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**Texas Department of Housing and Community Affairs**  
**Manufactured Housing Board Meeting**  
**April 1, 2016**

Michael H. Bray, Chair

Ronnie Richards, Member

Kiran Shah, Member

Sheila M. Vallés-Pankratz, Member

Donnie W. Wisenbaker, Member

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

**April 1, 2016**

**ROLL CALL**

	<u>Present</u>	<u>Absent</u>
Michael H. Bray, Chair	_____	_____
Ronnie Richards, Member	_____	_____
Kiran Shah, 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**

**April 1, 2016                    10:30 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, 2016. Chair
- Item 2. Presentation, discussion and possible action to approve adoption of proposed amendments to 10 Texas Administrative Code, Chapter 80 for publication in the Texas Register as adopted. Joe Garcia

**REPORT ITEMS**

- 1. Executive Director's Report to include issues relating to 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](http://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](mailto: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, 2016, at 10:29 a.m., there was a regular meeting of the Manufactured Housing Board (the "Board") at 1500 N. Congress, Capitol Extension Committee Room E2.036, Austin, Texas. Donnie Wisenbaker presided. Ronnie Richards, Kiran Shah and Sheila Vallés-Pankratz, constituting a quorum, attended. Michael Bray was absent. The following Manufactured Housing Division (the "MHD") staff were present: Joe Garcia, Jim Hicks, Amy Morehouse and Sharon Choate.

Donnie Wisenbaker called the roll and confirmed the presence of a quorum.

Donnie Wisenbaker asked for a motion to approve the minutes from the board meeting on April 17, 2015. Upon motion of Sheila Vallés-Pankratz, duly seconded by Ronnie Richards, the motion was unanimously approved.

Jim Hicks presented and discussed for approval the continuation of Texas Manufactured Housing School (TXMHS) as a continuing education provider. Upon motion of Ronnie Richards, duly seconded by Kiran Shah, the renewal was unanimously approved.

Jim Hicks presented and discussed for approval the continuation of Texas Manufactured Housing Association (TMHA) as a continuing education provider. Upon motion of Sheila Vallés-Pankratz, duly seconded by Kiran Shah, the renewal was unanimously approved.

Joe Garcia presented the FY 2016 Administrative Services Agreement between the Manufactured Housing Division and TDHCA and recommended approval. Upon motion of Ronnie Richards, duly seconded by Kiran Shah, the agreement was unanimously approved.

Joe Garcia presented and discussed for approval adoption of proposed amendments to 10 Texas Administrative Code, Chapter 80 for publication as proposed in the Texas Register for public comment. Upon motion of Sheila Vallés-Pankratz, duly seconded by Ronnie Richards, the rules were unanimously approved.

Joe Garcia delivered the Executive Director's Report.

The Board did not go into an Executive Session.

The next board meeting was tentatively set for Friday, April 1, 2016.

There being no further business to come before the board, the meeting was adjourned at 11:21 a.m.

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Sharon Choate, Secretary

Approved:

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Donnie Wisenbaker, Acting Presiding Chair

*Pursuant to Sec. 551.022 of the Texas Government Code, a copy of the transcript of the above mentioned meeting is public record and is available for inspection and copying on request to the governmental body's chief administrative officer or the officer's designee.*

## *Agenda Action Item No. 2*

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 to 10 Texas Administrative Code, Chapter 80, §§80.3, 80.30, 80.32, 80.36, 80.41, 80.71, 80.73 and 80.90 relating to the regulation of the manufactured housing program. The text to the adopted rules without changes will not be republished in the *Texas Register*. The proposed amendments were published in the February 5, 2016, issue of the *Texas Register* (41 TexReg 883).

The rules are adopted for clarification purposes.

The rules as proposed on February 5, 2016, are adopted as final rules and 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.

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

Section 80.3(f): Revised to clarify the installer is also eligible to request an industry inspection per §1201.355(b) of the Standards Act.

Section 80.30(f): Revised to clarify the rule also relates to any advertisements in social media.

Section 80.30(g): Revised to clarify the rule also relates to any advertisements in social media.

Section 80.32(u): The new section clarifies how long a person has to exercise their right of rescission without penalty or charge.

Section 80.36(a): Reworded to reference the definition of a salvaged home as defined in §1201.461 of the Standards Act.

Section 80.36(d): Reworded to reference the definition of a salvaged home as defined in §1201.461 of the Standards Act.

Section 80.41(d)(6)(B): The new subparagraph enables the continuing education provider to submit their renewal application and fee and continue operating. This will be most beneficial in the event that a renewal is pending and the regularly scheduled board meetings are postponed and or rescheduled, or canceled due to lack of a quorum.

Section 80.41(f)(1): The revision will assist in preventing former license holders whose license was revoked, suspended, and/or denied from applying for a salesperson’s license when they may be viewed as unsuitable to work in the manufactured housing industry.

Section 80.71(d): Adds new subsection to clarify that the Department may serve the notice of hearing on the respondent to the last known address as shown by the Department's records.

Section 80.71(f): Adds new subsection to clarify the process when a default is granted by the administrative law judge without issuance of a default proposal for decision.

Section 80.73(e): Clarifies the timeframe in which the Department requires the licensee to submit the completed service or work orders.

Section 80.73(f): Revised to remind license holders of the risk of requesting an extension without sufficient basis well in advance in case the request is denied.

Section 80.90(a)(6): Revised to include personal property in the designation for use as a dwelling that requires evidence of a satisfactory habitability inspection by the Department.

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

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

## TABLE OF CONTENTS

<b>SUBCHAPTER A. CODES, STANDARDS, TERMS, FEES AND ADMINISTRATION .....</b>	<b>1</b>
§80.1.    TEXAS MANUFACTURED HOUSING STANDARDS CODE. ....	1
§80.2.    DEFINITIONS.....	1
§80.3.    FEES. ....	1
§80.4.    ADVISORY COMMITTEE.....	1
<b>SUBCHAPTER B. INSTALLATION STANDARDS AND DEVICE APPROVALS .....</b>	<b>1</b>
§80.20.   REQUIREMENTS FOR MANUFACTURER'S DESIGNS AND INSTALLATION INSTRUCTIONS. ....	1
§80.21.   REQUIREMENTS FOR THE INSTALLATION OF MANUFACTURED HOMES.....	1
§80.22.   GENERIC STANDARDS FOR MOISTURE AND GROUND VAPOR CONTROLS. ....	1
§80.23.   GENERIC STANDARDS FOR FOOTERS AND PIERS.....	1
§80.24.   GENERIC STANDARDS FOR ANCHORING SYSTEMS. ....	2
§80.25.   GENERIC STANDARDS FOR MULTI-SECTION CONNECTIONS STANDARDS.....	2
§80.26.   REGISTRATION OF STABILIZING COMPONENTS AND SYSTEMS. ....	2
<b>SUBCHAPTER C. LICENSEES' RESPONSIBILITIES AND REQUIREMENTS.....</b>	<b>2</b>
§80.30.   ALL LICENSEES' RESPONSIBILITIES.....	2
§80.31.   MANUFACTURERS' RESPONSIBILITIES AND REQUIREMENTS. ....	2
§80.32.   RETAILERS' RESPONSIBILITIES AND REQUIREMENTS. ....	2
§80.33.   INSTALLERS' RESPONSIBILITIES AND REQUIREMENTS.....	3
§80.34.   BROKERS' RESPONSIBILITIES AND REQUIREMENTS.....	3
§80.35.   SALESPERSON'S RESPONSIBILITIES AND REQUIREMENTS.....	3
§80.36.   RETAILER'S REBUILDING RESPONSIBILITIES AND REQUIREMENTS. ....	3
§80.37.   CORRECTION REQUIREMENTS. ....	3
§80.38.   RIGHT TO ADVANCE COPY OF CERTAIN DOCUMENTS. ....	3
<b>SUBCHAPTER D. LICENSING.....</b>	<b>4</b>
§80.40.   SECURITY REQUIREMENTS. ....	4
§80.41.   LICENSE REQUIREMENTS.....	4
<b>SUBCHAPTER E. ENFORCEMENT.....</b>	<b>5</b>
§80.70.   ENFORCEMENT. ....	5
§80.71.   RULES FOR HEARINGS. ....	5
§80.72.   SANCTIONS AND PENALTIES. ....	5
§80.73.   PROCEDURES FOR HANDLING CONSUMER COMPLAINTS. ....	6
<b>SUBCHAPTER F. MANUFACTURES HOMEOWNERS' RECOVERY TRUST FUND.....</b>	<b>7</b>
§80.80.   ADMINISTRATION OF CLAIMS UNDER THE MANUFACTURED HOMEOWNERS' RECOVERY TRUST FUND. ....	7
<b>SUBCHAPTER G. STATEMENTS OF OWNERSHIP AND LOCATION .....</b>	<b>7</b>
§80.90.   ISSUANCE OF STATEMENTS OF OWNERSHIP AND LOCATION.....	7
§80.91.   ISSUANCE OF A TEXAS SEAL.....	8
§80.92.   INVENTORY FINANCE LIENS. ....	8
§80.93.   RECORDING TAX LIENS ON MANUFACTURED HOMES. ....	8
§80.94.   REPORT TO COUNTY TAX ASSESSOR-COLLECTORS AND COUNTY APPRAISAL DISTRICTS. ....	8

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

**§80.1. *Texas Manufactured Housing Standards Code.***

(No change.)

**§80.2. *Definitions.***

(No change.)

**§80.3. *Fees.***

(a) - (e) (No change.)

(f) Industry Request. The manufacturer, ~~or~~ retailer, or installer may request a consumer complaint home inspection. The request must be accompanied by the required fee of \$150.00.

**Rationale: §1201.355(b) includes the installers as a license holder eligible to request an industry inspection.**

(g) - (n) (No change.)

**§80.4. *Advisory Committee.***

(No change.)

**SUBCHAPTER B. INSTALLATION STANDARDS AND DEVICE  
APPROVALS**

**§80.20. *Requirements for Manufacturer's Designs and Installation Instructions.***

(No change.)

**§80.21. *Requirements for the Installation of Manufactured Homes.***

(No change.)

**§80.22. *Generic Standards for Moisture and Ground Vapor Controls.***

(No change.)

**§80.23. *Generic Standards for Footers and Piers.***

(No change.)

**§80.24. Generic Standards for Anchoring Systems.**

(No change.)

**§80.25. Generic Standards for Multi-Section Connections Standards.**

(No change.)

**§80.26. Registration of Stabilizing Components and Systems.**

(No change.)

**SUBCHAPTER C. LICENSEES' RESPONSIBILITIES AND REQUIREMENTS**

**§80.30. All Licensees' Responsibilities.**

(a) - (e) (No change.)

(f) Any advertisement (including social media) by a retailer, broker, or installer (other than a sign/display advertisement at a licensed location, point of sale literature, or a price tag) must conspicuously disclose the license number of the person who is advertising.

**Rationale: Clarification**

(g) Any advertisement (including social media) by a salesperson must conspicuously disclose the name and license number of their sponsoring retailer identified on their valid salespersons license.

**Rationale: Clarification**

(h) - (i) (No change.)

**§80.31. Manufacturers' Responsibilities and Requirements.**

(a) - (e) (No change.)

**§80.32. Retailers' Responsibilities and Requirements.**

(a) – (t) (No change.)

(u) A person may exercise their right of rescission of contract for sale, exchange, or lease-purchase of home pursuant to §1201.1521 of the Standards Act within three (3) business days without penalty or charge.

**Rationale: Clarification**

~~(v)~~<sup>(u)</sup> The written warranty that the used manufactured home is habitable as per §1201.455 of the Standards Act, shall have been timely delivered if given to the homeowner at or prior to possession or at the time the applicable sales agreement is signed.

~~(w)~~<sup>(v)</sup> The written manufacturer's new home construction warranty per §1201.351 of the Standards Act, shall be timely delivered if given to the homeowner at or prior to the time of initial installation at the consumer's home site.

**§80.33. *Installers' Responsibilities and Requirements.***

(a) - (l) (No change.)

**§80.34. *Brokers' Responsibilities and Requirements.***

(a) – (b) (No change.)

**§80.35. *Salesperson's Responsibilities and Requirements.***

(a) – (b) (No change.)

**§80.36. *Retailer's Rebuilding Responsibilities and Requirements.***

(a) Any home ~~which has sustained sufficient damage to be declared~~ that is salvaged salvage as defined in §1201.461 of the Standards Act, may be rebuilt/repaired for purposes of issuance of a manufactured Statement of Ownership and Location at the option of the Department after inspection in accordance with Department procedures. Notification in writing to the Department at its Austin headquarter's ~~office~~ shall be required before rebuilding/repair begins.

**Rationale: Clarification.**

(b) – (c) (No change.)

(d) A manufactured home which does not meet the definition of salvage as defined in §1201.461 of the Standards Act, ~~has not sustained sufficient damage to be declared salvage~~ may be refurbished to its original structural configuration so that it is habitable as defined by §1201.453 of the Standards Act.

**Rationale: Clarification.**

**§80.37. *Correction Requirements.***

(a) – (c) (No change.)

**§80.38. *Right to Advance Copy of Certain Documents.***

(a) – (b) (No change.)

## SUBCHAPTER D. LICENSING

### §80.40. *Security Requirements.*

- (a) – (f) (No change.)

### §80.41. *License Requirements.*

- (a) – (c) (No change.)

- (d) Continuing Education.

- (1) – (5) (No change.)

- (6) Once the Department determines that a request for approval is complete, that request will be placed on the next regularly scheduled meeting of the Board for consideration. The Department will provide the board with a written recommendation on each such request. The staff will advise the applicant of the board's action within ten (10) business days of the date of the board meeting, including a written statement as to any limitations, conditions, or other requirements imposed.

- (A) Approvals shall be for a period not to exceed two years. The Department may, at no cost, attend or send a representative to attend any approved portion of the continuing education program to determine that the courses are being taught in accordance with the terms of approval.

- (B) Should the two-year approval time for a continuing education provider expire in between regularly scheduled board meetings, the executive director may issue approval to continue providing services until the next board meeting upon receipt of the required renewal application, fee, and necessary documentation of education material.

***Rationale: Enables the continuing education provider to submit their renewal application and fee and continue operating. This will be most beneficial in the event that a renewal is pending and the regularly scheduled board meetings are postponed and or rescheduled, or canceled due to no quorum.***

- ~~(C)~~(B) The Department may revoke or suspend approval of a continuing education program if the Department determines that any of the courses are not being taught in accordance with the terms of approval or that any of the courses are not being administered in accordance with the law or these rules. Any action to revoke or suspend such an approval is a contested matter under Chapter 2001, Government Code, and the party against whom revocation or suspension is sought may make a written request for a hearing before an Administrative Law Judge. If no such hearing is requested within thirty (30) calendar

days after receipt of notice from the Department, the Department order of suspension or revocation shall become final.

- (e) (No change.)
- (f) License Application or Renewal Denial.
  - (1) In the evaluation of an applicant for a license, ~~other than a salesperson's license,~~ the Director shall consider whether the applicant or any related person involved with the applicant has previously:

**Rationale: Assists in preventing former license holders whose license was revoked, suspended, and/or denied from applying for a salesperson's license when they may be viewed as unsuitable to work in the manufactured housing industry.**

- (A) been found in a final order to have participated in one or more violations of the Standards Act that served as grounds for the suspension or revocation of a license;
- (B) been found to have engaged in activity subject to the Standards Act without possessing the required license;
- (C) caused the trust fund to incur unreimbursed payments or claims;
- (D) failed to abide by the terms of a final order or agreed final order, including the payment of any assessed administrative penalties; or
- (E) had any state license revoked for violations of a law or rule.

(2) – (6) (No change.)

- (g) (No change.)

## **SUBCHAPTER E. ENFORCEMENT**

### ***§80.70. Enforcement.***

- (a) – (b) (No change.)

### ***§80.71. Rules for Hearings.***

- (a) – (c) (No change.)

- (d) The Department may serve the notice of hearing on the respondent at his or her last known address as shown by the Department's records.

**Rationale: Clarification.**

- (e)~~(+)~~ If, after receiving notice of a hearing, a party fails to appear in person or by representative on the day and time set for hearing or fails to appear by telephone in accordance with Government Code, Chapter 2001, also known as the Administrative Procedures Act, the hearing may proceed in that party's absence and a proposal for decision may be entered by default, accepting all facts and conclusions of law as deemed admitted.
- (f) If the administrative law judge grants a default but does not issue a default proposal for decision and instead issues a default order dismissing the case and returning the file to the Department for informal disposition on a default basis in accordance with §2001.056 of the Texas Government Code, the Executive Director may issue a final order deeming the allegations in the Notice of Hearing as true.

**Rationale: Clarification when a default is granted by the administrative law judge without issuance of a default proposal for decision.**

- (g)~~(+)~~ Pursuant to the Administrative Procedures Act, each party has the right to file exceptions to the Proposal for Decision and present a brief with respect to the exceptions. All exceptions must be filed with the Department within ten (10) business days of the Proposal for Decision, with replies to be filed ten (10) business days after the filing of exceptions.
- (h)~~(+)~~ When an administrative hearing is held for any matter in which the Department seeks to take action against a licensee for violating the Standards Act or these rules, whether such action is an action to assess administrative penalties, to require corrective action, to require cessation of improper activities, to suspend or revoke a license, or any combination thereof, the Department shall assess the costs of the proceeding against any party that fails to appear at a duly noticed administrative hearing. The costs assessed shall be the greater of \$100 or the actual costs charged to the Department by the State Office of Administrative Hearings, the Office of the Attorney General, any court reporter, or any other third party providing services in connection with such hearing.
- (i)~~(+)~~ The Department will seek the recovery of its costs from any party against whom it initiates an action if that action results in the entry of a final order taking any administrative action against that party, including the assessment of administrative penalties, requiring corrective action, requiring cessation of improper activities, suspension or revocation of a license, or any combination thereof.

**§80.72. *Sanctions and Penalties.***

- (a) – (g) (No change.)

**§80.73. *Procedures for Handling Consumer Complaints.***

- (a) – (d) (No change.)

- (e) When service or repairs are completed following any notice or orders from the Department pursuant to §1201.356(a) of the Standards Act, the manufacturer, retailer, and/or installer shall forward to the Department copies of service or work orders reflecting the date the work was completed, or other documentation to establish that the warranty service or repairs have been completed. A consumer is not required to sign the service or work order. These service or work orders must be received by the Department ~~within~~ no later than five (5) calendar days ~~from~~after the expiration of the period of time specified in the warranty order issued by the Department. Corrective action taken is subject to re-inspection.

**Rationale: Clarification.**

- (f) If service or repairs cannot be made within the specified time frame, the license holder shall notify the Department in writing prior to the expiration of the specified time ~~frame~~on the warranty order ~~by certified mail~~. The notice shall list those items which have been, or will be, completed within the time frame and shall show good cause why the remainder of the service or repairs cannot be made within the specified time frame. The license holder shall request an extension for a specific time. Original deadline to complete warranty work may apply if the request for extension is denied. If the Department fails to respond in writing to the request within five (5) business days of the date of receipt of the notice of request for extension, the extension has been granted.

**Rationale: Clarification. Reminds license holders of the risk of requesting an extension without sufficient basis well in advance in case the request is denied.**

- (g) – (h) (No change.)

**SUBCHAPTER F. MANUFACTURES HOMEOWNERS' RECOVERY TRUST FUND**

**§80.80. Administration of Claims under the Manufactured Homeowners' Recovery Trust Fund.**

- (a) – (f) (No change.)

**SUBCHAPTER G. STATEMENTS OF OWNERSHIP AND LOCATION**

**§80.90. Issuance of Statements of Ownership and Location.**

- (a) Application Requirements. In order to be deemed complete, an application for a Statement of Ownership and Location must include, as applicable:
- (1) - (5) (No change.)
- (6) When a manufactured home is to be designated for use as a dwelling and/or personal property after the home has been designated for business use, salvage, or as real property, evidence of a satisfactory habitability inspection by the Department.

**Rationale: Clarification**

(b) – (i) (No change.)

**§80.91. *Issuance of a Texas Seal.***

(a) – (b) (No change.)

**§80.92. *Inventory Finance Liens.***

(a) – (b) (No change.)

**§80.93. *Recording Tax Liens on Manufactured Homes.***

(a) – (e) (No change.)

**§80.94. *Report to County Tax Assessor-Collectors and County Appraisal Districts.***

(No change.)