

GOVERNMENT CODE
CHAPTER 2306. TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
(Current through the 83rd Legislature, 2013)

SUBCHAPTER AA. MANUFACTURED HOUSING DIVISION

Sec. 2306.6001. DEFINITIONS. In this subchapter:

- (1) "Division" means the manufactured housing division.
- (2) "Division director" means the executive director of the division.
- (3) "Manufactured Housing Board" means the governing board of the division.

Renumbered from Sec. 2306.601 and amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6002. REGULATION AND ENFORCEMENT.

The department shall administer and enforce Chapter 1201, Occupations Code, through the division. The Manufactured Housing Board and the division director shall exercise authority and responsibilities assigned to them under that chapter.

Renumbered from Sec. 236.601 and amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001; Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.784, eff. Sept. 1, 2003.

Sec. 2306.6003. MANUFACTURED HOUSING BOARD.

- (a) The Manufactured Housing Board is an independent entity within the department, is administratively attached to the department, and is not an advisory body to the department.
- (b) The Manufactured Housing Board shall carry out the functions and duties conferred on the Manufactured Housing Board by this subchapter and by other law.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6004. MANUFACTURED HOUSING BOARD MEMBERSHIP.

- (a) The Manufactured Housing Board consists of five public members appointed by the governor.
- (b) A person is eligible to be appointed as a public member of the Manufactured Housing Board if the person is a citizen of the United States and a resident of this state.

- (c) A person may not be a member of the Manufactured Housing Board if the person or the person's spouse:
 - (1) is registered, certified, or licensed by a regulatory agency in the field of manufactured housing;
 - (2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the division;
 - (3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the division; or
 - (4) uses or receives a substantial amount of tangible goods, services, or money from the division other than compensation or reimbursement authorized by law for Manufactured Housing Board membership, attendance, or expenses.
- (d) Appointments to the Manufactured Housing Board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6005. CONFLICT OF INTEREST.

- (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.
- (b) A person may not be a member of the Manufactured Housing Board and may not be a division employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:
 - (1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of manufactured housing; or
 - (2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of manufactured housing.
- (c) A person may not be a member of the Manufactured Housing Board or act as the general counsel to the Manufactured Housing Board or the division if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the division.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6006. TERMS; VACANCY.

- (a) The members of the Manufactured Housing Board serve staggered six-year terms, with the terms of one or two members expiring on January 31 of each odd-numbered year.
- (b) A person may not serve two consecutive full six-year terms as a member of the Manufactured Housing Board.
- (c) If a vacancy occurs during a member's term, the governor shall appoint a new member to fill the unexpired term.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6007. PRESIDING OFFICER.

The governor shall designate a member of the Manufactured Housing Board as the presiding officer of the Manufactured Housing Board to serve in that capacity at the will of the governor.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6008. GROUNDS FOR REMOVAL.

- (a) It is a ground for removal from the Manufactured Housing Board that a member:
 - (1) does not have at the time of taking office the qualifications required by Section 2306.6004(b);
 - (2) does not maintain during service on the Manufactured Housing Board the qualifications required by Section 2306.6004(b);
 - (3) is ineligible for membership under Section 2306.6004(c) or 2306.6005;
 - (4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or
 - (5) is absent from more than half of the regularly scheduled Manufactured Housing Board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the Manufactured Housing Board.
- (b) The validity of an action of the Manufactured Housing Board is not affected by the fact that it is taken when a ground for removal of a Manufactured Housing Board member exists.
- (c) If the division director has knowledge that a potential ground for removal exists, the division director shall notify the presiding officer of the Manufactured Housing Board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the division director shall notify

the next highest ranking officer of the Manufactured Housing Board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6009. REIMBURSEMENT.

A Manufactured Housing Board member may not receive compensation, but may be reimbursed for actual travel expenses, including expenses for meals, lodging, and transportation. A Manufactured Housing Board member is entitled to reimbursement for transportation expenses as provided by the General Appropriations Act.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6010. MEETINGS.

- (a) The Manufactured Housing Board shall have regular meetings as the majority of the members may specify and special meetings at the request of the presiding officer, any two members, or the division director.
- (b) Reasonable notice of all meetings shall be given as prescribed by Manufactured Housing Board rules.
- (c) The presiding officer shall preside at all meetings of the Manufactured Housing Board. In the absence of the presiding officer, the members present shall select one of the members to preside at the meeting.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6011. TRAINING.

- (a) A person who is appointed to and qualifies for office as a member of the Manufactured Housing Board may not vote, deliberate, or be counted as a member in attendance at a meeting of the Manufactured Housing Board until the person completes a training program that complies with this section.
- (b) The training program must provide the person with information regarding:
 - (1) the legislation that created the division and the Manufactured Housing Board;
 - (2) the programs operated by the division;
 - (3) the role and functions of the division;
 - (4) the rules of the division, with an emphasis on the rules that relate to disciplinary and investigatory authority;
 - (5) the current budget for the division;

- (6) the results of the most recent formal audit of the division;
 - (7) the requirements of:
 - (A) the open meetings law, Chapter 551;
 - (B) the public information law, Chapter 552;
 - (C) the administrative procedure law, Chapter 2001; and
 - (D) other laws relating to public officials, including conflict-of-interest laws; and
 - (8) any applicable ethics policies adopted by the division or the Texas Ethics Commission.
- (c) A person appointed to the Manufactured Housing Board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6012. APPROPRIATIONS; DONATIONS.

- (a) The legislature shall separately appropriate money to the Manufactured Housing Board within the appropriations to the department for all matters relating to the operation of the division.
- (b) The Manufactured Housing Board may accept gifts and grants of money or property under this subchapter and shall spend the money and use the property for the purpose for which the donation was made, except that the expenditure of money or use of property must promote the acceptance of HUD-Code manufactured homes as a viable source of housing for very low, low, and moderate income families.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6013. BUDGET; SHARING OF DEPARTMENT PERSONNEL, EQUIPMENT, AND FACILITIES.

- (a) The Manufactured Housing Board shall develop a budget for the operations of the department relating to the division.
- (b) The Manufactured Housing Board shall reduce administrative costs by entering into an agreement with the department to enable the sharing of department personnel, equipment, and facilities.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6014. DIVISION DIRECTOR.

- (a) The Manufactured Housing Board shall employ the division director. The division director is the Manufactured Housing Board's chief executive and administrative officer.
- (b) The division director is charged with administering, enforcing, and carrying out the functions and duties conferred on the division director by this subchapter and by other law.
- (c) The division director serves at the pleasure of the Manufactured Housing Board.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6015. PERSONNEL.

The division director may employ staff as necessary to perform the work of the division and may prescribe their duties and compensation. Subject to applicable personnel policies and regulations, the division director may remove any division employee.

Added by Acts 1995, 74th Leg., ch. 978, Sec. 24, eff. Sept. 1, 1995. Renumbered from Sec. 2306.602 and amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6016. SEPARATION OF RESPONSIBILITIES.

The Manufactured Housing Board shall develop and implement policies that clearly separate the policy-making responsibilities of the Manufactured Housing Board and the management responsibilities of the division director and staff of the division.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6017. STANDARDS OF CONDUCT.

The division director or the division director's designee shall provide to members of the Manufactured Housing Board and to division employees, as often as necessary, information regarding the requirements for office or employment under this subchapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6018. EQUAL EMPLOYMENT OPPORTUNITY.

- (a) The division director or the division director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.
- (b) The policy statement must include:

- (1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the division to avoid the unlawful employment practices described by Chapter 21, Labor Code; and
 - (2) an analysis of the extent to which the composition of the division's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.
- (c) The policy statement must:
- (1) be updated annually;
 - (2) be reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1); and
 - (3) be filed with the governor's office.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6020. RULES.

- (a) The Manufactured Housing Board shall adopt rules as necessary to implement this subchapter and to administer and enforce the manufactured housing program through the division. Rules adopted by the Manufactured Housing Board are subject to Chapter 2001.
- (b) The Manufactured Housing Board may not adopt rules restricting competitive bidding or advertising by a person regulated by the division except to prohibit false, misleading, or deceptive practices by that person.
- (c) The Manufactured Housing Board may not include in the rules to prohibit false, misleading, or deceptive practices by a person regulated by the division a rule that:
 - (1) restricts the use of any advertising medium;
 - (2) restricts the person's personal appearance or the use of the person's voice in an advertisement;
 - (3) relates to the size or duration of an advertisement used by the person; or
 - (4) restricts the use of a trade name in advertising by the person.

Added by Acts 1995, 74th Leg., ch. 978, Sec. 24, eff. Sept. 1, 1995. Renumbered from Sec. 2306.603 and amended by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6021. PUBLIC PARTICIPATION.

The Manufactured Housing Board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the Manufactured Housing Board and to speak on any issue under the jurisdiction of the division.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001.

Sec. 2306.6022. COMPLAINTS.

- (a) The division shall maintain a file on each written complaint filed with the division. The file must include:
 - (1) the name of the person who filed the complaint;
 - (2) the date the complaint is received by the division;
 - (3) the subject matter of the complaint;
 - (4) the name of each person contacted in relation to the complaint;
 - (5) a summary of the results of the review or investigation of the complaint; and
 - (6) an explanation of the reason the file was closed, if the division closed the file without taking action other than to investigate the complaint.
- (b) The division shall make available on its website the division's policies and procedures relating to complaint investigation and resolution and shall provide copies of such information on request.
- (c) The division, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.
- (d) Unless otherwise confidential by law, the records of a license holder or other person that are required or obtained by the division or its agents or employees in connection with the investigation of a complaint are subject to the requirements of Chapter 552.
- (e) The division director may allow an authorized employee of the division to dismiss a complaint if an investigation demonstrates that:
 - (1) a violation did not occur; or
 - (2) the subject of the complaint is outside the division's jurisdiction under this subchapter.
- (f) An employee who dismisses a complaint under Subsection (e) shall report the dismissal to the division director and the board. The report must include a sufficient explanation of the reason the complaint was dismissed.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 1.29, eff. Sept. 1, 2001. Amended by Acts 2007, 80th Leg., R.S., Ch. 863, Sec. 64, eff. January 1, 2008. Amended by Acts 2013, 83rd Leg., HB 3361, Sec. 3.01, eff. September 1, 2013.

Sec. 2306.6023. Negotiated Rulemaking and Alternative Dispute Resolution.

- (a) The division shall develop and implement a policy to encourage the use of:
 - (1) negotiated rulemaking procedures under Chapter 2008 for the adoption of division rules; and
 - (2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the division's jurisdiction.
- (b) The division's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.
- (c) The division shall:
 - (1) coordinate the implementation of the policy adopted under Subsection (a);
 - (2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and
 - (3) collect data concerning the effectiveness of those procedures.

Amended by Acts 2013, 83rd Leg., HB 3361, Sec. 3.02, eff. September 1, 2013.