia

REPORT ITEMS

- 1. Licensing Unit Internal Audit Report Harriet Fortson
- 2. Executive Director's Report to include issues relating to the 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, 221 E. 11th Street, Austin, Texas 78701, 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, January 15, 2010, at 10:15 a.m., there was a regular meeting of the Manufactured Housing Board (the "Board") at 1500 N. Congress, Capitol Extension Committee E2.036. Michael Bray presided. Pablo Schneider and Donnie Wisenbaker, constituting a quorum, attended. Devora Mitchell and Sheila Vallés-Pankratz were absent. The following Manufactured Housing Division (the "MHD") staff were present: Joe Garcia, Amy Morehouse, Kassu Asfaw, Jim Hicks, Jennifer Dillard, Paul Doss, Martin Wilford, Denise Perales, and Sharon Choate. From the Texas Department of Housing and Community Affairs (other than the MHD) Elena Peinado was present and Nichole Bunker-Henderson was present from the Office of Attorney General.

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 November 6, 2009. Upon motion of Pablo Schneider, 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 Association (TMHA) as a continuing education provider. Upon motion of Donnie Wisenbaker, duly seconded by Pablo Schneider, the renewal was unanimously approved.

Joe Garcia presented and discussed for approval proposed amendments to 10 TAC, Chapter 80, for publication in the Texas Register for public comment. The Board recommended revising §80.37(b) by numerically listing the warranty information as (b)(1), (b)(2) and (b)(3). Upon motion of Pablo Schneider, duly seconded by Donnie Wisenbaker, the rules with amendments 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, March 12, 2010, at 10:00 a.m.

There being no further business to come before the board, the meeting was adjourned at 11:29 a.m.

Sharon Choate, Secretary

Approved:

Michael Bray, Presiding Chair

Agenda Action Item No. 2

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 change 10 TAC, Chapter 80, §80.3, 80.37, 80.40, 80.41, and 80.90. The text to the adopted rules without changes will not be republished in the *Texas Register*. Section 80.100 is adopted with non-substantive changes and will be republished in the *Texas Register*. The proposed rules were published in the February 5, 2010, issue of the *Texas Register* (35 TexReg 736).

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.

The rules are effective thirty (30) days following the date of publication with the *Texas Register* of notice that the rules are adopted.

There were no comments received during the comment period and no requests were received for a public hearing to take comments on the rules.

Except as noted below, the rules as proposed on February 5, 2010, are adopted as final rules with the following non-substantive changes.

Figure: 10 TAC §80.100(b)(19): Removed "Proposed Form" and the revision marks indicating new text in the proposed form. The content of the form was not changed from the proposed version.

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

Section 80.3(j) is adopted (without changes) to add 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) is adopted (without changes) to re-letter current subsection from (j) to (k) and add paragraph (5) to include a fee for Priority Handling Service for customers needing their application processed sooner.

Section 80.37(b) is adopted (without changes) to clarify 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 is adopted (without changes) to rename 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) is adopted (without changes) to change 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) is adopted (without changes) to remove the requirement to have the salesperson attend the next initial licensing class and replace 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) is adopted (without changes) to add a new subsection to include procedures for requesting Priority Handling Service.

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

The amended section is 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 rule.

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

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

TABLE OF CONTENTS

SUBCHAPTER A. CODES, STANDARDS, TERMS, FEES AND ADMINISTRATION

§80.3. Fees 1

SUBCHAPTER C. LICENSEES' RESPONSIBILITIES AND REQUIREMENTS

§80.37. Correction Requirements 2

SUBCHAPTER E. LICENSING

§80.40. Security ~~and Insurance~~ Requirements 2

§80.41. License Requirements 3

SUBCHAPTER H. STATEMENTS OF OWNERSHIP AND LOCATION

§80.90. Issuance of Statements of Ownership and Location 3

SUBCHAPTER I. FORMS

§80.100. List of Forms 4

**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.

(k)(j) 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.

(l)(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.

~~(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 warranty period for new homes and for used homes within sixty-five (65) calendar days after the date of the sale or installation, whichever is later.~~

(1) within the one (1) year manufacturer's and retailer's warranty period for new homes;

(2) within two (2) years for the installer's warranty period; and

(3) for used homes within sixty-five (65) calendar days after the date of the sale or installation, whichever is later.

- (c) (No change.)

SUBCHAPTER E. LICENSING

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

- (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.

(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.

(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 p.m. 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.

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"/> Regular Handling Completed applications will be processed within 15 working days from date received. <input type="checkbox"/> Priority Handling Requested 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.)