

By Senators Cowin and Latvala

11-429A-99

See HB

1 A bill to be entitled
2 An act relating to factory-built housing
3 safety; amending s. 20.18, F.S.; creating the
4 Division of Factory-built Housing in the
5 Department of Community Affairs; providing a
6 mission statement for the department;
7 transferring certain powers, duties, functions,
8 personnel, property, and appropriations of the
9 department to the division; transferring
10 certain powers, duties, functions, personnel,
11 property, and appropriations of the Department
12 of Highway Safety and Motor Vehicles to the
13 division; authorizing the Department of
14 Community Affairs and the Department of Highway
15 Safety and Motor Vehicles to enter into
16 agreements to effectuate such transfers;
17 providing for transfer of the mobile home
18 portion of the Mobile Home and Recreational
19 Vehicle Protection Trust Fund into the
20 department's operating trust fund for certain
21 purposes; transferring the portion of the
22 Highway Safety Operating Trust Fund relating to
23 mobile homes into the department's operating
24 trust fund for certain purposes; amending s.
25 320.781, F.S., to conform; amending s. 553.36,
26 F.S.; providing a definition; amending s.
27 553.38, F.S.; providing responsibility of the
28 Division of Factory-built Housing to administer
29 part IV of chapter 553, F.S.; creating ss.
30 553.431, 553.4315, 553.433, 553.434, 553.435,
31 553.4365, 553.437, 553.438, 553.446, 553.448,

1 553.449, 553.450, 553.451, 553.452, 553.453,
2 553.455, 553.456, 553.457, 553.458, F.S.;
3 recreating certain provisions under chapter
4 320, F.S., within part IV of chapter 553, F.S.,
5 to conform; transferring and renumbering ss.
6 320.823, 320.8335, 320.840, F.S., to conform;
7 transferring, renumbering, and amending ss.
8 320.77, 320.8255, 320.827, 320.8285, 320.830,
9 320.831, 320.8325, F.S., to conform; requiring
10 the division to adopt rules on manufactured
11 housing installation systems; requiring the
12 development of certain standards for park
13 trailers; renumbering and amending s. 320.8249,
14 F.S., to conform; limiting certain local
15 government ability to charge certain permit
16 fees relating to mobile home parks; amending
17 ss. 161.55, 316.515, 319.001, 320.131, 320.27,
18 320.28, 320.71, 320.822, 320.8225, 320.8231,
19 320.8232, 320.824, 320.8245, 320.8256, 320.834,
20 320.835, 320.865, 325.202, 325.203, 325.213,
21 627.351, 627.702, F.S., to conform; providing
22 an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Paragraph (d) is added to subsection (2) of
27 section 20.18, Florida Statutes, 1998 Supplement, and
28 subsection (7) is added to that section, to read:

29 20.18 Department of Community Affairs.--There is
30 created a Department of Community Affairs.

31

1 (2) The following units of the Department of Community
2 Affairs are established:

3 (d) Division of Factory-built Housing.

4 (7) The Department of Community Affairs shall be the
5 agency responsible for ensuring that there is adequate
6 affordable housing in this state through the use of
7 factory-built homes, that the federal code on mobile homes is
8 strictly observed by manufacturers, and that the state code
9 for manufactured buildings is an efficient method for
10 providing manufactured buildings to residents of this state.
11 The department shall also be the agency responsible for the
12 installation of mobile homes and manufactured buildings to
13 such an extent that residents of this state are as safe as
14 possible with respect to destructive weather.

15 Section 2. The powers, duties, responsibilities,
16 functions, records, personnel, property, and unexpended
17 balances of appropriations, allocations, or other funds within
18 the Department of Community Affairs relating to
19 administration, implementation, and enforcement of part IV of
20 chapter 553, Florida Statutes, is hereby transferred to the
21 Division of Factory-built Housing of the department.

22 Section 3. (1) All statutory powers, duties,
23 functions, records, personnel, property, and unexpended
24 balances of appropriations, allocations, or other funds of the
25 Bureau of Mobile Home and Recreational Vehicle Construction of
26 the Department of Highway Safety and Motor Vehicles relating
27 to regulation and administration of mobile homes, and all
28 existing authority and actions of the bureau, including, but
29 not limited to, all pending and completed actions on orders
30 and rules, all enforcement matters, and delegations,
31 interagency agreements, and contracts with federal, state,

1 regional, and local governments and private entities relating
2 to regulation and administration of mobile homes, are hereby
3 transferred to the Division of Factory-built Housing of the
4 Department of Community Affairs.

5 (2) The Department of Community Affairs and the
6 Department of Highway Safety and Motor Vehicles shall have the
7 authority to enter into interagency agreements with each other
8 concerning any matter affected by the transfer of the Bureau
9 of Mobile Home and Recreational Vehicle Construction to the
10 Department of Community Affairs to promote the efficient and
11 effective operation of both departments.

12 Section 4. (1) The portion of the Mobile Home and
13 Recreational Vehicle Protection Trust Fund created under s.
14 320.781, Florida Statutes, relating to mobile homes is
15 transferred to the Operating Trust Fund of the Department of
16 Community Affairs to be administered and managed by the
17 Division of Factory-built Housing of the Department of
18 Community Affairs pursuant to section 553.433, Florida
19 Statutes.

20 (2) That portion of the Highway Safety Operating Trust
21 Fund, created under section 318.39, Florida Statutes, and into
22 which fees and penalties relating to mobile home regulation,
23 manufacture, licensure, and installation are deposited, is
24 transferred to the Operating Trust Fund of the Department of
25 Community Affairs to be administered and managed by the
26 Division of Factory-built Housing for the purposes of part IV
27 of chapter 553, Florida Statutes.

28 Section 5. Section 320.781, Florida Statutes, is
29 amended to read:

30 320.781 ~~Mobile Home and~~ Recreational Vehicle
31 Protection Trust Fund.--

1 (1) There is hereby established a ~~Mobile Home and~~
2 Recreational Vehicle Protection Trust Fund. The trust fund
3 shall be administered and managed by the Department of Highway
4 Safety and Motor Vehicles. The expenses incurred by the
5 department in administering this section shall be paid only
6 from appropriations made from the trust fund.

7 (2) Beginning October 1, 1990, the department shall
8 charge and collect an additional fee of \$1 for each ~~new mobile~~
9 ~~home and~~ new recreational vehicle title transaction for which
10 it charges a fee. This additional fee shall be deposited into
11 the trust fund. The Department of Highway Safety and Motor
12 Vehicles shall charge a fee of \$40 per annual dealer and
13 manufacturer license and license renewal, which shall be
14 deposited into the trust fund. The sums deposited in the trust
15 fund shall be used exclusively for carrying out the purposes
16 of this section. These sums may be invested and reinvested by
17 the Treasurer under the same limitations as apply to
18 investment of other state funds, with all interest from these
19 investments deposited to the credit of the trust fund.

20 (3) The trust fund shall be used to satisfy any
21 judgment by any person, as provided by this section, against a
22 ~~mobile home or~~ recreational vehicle dealer or broker for
23 damages, restitution, or expenses, including reasonable
24 attorney's fees, resulting from a cause of action directly
25 related to the conditions of any written contract made by him
26 or her in connection with the sale, exchange, or improvement
27 of any ~~mobile home or~~ recreational vehicle, or for any
28 violation of chapter 319 or this chapter.

29 (4) The trust fund shall not be liable for any
30 judgment, or part thereof, resulting from any tort claim
31 except as expressly provided in subsection (3), nor for any

1 punitive, exemplary, double, or treble damages. A person, the
2 state, or any political subdivision thereof may recover
3 against the mobile home or recreational vehicle dealer,
4 broker, or surety, jointly and severally, for such damages,
5 restitution, or expenses; provided, however, that in no event
6 shall the trust fund or the surety be liable for an amount in
7 excess of actual damages, restitution, or expenses.

8 (5) Subject to the limitations and requirements of
9 this section, the trust fund shall be used by the department
10 to compensate persons who have unsatisfied judgments, or in
11 certain limited circumstances unsatisfied claims, against a
12 ~~mobile home or~~ recreational vehicle dealer or broker in one of
13 the following situations:

14 (a) The claimant has obtained a final judgment which
15 is unsatisfied against the ~~mobile home or~~ recreational vehicle
16 dealer or broker or its surety jointly and severally, or
17 against the ~~mobile home dealer or~~ broker only, if the court
18 found that the surety was not liable due to prior payment of
19 valid claims against the bond in an amount equal to, or
20 greater than, the face amount of the applicable bond.

21 (b) The claimant has obtained a judgment against the
22 surety of the ~~mobile home or~~ recreational vehicle dealer or
23 broker that is unsatisfied.

24 (c) The claimant has alleged a claim against the
25 ~~mobile home or~~ recreational vehicle dealer or broker in a
26 lawsuit which has been stayed or discharged as a result of the
27 filing for reorganization or discharge in bankruptcy by the
28 dealer or broker, and judgment against the surety is not
29 possible because of the bankruptcy or liquidation of the
30 surety, or because the surety has been found by a court of
31 competent jurisdiction not to be liable due to prior payment

1 of valid claims against the bond in an amount equal to, or
2 greater than, the face amount of the applicable bond.

3 (6) In order to recover from the trust fund, the
4 person must file an application and verified claim with the
5 department.

6 (a) If the claimant has obtained a judgment which is
7 unsatisfied against the ~~mobile home~~ or recreational vehicle
8 dealer or broker or its surety as set forth in this section,
9 the verified claim must specify the following:

10 1.a. That the judgment against the ~~mobile home~~ or
11 recreational vehicle dealer or broker and its surety has been
12 entered; or

13 b. That the judgment against the ~~mobile home~~ or
14 recreational vehicle dealer or broker contains a specific
15 finding that the surety has no liability, that execution has
16 been returned unsatisfied, and that a judgment lien has been
17 perfected;

18 2. The amount of actual damages broken down by
19 category as awarded by the court or jury in the cause which
20 resulted in the unsatisfied judgment, and the amount of
21 attorney's fees set forth in the unsatisfied judgment;

22 3. The amount of payment or other consideration
23 received, if any, from the ~~mobile home~~ or recreational vehicle
24 dealer or broker or its surety;

25 4. The amount that may be realized, if any, from the
26 sale of real or personal property or other assets of the
27 judgment debtor liable to be sold or applied in satisfaction
28 of the judgment and the balance remaining due on the judgment
29 after application of the amount which has been realized and a
30 certification that the claimant has made a good faith effort
31 to collect the judgment; and

1 5. Such other information as the department requires.

2 (b) If the claimant has alleged a claim as set forth
3 in paragraph (5)(c) and for the reasons set forth therein has
4 not been able to secure a judgment, the verified claim must
5 contain the following:

6 1. A true copy of the pleadings in the lawsuit which
7 was stayed or discharged by the bankruptcy court and the order
8 of the bankruptcy court staying those proceedings;

9 2. Allegations of the acts or omissions by the ~~mobile~~
10 ~~home~~ or recreational vehicle dealer or broker setting forth
11 the specific acts or omissions complained of which resulted in
12 actual damage to the person, along with the actual dollar
13 amount necessary to reimburse or compensate the person for
14 costs or expenses resulting from the acts or omissions of
15 which the person complained;

16 3. True copies of all purchase agreements, notices,
17 service or repair orders or papers or documents of any kind
18 whatsoever which the person received in connection with the
19 purchase, exchange, or lease-purchase of the ~~mobile home~~ or
20 recreational vehicle from which the person's cause of action
21 arises; and

22 4. Such other information as the department requires.

23 (c) The department may require such proof as it deems
24 necessary to document the matters set forth in the claim.

25 (7) Within 90 days after receipt of the application
26 and verified claim, the department shall issue its
27 determination on the claim. Such determination shall not be
28 subject to the provisions of chapter 120, but shall be
29 reviewable only by writ of certiorari in the circuit court in
30 the county in which the claimant resides in the manner and
31 within the time provided by the Florida Rules of Appellate

1 Procedure. The claim must be paid within 45 days after the
2 determination, or, if judicial review is sought, within 45
3 days after the review becomes final. A person may not be paid
4 an amount from the fund in excess of \$25,000 per ~~mobile home~~
5 ~~or~~ recreational vehicle. Prior to payment, the person must
6 execute an assignment to the department of all the person's
7 rights and title to, and interest in, the unsatisfied judgment
8 and judgment lien or the claim against the dealer or broker
9 and its surety.

10 (8) The department, in its discretion and where
11 feasible, may try to recover from the ~~mobile home or~~
12 recreational vehicle dealer or broker, or the judgment debtor
13 or its surety, all sums paid to persons from the trust fund.
14 Any sums recovered shall be deposited to the credit of the
15 trust fund. The department shall be awarded a reasonable
16 attorney's fee for all actions taken to recover any sums paid
17 to persons from the trust fund pursuant to this section.

18 (9) This section does not apply to any claim, and a
19 person may not recover against the trust fund as the result of
20 any claim, against a ~~mobile home or~~ recreational vehicle
21 dealer or broker resulting from a cause of action directly
22 related to the sale, lease-purchase, exchange, brokerage, or
23 installation of a ~~mobile home or~~ recreational vehicle prior to
24 October 1, 1990.

25 (10) Neither the department, nor the trust fund shall
26 be liable to any person for recovery if the trust fund does
27 not have the moneys necessary to pay amounts claimed. If the
28 trust fund does not have sufficient assets to pay the
29 claimant, it shall log the time and date of its determination
30 for payment to a claimant. If moneys become available, the
31

1 department shall pay the claimant whose unpaid claim is the
2 earliest by time and date of determination.

3 (11) It is unlawful for any person or his or her agent
4 to file any notice, statement, or other document required
5 under this section which is false or contains any material
6 misstatement of fact. Any person who violates this subsection
7 is guilty of a misdemeanor of the second degree, punishable as
8 provided in s. 775.082 or s. 775.083.

9 Section 6. Present subsections (7), (8), (9), (10),
10 (11), (12), (13), and (14) of section 553.36, Florida
11 Statutes, are renumbered as subsections (8), (9), (10), (11),
12 (12), (13), (14), and (15), respectively, and new subsection
13 (7) is added to that section, to read:

14 553.36 Definitions.--The definitions contained in this
15 section govern the construction of this part unless the
16 context otherwise requires.

17 (7) "Division" means the Division of Factory-built
18 Housing of the department.

19 Section 7. Section 553.38, Florida Statutes, is
20 amended to read:

21 553.38 Application and scope.--

22 (1) The department, through the division, shall adopt
23 ~~promulgate~~ rules which protect the health, safety, and
24 property of the people of this state by assuring that each
25 manufactured building is structurally sound and properly
26 installed on site and that plumbing, heating, electrical, and
27 other systems thereof are reasonably safe, and which interpret
28 and make specific the provisions of this part.

29 (2) The division ~~department~~ shall enforce every
30 provision of this part and the rules adopted pursuant hereto,
31 except that local land use and zoning requirements, fire

1 zones, building setback requirements, side and rear yard
2 requirements, site development requirements, property line
3 requirements, subdivision control, and onsite installation
4 requirements, as well as the review and regulation of
5 architectural and aesthetic requirements, are specifically and
6 entirely reserved to local authorities. Such local
7 requirements and rules which may be enacted by local
8 authorities must be reasonable and uniformly applied and
9 enforced without any distinction as to whether a building is a
10 conventionally constructed or manufactured building. A local
11 government shall require permit fees only for those
12 inspections actually performed by the local government for the
13 installation of a factory-built structure. Such fees shall be
14 equal to the amount charged for similar inspections on
15 conventionally built housing.

16 (3) The division shall be responsible for
17 administering, implementing, and enforcing the provisions of
18 this part.

19 Section 8. Section 553.431, Florida Statutes, is
20 created to read:

21 553.431 Nonresident mobile home dealer's license.--

22 (1) Any person who is a nonresident of the state, who
23 does not have a dealer's contract from the manufacturer or
24 manufacturer's distributor of mobile homes authorizing the
25 sale thereof in definite Florida territory, and who sells or
26 engages in the business of selling said vehicles at retail
27 within the state shall register with the Department of Revenue
28 for a sales tax dealer registration number and comply with
29 chapter 212, and pay a license tax of \$2,000 per annum in each
30 county where such sales are made; \$1,250 of said tax shall be
31 transmitted to the Department of Banking and Finance to be

1 deposited in the General Revenue Fund of the state, and \$750
2 thereof shall be returned to the county. The license tax
3 shall cover the period from January 1 to the following
4 December 31, and no such license shall be issued for any
5 fractional part of a year.

6 (2) The acceptance by any person of a license under
7 this section shall be deemed equivalent to an appointment by
8 such person of the Secretary of State as the agent of such
9 person upon whom may be served all lawful process in any
10 action, suit, or proceeding against such person arising out of
11 any transaction or operation connected with or incidental to
12 any activities of such person carried on under such license,
13 and the acceptance of such license shall be signification of
14 the agreement of such person that any process against the
15 person which is so served shall be of the same legal force and
16 validity as if served personally on him or her. Service of
17 such process shall be in accordance with and in the same
18 manner as now provided for service of process upon
19 nonresidents under the provisions of chapter 48.

20 Section 9. Section 553.4315, Florida Statutes, is
21 created to read:

22 553.4315 Nonresident dealers in secondhand mobile
23 homes.--Every dealer in used or secondhand mobile homes who is
24 a nonresident of the state, does not have a permanent place of
25 business in this state, and has not qualified as a dealer
26 under the provisions of s. 553.432, and any person other than
27 a dealer qualified under the provisions of s. 553.432, who
28 brings any used or secondhand mobile home into the state for
29 the purpose of sale, except to a dealer licensed under the
30 provisions of s. 553.432, shall, at least 10 days prior to the
31 sale of said mobile home, the offering of said mobile home for

1 sale, or the advertising of said mobile home for sale, make
2 and file with the division the official application for a
3 certificate of title for said mobile home as provided by law.
4 Any person who has had one or more transactions involving the
5 sale of three or more used or secondhand mobile homes in this
6 state during any 12-month period shall be deemed to be a
7 secondhand dealer in mobile homes.

8 Section 10. Section 320.77, Florida Statutes, is
9 transferred and renumbered as section 553.432, Florida
10 Statutes, and is amended to read:

11 553.432 ~~320.77~~ License required of mobile home
12 dealers.--

13 (1) DEFINITIONS.--As used in this section:

14 (a) "Dealer" means any person engaged in the business
15 of buying, selling, or dealing in mobile homes or offering or
16 displaying mobile homes for sale. The term "dealer" includes
17 a mobile home broker. Any person who buys, sells, deals in, or
18 offers or displays for sale, or who acts as the agent for the
19 sale of, one or more mobile homes in any 12-month period shall
20 be prima facie presumed to be a dealer. The terms "selling"
21 and "sale" include lease-purchase transactions. The term
22 "dealer" does not include banks, credit unions, and finance
23 companies that acquire mobile homes as an incident to their
24 regular business and does not include mobile home rental and
25 leasing companies that sell mobile homes to dealers licensed
26 under this section. ~~A licensed dealer may transact business in~~
27 ~~recreational vehicles with a motor vehicle auction as defined~~
28 ~~in s. 320.27(1)(c)4.~~ Any licensed dealer dealing exclusively
29 in mobile homes shall not have benefit of the privilege of
30 using dealer license plates.

31

1 (b) "Mobile home broker" means any person who is
2 engaged in the business of offering to procure or procuring
3 used mobile homes for the general public; who holds himself or
4 herself out through solicitation, advertisement, or otherwise
5 as one who offers to procure or procures used mobile homes for
6 the general public; or who acts as the agent or intermediary
7 on behalf of the owner or seller of a used mobile home which
8 is for sale or who assists or represents the seller in finding
9 a buyer for the mobile home.

10 (2) LICENSE REQUIRED.--No person shall engage in
11 business as, or serve in the capacity of, a dealer in this
12 state unless such person possesses a valid, current license as
13 provided in this section.

14 (3) APPLICATION.--The application for such license
15 shall be in the form prescribed by the division ~~department~~ and
16 subject to such rules as may be prescribed by it. The
17 application shall be verified by oath or affirmation and shall
18 contain:

19 (a) A full statement of the name and the date of birth
20 of the person or persons applying therefor.

21 (b) The name of the firm or copartnership with the
22 names and places of residence of all its members, if the
23 applicant is a firm or copartnership.

24 (c) The names and places of residence of the principal
25 officers, if the applicant is a body corporate or other
26 artificial body.

27 (d) The name of the state under whose laws the
28 corporation is organized.

29 (e) The former place or places of residence of the
30 applicant.

31

1 (f) The prior businesses in which the applicant has
2 been engaged, the dates during which the applicant was engaged
3 in such businesses, and the locations thereof.

4 (g) A description of the exact location of the place
5 of business, when it was acquired, and whether it is owned in
6 fee simple by the applicant. If leased, a true copy of the
7 lease shall be attached to the application.

8 (h) Certification by the applicant that the location
9 is a permanent one, not a tent or a temporary stand or other
10 temporary quarters; and, except in the case of a mobile home
11 broker, that the location affords sufficient unoccupied space
12 to store all mobile homes offered and displayed for sale; and
13 that the location is a suitable place in which the applicant
14 can in good faith carry on business and keep and maintain
15 books, records, and files necessary to conduct such business,
16 which will be available at all reasonable hours to inspection
17 by the department or any of its inspectors or other employees.
18 This subsection shall not preclude a licensed mobile home
19 dealer from displaying and offering for sale mobile homes in a
20 mobile home park.

21 (i) Certification by the applicant that the business
22 of a mobile home dealer is the principal business which shall
23 be conducted at that location; however, this provision shall
24 not apply to mobile home park operators licensed as mobile
25 home dealers.

26 (j) Such other relevant information as may be required
27 by the division ~~department~~. Each applicant, general partner in
28 the case of a partnership, or corporate officer and director
29 in the case of a corporate applicant, must file a set of
30 fingerprints with the division ~~department~~ for the purpose of
31 determining any prior criminal record or any outstanding

1 warrants. The division ~~department~~ shall submit the
2 fingerprinting to the Department of Law Enforcement for state
3 processing and forwarding to the Federal Bureau of
4 Investigation for federal processing. The actual cost of such
5 state and federal processing shall be borne by the applicant
6 and is to be in addition to the fee for licensure. The
7 division ~~department~~ may issue a license to an applicant
8 pending the results of the fingerprint investigation, which
9 license is fully revocable if the division ~~department~~
10 subsequently determines that any facts set forth in the
11 application are not true or correctly represented.

12
13 The division ~~department~~ shall, if it deems necessary, cause an
14 investigation to be made to ascertain if the facts set forth
15 in the application are true and shall not issue a license to
16 the applicant until it is satisfied that the facts set forth
17 in the application are true.

18 (4) FEES.--Upon making initial application, the
19 applicant shall pay to the division ~~department~~ a fee of \$300
20 in addition to any other fees now required by law. The fee
21 for renewal application shall be \$100. The fee for
22 application for change of location shall be \$25. Any
23 applicant for renewal who has failed to submit his or her
24 renewal application by October 1 shall pay a renewal
25 application fee equal to the original application fee. No fee
26 is refundable. All fees shall be deposited into the General
27 Revenue Fund.

28 (5) DENIAL OF LICENSE.--The division ~~department~~ may
29 deny any applicant a license on the ground that:

30 (a) The applicant has made a material misstatement in
31 his or her application for a license.

1 (b) The applicant has failed to comply with any
2 applicable provision of this part ~~chapter~~.

3 (c) The applicant has failed to provide warranty
4 service.

5 (d) The applicant or one or more of his or her
6 principals or agents has violated any law, rule, or regulation
7 relating to the sale of mobile homes.

8 (e) The division ~~department~~ has proof of unfitness of
9 the applicant.

10 (f) The applicant or licensee has engaged in previous
11 conduct in any state which would have been a ground for
12 revocation or suspension of a license in this state.

13 (g) The applicant or licensee has violated any of the
14 provisions of the National Mobile Home Construction and Safety
15 Standards Act of 1974 or any rule or regulation of the
16 Department of Housing and Urban Development adopted
17 ~~promulgated~~ thereunder.

18
19 Upon denial of a license, the division ~~department~~ shall notify
20 the applicant within 10 days, stating in writing its grounds
21 for denial. The applicant is entitled to a public hearing and
22 may request that such hearing be held within 45 days of denial
23 of the license. All proceedings shall be pursuant to chapter
24 120.

25 (6) LICENSE CERTIFICATE.--A license certificate shall
26 be issued by the division ~~department~~ in accordance with the
27 application when the same is regular in form and in compliance
28 with the provisions of this section. The license certificate
29 may be in the form of a document or a computerized card as
30 determined by the division ~~department~~. The cost of each
31 original, additional, or replacement computerized card shall

1 be borne by the licensee and is in addition to the fee for
2 licensure. The fees charged applicants for both the required
3 background investigation and the computerized card as provided
4 in this section shall be deposited into the department's
5 ~~Highway Safety~~ Operating Trust Fund. The license, when so
6 issued, shall entitle the licensee to carry on and conduct the
7 business of a mobile home dealer at the location set forth in
8 the license for a period of 1 year from October 1 preceding
9 the date of issuance. Each initial application received by the
10 division ~~department~~ shall be accompanied by verification that,
11 within the preceding 6 months, the applicant or one or more of
12 his or her designated employees has attended a training and
13 information seminar conducted by the division ~~department~~ or by
14 a public or private provider approved by the division
15 ~~department~~. Such seminar shall include, but not be limited to,
16 statutory dealer requirements, which requirements include
17 required bookkeeping and recording procedures, requirements
18 for the collection of sales and use taxes, and such other
19 information that in the opinion of the division ~~department~~
20 will promote good business practices.

21 (7) SUPPLEMENTAL LICENSE.--Any person licensed
22 pursuant to this section shall be entitled to operate one or
23 more additional places of business under a supplemental
24 license for each such business if the ownership of each
25 business is identical to that of the principal business for
26 which the original license is issued. Each supplemental
27 license shall run concurrently with the original license and
28 shall be issued upon application by the licensee on a form to
29 be furnished by the division ~~department~~ and payment of a fee
30 of \$50 for each such license. Only one licensed dealer shall
31 operate at the same place of business. A supplemental license

1 authorizing off-premises sales shall be issued, at no charge
2 to the dealer, for a period not to exceed 10 consecutive
3 calendar days.

4 (8) RECORDS TO BE KEPT BY LICENSEE.--Each licensee
5 shall keep records in such form as shall be prescribed by the
6 division ~~department~~. Such records shall include:

7 (a) A record of the purchase, sale, or exchange, or
8 receipt for the purpose of sale, of any mobile home;

9 (b) The description of each such mobile home,
10 including the identification or serial number and such other
11 numbers or identification marks as may be thereon, and a
12 statement that a number has been obliterated, defaced, or
13 changed, if such fact is apparent; and

14 (c) The name and address of the seller, the purchaser,
15 and the alleged owner or other person from whom the mobile
16 home was purchased or received and the person to whom it was
17 sold or delivered, as the case may be.

18 (9) EVIDENCE OF TITLE REQUIRED.--The licensee shall
19 also have in his or her possession for each new mobile home a
20 manufacturer's invoice or statement of origin, and for each
21 used mobile home a properly assigned certificate of title or
22 registration certificate if the used mobile home was
23 previously registered in a nontitle state, from the time the
24 mobile home is delivered to the licensee until it has been
25 disposed of by him or her.

26 (10) SETUP OPERATIONS.--Each licensee may perform
27 setup operations only as defined in s. 553.434 ~~320.822~~, and
28 the division ~~department~~ shall provide by rule for the uniform
29 application of all existing statutory provisions relating to
30 licensing and setup operations.

31

1 (11) PENALTY.--The violation of any provision of this
2 section is a misdemeanor of the second degree, punishable as
3 provided in s. 775.082 or s. 775.083.

4 (12) INJUNCTION.--In addition to the remedies provided
5 in this chapter, and notwithstanding the existence of any
6 adequate remedy at law, the division ~~department~~ is authorized
7 to make application to any circuit court of the state, and the
8 circuit court shall have jurisdiction, upon a hearing and for
9 cause shown, to grant a temporary or permanent injunction
10 restraining any person from acting as a mobile home dealer
11 under the terms of this section who is not properly licensed
12 or who violates or fails or refuses to comply with any of the
13 provisions of ~~chapter 319~~ and this part ~~chapter~~ or any rule or
14 regulation adopted thereunder. Such injunction shall be issued
15 without bond. A single act in violation of the provisions of
16 ~~chapter 319~~ or this part ~~chapter~~ shall be sufficient to
17 authorize the issuance of an injunction.

18 (13) SUSPENSION OR REVOCATION.--The division
19 ~~department~~ shall, as it deems necessary, either suspend or
20 revoke any license issued hereunder upon a finding that the
21 licensee violated any provision of this section or of any
22 other law of this state having to do with dealing in mobile
23 homes or perpetrated a fraud upon any person as a result of
24 such dealing in mobile homes.

25 (14) ADMINISTRATIVE FINES.--In addition to the
26 exercise of other powers provided in this section, the
27 division ~~department~~ is authorized to assess, impose, levy, and
28 collect by legal process fines, in an amount not to exceed
29 \$1,000 for each violation, against any licensee if it finds
30 that a licensee has violated any provision of this section or
31 has violated any other law of this state having to do with

1 dealing in mobile homes ~~motor vehicles~~. Any licensee shall be
2 entitled to a hearing pursuant to chapter 120 should the
3 licensee wish to contest the fine levied, or about to be
4 levied, upon him or her.

5 (15) BOND.--

6 (a) Before any license shall be issued or renewed, the
7 applicant shall deliver to the division ~~department~~ a good and
8 sufficient surety bond, executed by the applicant as principal
9 and by a surety company qualified to do business in the state
10 as surety. The bond shall be in a form to be approved by the
11 division ~~department~~ and shall be conditioned upon the dealer's
12 complying with the conditions of any written contract made by
13 the dealer in connection with the sale, exchange, or
14 improvement of any mobile home and his or her not violating
15 any of the provisions of ~~chapter 319~~ or this part ~~chapter~~ in
16 the conduct of the business for which the dealer is licensed.
17 The bond shall be to the division ~~department~~ and in favor of
18 any retail customer who shall suffer any loss as a result of
19 any violation of the conditions hereinabove contained. The
20 bond shall be for the license period, and a new bond or a
21 proper continuation certificate shall be delivered to the
22 division ~~department~~ at the beginning of each license period.
23 However, the aggregate liability of the surety in any one
24 license year shall in no event exceed the sum of such bond.
25 The amount of the bond required shall be as follows:

26 1. A single dealer who buys, sells, or deals in mobile
27 homes and who has four or fewer supplemental licenses shall
28 provide a surety bond in the amount of \$25,000.

29 2. A single dealer who buys, sells, or deals in mobile
30 homes and who has more than four supplemental licenses shall
31 provide a surety bond in the amount of \$50,000.

1
2 ~~For the purposes of this paragraph, any person who buys,~~
3 ~~sells, or deals in both mobile homes and recreational vehicles~~
4 ~~shall provide the same surety bond required of dealers who~~
5 ~~buy, sell, or deal in mobile homes only.~~

6 (b) The division ~~department~~ shall, upon denial,
7 suspension, or revocation of any license, notify the surety
8 company of the licensee, in writing, that the license has been
9 denied, suspended, or revoked and shall state the reason for
10 such denial, suspension, or revocation.

11 (c) Any surety company which pays any claim against
12 the bond of any licensee shall notify the division ~~department~~,
13 in writing, that it has paid such a claim and shall state the
14 amount of the claim.

15 (d) Any surety company which cancels the bond of any
16 licensee shall notify the division ~~department~~, in writing, of
17 such cancellation, giving reason for the cancellation.

18 Section 11. Section 553.433, Florida Statutes, is
19 created to read:

20 553.433 Factory-built housing judgment liability.--

21 (1) The expenses incurred by the division in
22 administering this section shall be paid only from
23 appropriations made from the department's operating trust fund
24 from moneys deposited into such fund pursuant to this section.

25 (2) Beginning January 1, 2000, the division shall
26 charge and collect an additional fee of \$1 for each new mobile
27 home transaction for which it charges a fee. This additional
28 fee shall be deposited into the department's operating trust
29 fund. The division shall charge a fee of \$40 per annual
30 dealer and manufacturer license and license renewal, which
31 shall be deposited into such fund. The sums deposited into

1 such fund pursuant to this section shall be used exclusively
2 for carrying out the purposes of this section. These sums may
3 be invested and reinvested by the Treasurer under the same
4 limitations as apply to investment of other state moneys, with
5 all interest from these investments deposited to the credit of
6 such fund.

7 (3) Moneys deposited into the department's operating
8 trust fund under this section shall be used to satisfy any
9 judgment by any person, as provided by this section, against a
10 mobile home dealer or broker for damages, restitution, or
11 expenses, including reasonable attorney's fees, resulting from
12 a cause of action directly related to the conditions of any
13 written contract made by him or her in connection with the
14 sale, exchange, or improvement of any mobile home, or for any
15 violation of this part.

16 (4) The department's operating trust fund shall not be
17 liable for any judgment, or part thereof, resulting from any
18 tort claim except as expressly provided in subsection (3), nor
19 for any punitive, exemplary, double, or treble damages. A
20 person, the state, or any political subdivision thereof may
21 recover against the mobile home dealer, broker, or surety,
22 jointly and severally, for such damages, restitution, or
23 expenses; provided, however, that in no event shall the such
24 fund or the surety be liable for an amount in excess of actual
25 damages, restitution, or expenses.

26 (5) Subject to the limitations and requirements of
27 this section, moneys deposited into the department's operating
28 trust fund under this section shall be used by the division to
29 compensate persons who have unsatisfied judgments, or in
30 certain limited circumstances unsatisfied claims, against a
31

1 mobile home dealer or broker in one of the following
2 situations:

3 (a) The claimant has obtained a final judgment which
4 is unsatisfied against the mobile home dealer or broker or its
5 surety jointly and severally, or against the mobile home
6 dealer or broker only, if the court found that the surety was
7 not liable due to prior payment of valid claims against the
8 bond in an amount equal to, or greater than, the face amount
9 of the applicable bond.

10 (b) The claimant has obtained a judgment against the
11 surety of the mobile home dealer or broker that is
12 unsatisfied.

13 (c) The claimant has alleged a claim against the
14 mobile home dealer or broker in a lawsuit which has been
15 stayed or discharged as a result of the filing for
16 reorganization or discharge in bankruptcy by the dealer or
17 broker, and judgment against the surety is not possible
18 because of the bankruptcy or liquidation of the surety, or
19 because the surety has been found by a court of competent
20 jurisdiction not to be liable due to prior payment of valid
21 claims against the bond in an amount equal to, or greater
22 than, the face amount of the applicable bond.

23 (6) In order to recover from the department's
24 operating trust fund, the person must file an application and
25 verified claim with the division.

26 (a) If the claimant has obtained a judgment which is
27 unsatisfied against the mobile home dealer or broker or its
28 surety as set forth in this section, the verified claim must
29 specify the following:

30 1.a. That the judgment against the mobile home dealer
31 or broker and its surety has been entered; or

1 b. That the judgment against the mobile home dealer or
2 broker contains a specific finding that the surety has no
3 liability, that execution has been returned unsatisfied, and
4 that a judgment lien has been perfected;

5 2. The amount of actual damages broken down by
6 category as awarded by the court or jury in the cause which
7 resulted in the unsatisfied judgment, and the amount of
8 attorney's fees set forth in the unsatisfied judgment;

9 3. The amount of payment or other consideration
10 received, if any, from the mobile home dealer or broker or its
11 surety;

12 4. The amount that may be realized, if any, from the
13 sale of real or personal property or other assets of the
14 judgment debtor liable to be sold or applied in satisfaction
15 of the judgment and the balance remaining due on the judgment
16 after application of the amount which has been realized and a
17 certification that the claimant has made a good faith effort
18 to collect the judgment; and

19 5. Such other information as the division requires.

20 (b) If the claimant has alleged a claim as set forth
21 in paragraph (5)(c) and for the reasons set forth therein has
22 not been able to secure a judgment, the verified claim must
23 contain the following:

24 1. A true copy of the pleadings in the lawsuit which
25 was stayed or discharged by the bankruptcy court and the order
26 of the bankruptcy court staying those proceedings;

27 2. Allegations of the acts or omissions by the mobile
28 home dealer or broker setting forth the specific acts or
29 omissions complained of which resulted in actual damage to the
30 person, along with the actual dollar amount necessary to
31 reimburse or compensate the person for costs or expenses

1 resulting from the acts or omissions of which the person
2 complained;

3 3. True copies of all purchase agreements, notices,
4 service or repair orders or papers or documents of any kind
5 whatsoever which the person received in connection with the
6 purchase, exchange, or lease-purchase of the mobile home from
7 which the person's cause of action arises; and

8 4. Such other information as the division requires.

9 (c) The division may require such proof as it deems
10 necessary to document the matters set forth in the claim.

11 (7) Within 90 days after receipt of the application
12 and verified claim, the division shall issue its determination
13 on the claim. Such determination shall not be subject to the
14 provisions of chapter 120, but shall be reviewable only by
15 writ of certiorari in the circuit court in the county in which
16 the claimant resides in the manner and within the time
17 provided by the Florida Rules of Appellate Procedure. The
18 claim must be paid within 45 days after the determination, or,
19 if judicial review is sought, within 45 days after the review
20 becomes final. A person may not be paid an amount from the
21 department's operating trust fund in excess of \$25,000 per
22 mobile home. Prior to payment, the person must execute an
23 assignment to the division of all the person's rights and
24 title to, and interest in, the unsatisfied judgment and
25 judgment lien or the claim against the dealer or broker and
26 its surety.

27 (8) The division, in its discretion and where
28 feasible, may try to recover from the mobile home dealer or
29 broker, or the judgment debtor or its surety, all sums paid to
30 persons from the department's operating trust fund under this
31 section. Any sums recovered shall be deposited to the credit

1 of such fund. The division shall be awarded a reasonable
2 attorney's fee for all actions taken to recover any sums paid
3 to persons from such fund pursuant to this section.

4 (9) This section does not apply to any claim, and a
5 person may not recover against the department's operating
6 trust fund as the result of any claim, against a mobile home
7 dealer or broker resulting from a cause of action directly
8 related to the sale, lease-purchase, exchange, brokerage, or
9 installation of a mobile home prior to January 1, 2000.

10 (10) Neither the division, nor the department's
11 operating trust fund shall be liable to any person for
12 recovery if such fund, from moneys deposited into the fund
13 under this section, does not have the moneys necessary to pay
14 amounts claimed. If the fund does not have sufficient assets
15 to pay the claimant, it shall log the time and date of its
16 determination for payment to a claimant. If moneys become
17 available pursuant this section, the division shall pay the
18 claimant whose unpaid claim is the earliest by time and date
19 of determination.

20 (11) It is unlawful for any person or his or her agent
21 to file any notice, statement, or other document required
22 under this section which is false or contains any material
23 misstatement of fact. Any person who violates this subsection
24 is guilty of a misdemeanor of the second degree, punishable as
25 provided in s. 775.082 or s. 775.083.

26 Section 12. Section 553.434, Florida Statutes, is
27 created to read:

28 553.434 Definitions.--In construing ss.
29 553.434-553.458, unless the context otherwise requires, the
30 following words or phrases have the following meanings:

31

1 (1) "Buyer" means a person who purchases at retail
2 from a dealer or manufacturer a mobile home for his or her own
3 use as a residence, or other related use.

4 (2) "Code" means the appropriate standards found in:

5 (a) The Federal Manufactured Housing Construction and
6 Safety Standards for single-family mobile homes, adopted by
7 the Department of Housing and Urban Development;

8 (b) The Uniform Standards Code approved by the
9 American National Standards Institute, ANSI A-119.2 for
10 recreational vehicles and ANSI A-119.5 for park trailers or
11 the United States Department of Housing and Urban Development
12 standard for park trailers certified as meeting that standard;
13 or

14 (c) The Mobile Home Repair and Remodeling Code and
15 Used Recreational Vehicle Code.

16 (3) "Construction" means the minimum requirements for
17 materials, products, equipment, and workmanship needed to
18 assure that the mobile home will provide structural strength
19 and rigidity; protection against corrosion, decay, and other
20 similar destructive forces; resistance to the elements; and
21 durability and economy of maintenance.

22 (4) "Institute" means the American National Standards
23 Institute.

24 (5) "Length," for purposes of transportation only,
25 means the distance from the extreme front of the mobile home,
26 to the extreme rear, including the drawbar and coupling
27 mechanism, but not including expandable features that do not
28 project from the body during transportation.

29 (6) "Length of a mobile home" means the distance from
30 the exterior of the front wall (nearest to the drawbar and
31 coupling mechanism) to the exterior of the rear wall (at the

1 opposite end of the home) where such walls enclose living or
2 other interior space and such distance includes expandable
3 rooms but not bay windows, porches, drawbars, couplings,
4 hitches, wall and roof extensions, or other attachments.

5 (7) "Licensee" means any person licensed or required
6 to be licensed under s. 553.435.

7 (8) "Mobile home dealer" means any person engaged in
8 the business of buying, selling, or dealing in mobile homes or
9 offering or displaying mobile homes for sale. Any person who
10 buys, sells, or deals in one or more mobile homes in any
11 12-month period or who offers or displays for sale one or more
12 mobile homes in any 12-month period shall be prima facie
13 presumed to be engaged in the business of a mobile home
14 dealer. The terms "selling" and "sale" include lease-purchase
15 transactions. The term "mobile home dealer" does not include
16 a bank, credit union, or finance company that acquires mobile
17 homes as an incident to its regular business, does not include
18 a mobile home rental or leasing company that sells mobile
19 homes to mobile home dealers licensed under s. 553.432, and
20 does not include persons who are selling their own mobile
21 homes.

22 (9) "Mobile home manufacturer" means any person,
23 resident or nonresident, who, as a trade or commerce,
24 manufactures or assembles mobile homes.

25 (10) "Responsible party" means a manufacturer, dealer,
26 or supplier.

27 (11) "Seal" or "label" means a device issued by the
28 department certifying that a mobile home meets the appropriate
29 code, which device is to be displayed on the exterior of the
30 mobile home.

31

1 (12) "Setup" means the operations performed at the
2 occupancy site which render a mobile home or park trailer fit
3 for habitation. Such operations include, but are not limited
4 to, transporting, positioning, blocking, leveling, supporting,
5 tying down, connecting utility systems, making minor
6 adjustments, or assembling multiple or expandable units.

7 (13) "Substantial defect" means:

8 (a) Any substantial deficiency or defect in materials
9 or workmanship occurring to a mobile home which has been
10 reasonably maintained and cared for in normal use.

11 (b) Any structural element, utility system, or
12 component of the mobile home, which fails to comply with the
13 code.

14 (14) "Supplier" means the original producer of
15 completed components, including refrigerators, stoves, hot
16 water heaters, dishwashers, cabinets, air conditioners,
17 heating units, and similar components, which are furnished to
18 a manufacturer or dealer for installation in the mobile home
19 prior to sale to a buyer.

20 (15) "Width of a mobile home" means the distance from
21 the exterior of one side wall to the exterior of the opposite
22 side wall where such walls enclose living or other interior
23 space and such distance includes expandable rooms but not bay
24 windows, porches, wall and roof extensions, or other
25 attachments.

26 (16) "Body size" of a park trailer means the distance
27 from the exterior side or end to the opposite exterior side or
28 end of the body. Such distance includes expandable rooms, bay
29 windows, wall and roof extensions, or other extrusions in the
30 travel mode, except park trailers constructed to ANSI A-119.5
31 shall not exceed 400 square feet. Park trailers constructed to

1 the United States Department of Housing and Urban Development
2 standard shall not exceed 500 square feet. All square footage
3 measurements are of the exterior when in setup mode and do not
4 include bay windows.

5 Section 13. Section 553.435, Florida Statutes, is
6 created to read:

7 553.435 Mobile home manufacturer's license.--

8 (1) LICENSE REQUIRED.--Any person who engages in the
9 business of a mobile home manufacturer in this state, or who
10 manufactures mobile homes out of state which are ultimately
11 offered for sale in this state, shall obtain annually a
12 license for each factory location in this state and for each
13 factory location out of state which manufactures mobile homes
14 for sale in this state, prior to distributing mobile homes for
15 sale in this state.

16 (2) APPLICATION.--The application for a license shall
17 be in the form prescribed by the division and shall contain
18 sufficient information to disclose the identity, location, and
19 responsibility of the applicant. The application shall also
20 include a copy of the warranty and a complete statement of any
21 service agreement or policy to be utilized by the applicant,
22 any information relating to the applicant's solvency and
23 financial standing, and any other pertinent matter
24 commensurate with safeguarding the public. The division may
25 prescribe an abbreviated application for renewal of a license
26 if the licensee had previously filed an initial application
27 pursuant to this section. The application for renewal shall
28 include any information necessary to bring current the
29 information required in the initial application.

30 (3) FEES.--Upon making initial application, the
31 applicant shall pay to the division a fee of \$300. Upon

1 making renewal application, the applicant shall pay to the
2 division a fee of \$100. Any applicant for renewal who has
3 failed to submit his or her renewal application by October 1
4 shall pay a renewal application fee equal to the original
5 application fee. No fee is refundable. All fees shall be
6 deposited into the General Revenue Fund.

7 (4) NONRESIDENT.--Any person applying for a license
8 who is not a resident of this state shall have designated an
9 agent for service of process pursuant to s. 48.181.

10 (5) REQUIREMENT OF ASSURANCE.--

11 (a) Annually, prior to the receipt of a license to
12 manufacture mobile homes, the applicant or licensee shall
13 submit a surety bond, cash bond, or letter of credit from a
14 financial institution, or a proper continuation certificate,
15 sufficient to assure satisfaction of claims against the
16 licensee for failure to comply with appropriate code
17 standards, failure to provide warranty service, or violation
18 of any provisions of this section. The amount of the surety
19 bond, cash bond, or letter of credit shall be \$50,000. Only
20 one surety bond, cash bond, or letter of credit shall be
21 required for each manufacturer, regardless of the number of
22 factory locations. The surety bond, cash bond, or letter of
23 credit shall be to the division, in favor of any retail
24 customer who shall suffer loss arising out of noncompliance
25 with code standards or failure to honor or provide warranty
26 service. The division shall have the right to disapprove any
27 bond or letter of credit that does not provide assurance as
28 provided in this section.

29 (b) The division shall adopt rules pursuant to chapter
30 120 consistent with this section in providing assurance of
31 satisfaction of claims.

1 (c) The division shall, upon denial, suspension, or
2 revocation of any license, notify the surety company of the
3 licensee, in writing, that the license has been denied,
4 suspended, or revoked and shall state the reason for such
5 denial, suspension, or revocation.

6 (d) Any surety company which pays any claim against
7 the bond of any licensee shall notify the division, in
8 writing, that it has paid such a claim and shall state the
9 amount of the claim.

10 (e) Any surety company which cancels the bond of any
11 licensee shall notify the division, in writing, of such
12 cancellation, giving reason for the cancellation.

13 (6) LICENSE YEAR.--A license issued to a mobile home
14 manufacturer entitles the licensee to conduct the business of
15 a mobile home manufacturer for a period of 1 year from October
16 1 preceding the date of issuance.

17 (7) DENIAL OF LICENSE.--The division may deny a mobile
18 home manufacturer's license on the ground that:

19 (a) The applicant has made a material misstatement in
20 his or her application for a license.

21 (b) The applicant has failed to comply with any
22 applicable provision of this chapter.

23 (c) The applicant has failed to provide warranty
24 service.

25 (d) The applicant or one or more of his or her
26 principals or agents has violated any law, rule, or regulation
27 relating to the manufacture or sale of mobile homes.

28 (e) The division has proof of unfitness of the
29 applicant.

30
31

1 (f) The applicant or licensee has engaged in previous
2 conduct in any state which would have been a ground for
3 revocation or suspension of a license in this state.

4 (g) The applicant or licensee has violated any of the
5 provisions of the National Mobile Home Construction and Safety
6 Standards Act of 1974 or any rule or regulation of the
7 Department of Housing and Urban Development promulgated
8 thereunder.

9
10 Upon denial of a license, the division shall notify the
11 applicant within 10 days, stating in writing its grounds for
12 denial. The applicant is entitled to a public hearing and may
13 request that such hearing be held within 45 days of denial of
14 the license. All proceedings shall be pursuant to chapter
15 120.

16 (8) REVOCATION OR SUSPENSION OF LICENSE.--The division
17 shall suspend or, in the case of a subsequent offense, shall
18 revoke any license upon a finding that the licensee violated
19 any provision of this part or any other law of this state
20 regarding the manufacture, warranty, or sale of mobile homes.
21 When any license has been revoked or suspended by the
22 division, it may be reinstated if the division finds that the
23 former licensee has complied with all applicable requirements
24 of this part and an application for a license is refiled
25 pursuant to this section.

26 (9) CIVIL PENALTIES; PROCEDURE.--In addition to the
27 exercise of other powers provided in this section, the
28 division is authorized to assess, impose, levy, and collect by
29 legal process a civil penalty, in an amount not to exceed
30 \$1,000 for each violation, against any licensee if it finds
31 that a licensee has violated any provision of this section or

1 has violated any other law of this state having to do with
2 dealing in mobile homes. Any licensee shall be entitled to a
3 hearing pursuant to chapter 120 should the licensee wish to
4 contest the fine levied, or about to be levied, upon him or
5 her.

6 Section 14. Section 320.823, Florida Statutes, is
7 transferred and renumbered as section 553.436, Florida
8 Statutes.

9 Section 15. Section 553.4365, Florida Statutes, is
10 created to read:

11 553.4365 Establishment of uniform standards for park
12 trailers.--Park trailers exceeding 400 square feet shall meet
13 the Federal Manufactured Home Construction and Safety
14 Standards and shall have a United States Department of Housing
15 and Urban Development label.

16 Section 16. Section 553.437, Florida Statutes, is
17 created to read:

18 553.437 Rules and regulations, changes and
19 modifications of standards.--

20 (1) The division may adopt such rules as it deems
21 necessary or proper for the effective administration and
22 enforcement of ss. 553.431-553.458 and may adopt any changes
23 in, or additions to, the standards adopted in s. 553.436 or s.
24 553.4365, which are approved and officially published by the
25 institute or adopted by the Department of Housing and Urban
26 Development subsequent to the effective date of this act.

27 (2) The division or its authorized agent may enter any
28 place or establishment where mobile homes are manufactured,
29 sold, or offered for sale, for the purpose of ascertaining
30 whether the requirements of the code and the regulations
31 adopted by the department have been met.

1 Section 17. Section 553.438, Florida Statutes, is
2 created to read:

3 553.438 Limitation of alteration or modification to
4 mobile homes.--

5 (1) LIMITATION OF ALTERATIONS OR MODIFICATIONS.--No
6 alteration or modification shall be made to a mobile home by a
7 licensed dealer after shipment from the manufacturer's plant
8 unless such alteration or modification is authorized in this
9 section.

10 (2) EFFECT ON MOBILE HOME WARRANTY.--Unless an
11 alteration or modification is performed by a qualified person
12 as defined in subsection (4), the warranty responsibility of
13 the manufacturer as to the altered or modified item shall be
14 void.

15 (a) An alteration or modification performed by a
16 mobile home dealer or his or her agent or employee shall place
17 warranty responsibility for the altered or modified item upon
18 the dealer. If the manufacturer fulfills, or is required to
19 fulfill, the warranty on the altered or modified item, he or
20 she shall be entitled to recover damages in the amount of his
21 or her costs and attorneys' fees from the dealer.

22 (b) An alteration or modification performed by a
23 mobile home owner or his or her agent shall render the
24 manufacturer's warranty as to that item void. A statement
25 shall be displayed clearly and conspicuously on the face of
26 the warranty that the warranty is void as to the altered or
27 modified item if the alteration or modification is performed
28 by other than a qualified person. Failure to display such
29 statement shall result in warranty responsibility on the
30 manufacturer.

31

1 (3) AUTHORITY OF THE DIVISION.--The division is
2 authorized to adopt rules and regulations pursuant to chapter
3 120 which define the alterations or modifications which must
4 be made by qualified personnel. The division may regulate
5 only those alterations and modifications which substantially
6 impair the structural integrity or safety of the mobile home.

7 (4) DESIGNATION AS A QUALIFIED PERSON.--

8 (a) In order to be designated as a person qualified to
9 alter or modify a mobile home, a person must comply with local
10 or county licensing or competency requirements in skills
11 relevant to performing alterations or modifications on mobile
12 homes.

13 (b) When no local or county licensing or competency
14 requirements exist, the division may certify persons to
15 perform mobile home alterations or modifications. The
16 division shall by rule or regulation determine what skills and
17 competency requirements are requisite to the issuance of a
18 certification. A fee sufficient to cover the costs of issuing
19 certifications may be charged by the division. The
20 certification shall be valid for a period which terminates
21 when the county or other local governmental unit enacts
22 relevant competency or licensing requirements. The
23 certification shall be valid only in counties or localities
24 without licensing or competency requirements.

25 (c) The division shall determine which counties and
26 localities have licensing or competency requirements adequate
27 to eliminate the requirement of certification. This
28 determination shall be based on a review of the relevant
29 county or local standards for adequacy in regulating persons
30 who perform alterations or modifications to mobile homes. The
31

1 division shall find local or county standards adequate when
2 minimal licensing or competency standards are provided.

3 Section 18. Section 320.8249, Florida Statutes, is
4 transferred and renumbered as section 553.439, Florida
5 Statutes, and is amended to read:

6 553.439 ~~320.8249~~ Mobile home installers license.--

7 (1) Any person who engages in mobile home installation
8 shall obtain a mobile home installers license from the
9 division ~~Bureau of Mobile Home and Recreational Vehicle~~
10 ~~Construction of the Department of Highway Safety and Motor~~
11 ~~Vehicles~~ pursuant to this section. Said license shall be
12 renewed annually, and each licensee shall pay a fee of \$150.

13 (2) The division ~~Department of Highway Safety and~~
14 ~~Motor Vehicles~~ shall issue a license as a mobile home
15 installer to any person who applies to the department, pays
16 the appropriate application fee, not to exceed \$100, as set by
17 division ~~department~~ rule, and complies with subsection (3).

18 (3) In order to obtain licensure as a mobile home
19 installer, the applicant must be at least 18 years old, must
20 hold a valid performance bond in an amount set by division
21 ~~department~~ rule, not to exceed \$5,000, conditioned upon proper
22 performance of mobile home installation and weather-sealing
23 duties for a period of 1 year, must carry liability insurance
24 in an amount determined by division ~~department~~ rule, not to
25 exceed \$100,000, must complete a minimum 8-hour training
26 course approved by the division ~~department~~, and must pass a
27 division-approved ~~department-approved~~ examination designed to
28 test the skills necessary to properly and competently perform
29 mobile home installation and to ascertain that the applicant
30 has adequate knowledge of federal, state, and local laws
31 applicable to mobile home installation contracting. The

1 ~~division~~ department may charge an examination fee sufficient
2 to defray the costs of developing or obtaining and providing
3 the examination, not to exceed \$100. Any licensed dealer or
4 licensed manufacturer who has subcontracted with an installer
5 for installation and who remedies any faulty installation
6 performed by said installer shall have recourse against said
7 installer's performance bond.

8 ~~(4) Notwithstanding the provisions of subsection (3),~~
9 ~~any person who can show that he or she had been engaged in the~~
10 ~~business of mobile home installation on October 1, 1996, shall~~
11 ~~be exempted until October 1, 1997, from the requirement for~~
12 ~~completing training and for passing an examination in order to~~
13 ~~be licensed by the department as a mobile home installer and~~
14 ~~shall be licensed upon application, provided he or she has~~
15 ~~complied with all requirements of subsection (3), other than~~
16 ~~the training and examination requirements. No person shall be~~
17 ~~licensed or remain licensed as a mobile home installer~~
18 ~~subsequent to October 1, 1997, who has not taken and passed~~
19 ~~the department-approved mobile home installer examination.~~

20 (4)(5) A direct employee of a licensed mobile home
21 installer working under the supervision of the licensee and
22 within the job scope of the licensee is not required to be
23 licensed as a mobile home installer. The licensed mobile home
24 installer is responsible for supervising all such employees
25 and for the proper and competent performance of all employees
26 working under his or her supervision.

27 (5)(6) "Installation," as used herein, is synonymous
28 with "setup" as defined in s. 553.434 ~~320.822(14)~~.

29 (6)(7) No person shall:

30 (a) Falsely hold himself or herself or a business
31 organization out as a licensed mobile home installer;

- 1 (b) Falsely impersonate a licensed mobile home
2 installer;
- 3 (c) Present as his or her own the mobile home
4 installers license of another;
- 5 (d) Knowingly give false or forged evidence to the
6 division ~~department~~;
- 7 (e) Use or attempt to use a mobile home installers
8 license which has been suspended or revoked; or
- 9 (f) Engage in the business or act in the capacity of a
10 licensed mobile home installer or advertise himself or herself
11 or a business organization as available to engage in the
12 business or act in the capacity of a mobile home installer
13 without being duly licensed.
- 14 ~~(7)(8)~~ Any unlicensed person who violates any of the
15 provisions of subsection ~~(6)(7)~~ is guilty of a misdemeanor of
16 the first degree, punishable as provided in s. 775.082 or s.
17 775.083.
- 18 ~~(8)(9)~~ No licensed person nor licensed applicant
19 shall:
- 20 (a) Obtain a mobile home installers license by fraud
21 or misrepresentation.
- 22 (b) Be convicted or found guilty of, or enter a plea
23 of nolo contendere to, regardless of adjudication, a crime in
24 any jurisdiction which directly relates to the practice of
25 mobile home installation or the ability to practice.
- 26 (c) Violate any lawful order of the division
27 ~~department~~.
- 28 (d) Commit fraud or deceit in the practice of
29 contracting.
- 30 (e) Commit incompetence or misconduct in the practice
31 of contracting.

1 (f) Commit gross negligence, repeated negligence, or
2 negligence resulting in a significant danger to life or
3 property.

4 (g) Commit violations of the installation standards
5 for mobile homes or manufactured homes contained in rules
6 15C-1.0102 to 15C-1.0104, Florida Administrative Code.

7 (9)~~(10)~~ Any licensed person or license applicant who
8 violates any provision of subsection (8)~~(9)~~ may have any of
9 the following disciplinary penalties imposed by the division
10 ~~department~~:

11 (a) License revocation;

12 (b) License suspension;

13 (c) A fine not to exceed \$1,000 per violation;

14 (d) A requirement to take and pass, or retake and
15 pass, the department-approved examination;

16 (e) Probation;

17 (f) Probation subject to such restriction of practice
18 as the division ~~department~~ chooses to impose;

19 (g) A notice of noncompliance; or

20 (h) Refusal of licensure application.

21 ~~(11) Licensed mobile home dealers and licensed mobile~~
22 ~~home manufacturers are exempt from requirements to obtain a~~
23 ~~license as a mobile home installer and may perform mobile home~~
24 ~~installation. Any licensed dealer or licensed manufacturer~~
25 ~~who does not subcontract with a licensed installer and who~~
26 ~~performs his or her own installations, either himself or~~
27 ~~herself or through direct employees, shall have at least one~~
28 ~~employee who has completed an 8-hour installation training~~
29 ~~course, as approved by the department. Licensed mobile home~~
30 ~~dealers and mobile home manufacturers are subject to~~

31

1 ~~discipline against their license for violation of subsection~~
2 ~~(9).~~

3 (10)~~(12)~~ The regulation of manufactured home
4 installers or mobile home installers is preempted to the
5 state, and no person may perform mobile home installation
6 unless licensed pursuant to this section, regardless of
7 whether that person holds a local license.

8 (11)~~(13)~~ No county, municipality, or other unit of
9 local government may require additional licensing of a duly
10 licensed installer who performs setup operations as defined in
11 s. 553.434 ~~320.822~~. However, a county, municipality, or other
12 unit of local government may require an installer to obtain a
13 local occupational license, which license shall not require
14 for its issuance any conditions other than those required by
15 this act and payment of the appropriate occupational license
16 fee.

17 (12)~~(14)~~ All installers, dealers, and manufacturers
18 shall purchase installation decals from the division
19 ~~Department of Highway Safety and Motor Vehicles~~ for a fee not
20 to exceed \$10 per decal. An installation decal shall be
21 affixed to the manufactured home or mobile home prior to
22 installation. This decal shall denote the date of
23 installation, the name of the installer, and the number of the
24 installer's license or the dealer or manufacturer license
25 number. Such decal shall be positioned immediately next to
26 the HUD decal.

27 (13)~~(15)~~ In performing the installation, installers
28 shall not perform plumbing or electrical activities prohibited
29 by division ~~department~~ rules related to setup operations
30 pursuant to s. 553.434 ~~320.822~~.

31

1 ~~(14)(16)~~ Funds received by the division ~~department~~
2 pursuant to this section shall be deposited in the
3 department's Highway Safety Operating Trust Fund.

4 ~~(15)(17)~~ When mobile homeowners in a mobile home park
5 obtain evaluations of the wind resistance of their mobile
6 homes and make improvements in accordance thereto using funds
7 from the General Appropriations Act pursuant to s. 627.0629,
8 the applicable local, county, or municipal government may
9 charge only one building permit or any other applicable fee or
10 change, not to exceed the usual permit fee or charge that
11 would have applied to a single mobile homeowner, for the
12 entire mobile home park in which such evaluations are being
13 performed. ~~There are hereby appropriated five positions and~~
14 ~~\$219,295 from the Highway Safety Operating Trust Fund in the~~
15 ~~Department of Highway Safety and Motor Vehicles to implement~~
16 ~~the provisions of this section.~~

17 Section 19. Section 320.8255, Florida Statutes, is
18 transferred and renumbered as section 553.440, Florida
19 Statutes, and is amended to read:

20 553.440 ~~320.8255~~ Mobile home inspection.--

21 (1) In order to ensure the highest degree of quality
22 control in the construction of new mobile homes, each new
23 mobile home sold in the state shall be inspected by the
24 division ~~department~~ pursuant to procedures developed by the
25 division ~~department~~ which assure compliance with code
26 provisions. The division ~~department~~ may adopt reasonable
27 rules and regulations pursuant to chapter 120 for the
28 implementation and enforcement of this inspection.

29 (2) Division ~~Department~~ inspectors shall make
30 unannounced visits to manufacturing plants or take any other
31 appropriate action which assures compliance with the code.

1 (3) Mobile home manufacturers and dealers shall be
2 charged a fee for special inspections, including, but not
3 limited to, plant approvals, 100 percent plant inspections,
4 increased frequency inspections, reinspections, and special
5 consumer complaint investigations as requested by a
6 manufacturer or dealer or as may be deemed necessary by the
7 division ~~department~~.

8 (4) The division ~~department~~ shall determine fees for
9 special inspections and for the seal authorized under s.
10 553.441 ~~320.827~~ which are sufficient to cover the cost of
11 inspection and administration under this section. Fees
12 collected shall be deposited into the General Revenue Fund.

13 Section 20. Section 320.827, Florida Statutes, is
14 transferred and renumbered as section 553.441, Florida
15 Statutes, and is amended to read:

16 553.441 ~~320.827~~ Label; procedures for issuance;
17 certification; requirements.--No dealer shall sell or offer
18 for sale in this state any new mobile home ~~manufactured after~~
19 ~~January 1, 1968~~, unless the mobile home bears a label and the
20 certification by the manufacturer that the mobile home to
21 which the label is attached meets or exceeds the appropriate
22 code. Any mobile home bearing the insignia of approval
23 pursuant to this section shall be deemed to comply with the
24 requirements of all local government ordinances or rules which
25 govern construction, and no mobile home bearing the division
26 ~~department~~ insignia of approval shall be in any way modified
27 except in compliance with this chapter. Labels may be issued
28 by the division ~~department~~ when applied for with an affidavit
29 certifying that the dealer or manufacturer applying will not
30 attach a label to any new mobile home that does not meet or
31 exceed the appropriate code. No mobile home may be

1 manufactured in this state unless it bears a label and
2 certification that the mobile home meets or exceeds the code.
3 The label for each mobile home shall be displayed in a manner
4 to be prescribed by the division ~~department~~.

5 Section 21. Section 320.8285, Florida Statutes, is
6 transferred and renumbered as section 553.442, Florida
7 Statutes, and is amended to read:

8 553.442 ~~320.8285~~ Onsite inspection.--

9 (1) Each county or municipality in this state shall
10 prepare and adopt a plan providing for an onsite inspection of
11 each mobile home located within such entity. The onsite
12 inspection shall ensure compliance with state and local
13 building codes, ordinances, and regulations regarding such
14 functions as blocking and leveling, tie-downs, utility
15 connections, conversions of appliances, and external
16 improvements on the mobile home. If a mobile home is
17 manufactured in conformity with the code, as established in s.
18 553.436 ~~320.823~~, a county may not require modification of the
19 mobile home in order to comply with local tie-down
20 regulations.

21 (2) When a county or municipality has not prepared and
22 adopted a plan providing for onsite inspection, the division
23 ~~department~~ shall prepare a minimum onsite inspection plan for
24 such county. The division ~~department~~ may adopt ~~promulgate~~
25 reasonable rules and regulations pursuant to chapter 120 in
26 preparing and enforcing such a minimum onsite inspection plan.

27 (3) Each county or municipality may designate the
28 persons who are to perform the onsite inspection. If a county
29 or municipality does not so designate, the division ~~department~~
30 shall designate the persons who are to perform the onsite
31 inspection. No person shall be designated to perform onsite

1 inspections unless such person is competent in the areas of
2 mobile home blocking and leveling, tie-downs, utility
3 connections, conversions of appliances, and external
4 improvements. Pursuant to the onsite inspection, each mobile
5 home shall be issued a certificate of occupancy if the mobile
6 home complies with state and local building codes, ordinances,
7 and regulations regarding such functions as blocking and
8 leveling, tie-downs, utility connections, conversion of
9 appliances, and external improvements to the mobile home.

10 (4) Fees for onsite inspections and certificates of
11 occupancy of mobile homes shall be reasonable for the services
12 performed. A guideline for fee schedules shall be issued by
13 the division ~~department~~.

14 (5) The division ~~Department of Highway Safety and~~
15 ~~Motor Vehicles~~ shall enforce every provision of this section
16 and the regulations adopted pursuant hereto, except that local
17 land use and zoning requirements, fire zones, building setback
18 and side and rear yard requirements, site development and
19 property line requirements, subdivision control, and onsite
20 installation requirements, as well as review and regulation of
21 architectural and aesthetic requirements, are hereby
22 specifically and entirely reserved to local jurisdictions.
23 However, any architectural or aesthetic requirement imposed on
24 the mobile home structure itself may pertain only to roofing
25 and siding materials. Such local requirements and regulations
26 and others for manufactured homes must be reasonable,
27 uniformly applied, and enforced without distinctions as to
28 whether such housing is manufactured, located in a mobile home
29 park or a mobile home subdivision, or built in a conventional
30 manner. No local jurisdiction shall prohibit siting or

31

1 resiting of used mobile homes based solely on the date the
2 unit was manufactured.

3 (6) Park trailers are subject to inspection in the
4 same manner as are mobile homes pursuant to this section.

5 Section 22. Section 320.830, Florida Statutes, is
6 transferred and renumbered as section 553.443, Florida
7 Statutes, and is amended to read:

8 553.443 ~~320.830~~ Reciprocity.--If any other state has
9 codes for mobile homes at least equal to those established by
10 this part ~~chapter~~, the division ~~department~~, upon determining
11 that such standards are being enforced by an independent
12 inspection agency, shall place the other state on a
13 reciprocity list, which list shall be available to any
14 interested person. Any mobile home that bears a seal of any
15 state which has been placed on the reciprocity list may not be
16 required to bear the seal of this state. A mobile home that
17 does not bear the label herein provided shall not be permitted
18 to be manufactured or offered for sale by a manufacturer or
19 dealer anywhere within the geographical limits of this state
20 unless the mobile home is designated for delivery into another
21 state that has not adopted a code entitling the state to be
22 placed on the reciprocity list.

23 Section 23. Section 320.831, Florida Statutes, is
24 transferred and renumbered as section 553.444, Florida
25 Statutes, and is amended to read:

26 553.444 ~~320.831~~ Penalties.--

27 (1) Whoever violates any provision of the National
28 Mobile Home Construction and Safety Standards Act of 1974, 42
29 U.S.C. ss. 5401 et seq., or any rules, regulations, or final
30 order issued thereunder shall be liable for a civil penalty
31 not to exceed \$1,000 for each such violation. Each violation

1 of a provision of the act or any rule, regulation, or order
2 issued thereunder shall constitute a separate violation with
3 respect to each mobile home or with respect to each failure or
4 refusal to allow or perform an act required thereby, except
5 that the maximum civil penalty may not exceed \$1 million for
6 any related series of violations occurring within 1 year from
7 the date of the first violation.

8 (2) Any individual, or a director, officer, or agent
9 of a corporation, who knowingly and willfully violates the
10 provisions of s. 610 of the National Mobile Home Construction
11 and Safety Standards Act of 1974 in a manner which threatens
12 the health or safety of any purchaser is guilty of a
13 misdemeanor of the first degree, punishable as provided in s.
14 775.082 or s. 775.083.

15 (3) Any manufacturer, dealer, or inspector who
16 violates or fails to comply with any of the provisions of ss.
17 553.434-553.456 ~~320.822-320.862~~ or any of the rules adopted by
18 the department is guilty of a misdemeanor of the first degree,
19 punishable as provided in s. 775.082 or s. 775.083, provided
20 such violation is not also a violation of the National Mobile
21 Home Construction and Safety Standards Act of 1974 or any
22 rule, regulation, or final order issued thereunder.

23 Section 24. Section 320.8325, Florida Statutes, is
24 transferred and renumbered as section 553.445, Florida
25 Statutes, and is amended to read:

26 553.445 ~~320.8325~~ Mobile homes and park trailers;
27 tie-down requirements; minimum installation standards;
28 injunctions; penalty.--

29 (1) The owner of a mobile home or park trailer shall
30 secure the mobile home or park trailer to the ground by the
31 use of anchors and tie-downs so as to resist wind overturning

1 and sliding. However, nothing herein shall be construed as
2 requiring that anchors and tie-downs be installed to secure
3 mobile homes or park trailers which are permanently attached
4 to a permanent structure. A permanent structure shall have a
5 foundation and such other structural elements as are required
6 pursuant to rules and regulations promulgated by the division
7 ~~department~~ which assure the rigidity and stability of the
8 mobile home or park trailer.

9 (a) A mobile home or park trailer manufactured in
10 accordance with the code standards and labeled "hurricane and
11 windstorm resistive" shall be anchored to each anchor point
12 provided on the mobile home or park trailer. A mobile home or
13 park trailer which does not meet these standards must be
14 anchored with anchor points spaced as required by the division
15 ~~department~~ starting at each end of the mobile home or park
16 trailer.

17 (b) In addition, each mobile home or park trailer
18 shall be tied down by one of the following means:

19 1. A mobile home or park trailer having built-in,
20 over-the-roof ties shall be secured by the tie-down points,
21 provided such built-in ties and points meet the standards
22 adopted ~~promulgated~~ by the division ~~department~~.

23 2. A mobile home or park trailer not having built-in,
24 over-the-roof ties and tie-down points which meet division
25 ~~department~~ standards shall be secured in accordance with
26 standards adopted ~~promulgated~~ by the division ~~department~~.

27 (2) The division ~~department~~ shall adopt ~~promulgate~~
28 rules ~~and regulations~~ setting forth uniform minimum standards
29 for the manufacture and ~~or~~ installation of manufactured
30 housing installation systems, composed of anchors, buckles,
31 straps, stabilizer plates, and piers or other requirements

1 mandated by a manufacturer's installation manual ~~anchors,~~
2 ~~tie-downs, over-the-roof ties, or other reliable methods of~~
3 ~~securing mobile homes or park trailers when over-the-roof ties~~
4 ~~are not suitable due to factors such as unreasonable cost,~~
5 ~~design of the mobile home or park trailer, or potential damage~~
6 ~~to the mobile home or park trailer. Such systems devices~~
7 ~~required under this section, when properly installed, shall~~
8 ~~ensure that a manufactured home remains secured to the ground~~
9 ~~when subjected to winds equal to or less than their HUD code~~
10 ~~design criteria and shall cause the mobile home or park~~
11 ~~trailer to resist wind overturning and sliding. ~~in~~~~
12 ~~promulgating~~ Such rules shall be reasonably related to the ~~and~~
13 ~~regulations, the department may make such discriminations~~
14 ~~regarding mobile home or park trailer tie-down requirements as~~
15 ~~are reasonable when factors such as age and windzone of the~~
16 ~~manufactured housing, location, and practicality of tying down~~
17 ~~a mobile home or park trailer are considered. The division~~
18 ~~shall also develop standards for installation and anchoring~~
19 ~~systems for park trailers. Fees and civil penalties collected~~
20 ~~by the division pursuant to s. 553.439 shall be deposited into~~
21 ~~the department's Operating Trust Fund for the use by the~~
22 ~~division for the testing of manufactured housing installation~~
23 ~~systems and their individual components to insure that such~~
24 ~~products being delivered to consumers in this state meet the~~
25 ~~wind design criteria adopted by the division.~~

26 (3)(a) Persons licensed in this state to engage in the
27 business of insuring mobile homes or park trailers that are
28 subject to the provisions of this section against damage from
29 windstorm shall issue such insurance only if the mobile home
30 or park trailer has been anchored and tied down in accordance
31 with the provisions of this section.

1 (b) In the event that a mobile home or park trailer is
2 insured against damage caused by windstorm and subsequently
3 sustains windstorm damage of a nature that indicates that the
4 mobile home or park trailer was not anchored or tied down in
5 the manner required by this section, the person issuing the
6 policy shall not be relieved from meeting the obligations
7 specified in the insurance policy with respect to such damage
8 on the basis that the mobile home or park trailer was not
9 properly anchored or tied down.

10 (4) Whenever a person who engages in the business of
11 installing anchors, tie-downs, or over-the-roof ties or who
12 engages in the business of manufacturing, distributing, or
13 dealing in such devices for use in this state does so in a
14 manner that is not in accordance with the minimum standards
15 set forth by the division ~~department~~, a person aggrieved
16 thereby may bring an action in the appropriate court for
17 actual damages. In addition, the court may provide appropriate
18 equitable relief, including the enjoining of a violator from
19 engaging in the business or from engaging in further
20 violations. Whenever it is established to the satisfaction of
21 the court that a willful violation has occurred, the court
22 shall award punitive damages to the aggrieved party. The
23 losing party may be liable for court costs and reasonable
24 attorney's fees incurred by the prevailing party.

25 (5) In addition to other penalties provided in this
26 section, the division ~~department~~ or the state attorneys and
27 their assistants are authorized to apply to the circuit courts
28 within their respective jurisdictions, and such courts shall
29 have jurisdiction, upon hearing and for cause shown, to grant
30 temporary or permanent injunctions restraining any persons
31 engaging in the business of manufacturing, distributing, or

1 dealing in anchors, tie-downs, or over-the-roof ties from
2 manufacturing or selling such devices in a manner not in
3 accordance with the minimum standards set forth by the
4 division ~~department~~ or restraining any persons in the business
5 of installing anchors, tie-downs, or over-the-roof ties from
6 utilizing devices that do not meet the minimum standards set
7 forth by the division ~~department~~ or from installing such
8 devices in a manner not in accordance with the minimum
9 standards set forth by the division ~~department~~, whether or not
10 there exists an adequate remedy at law, and such injunctions
11 shall issue without bond.

12 (6) This section only applies to a mobile home or park
13 trailer that is being used as a dwelling place and that is
14 located on a particular location for a period of time
15 exceeding 14 days, for a mobile home, or 45 days, for a park
16 trailer.

17 (7) For the purposes of this section, the definitions
18 set forth in s. 553.434 ~~320.822~~ apply.

19 Section 25. Section 553.446, Florida Statutes, is
20 created to read:

21 553.446 Retention, destruction, and reproduction of
22 records.--Records and documents of the division, created in
23 compliance with and in the implementation of this part, shall
24 be retained by the division as specified in record retention
25 schedules established under the general provisions of chapter
26 119. Further, the division is hereby authorized:

27 (1) To destroy, or otherwise dispose of, those records
28 and documents, in conformity with the approved retention
29 schedules.

30 (2) To photograph, microphotograph, or reproduce on
31 film, as authorized and directed by the approved retention

1 schedules, whereby each page will be exposed in exact
2 conformity with the original records and documents retained in
3 compliance with the provisions of this section. Photographs
4 or microphotographs in the form of film or print of any
5 records, made in compliance with the provisions of this
6 section, shall have the same force and effect as the originals
7 thereof would have and shall be treated as originals for the
8 purpose of their admissibility in evidence. Duly certified or
9 authenticated reproductions of such photographs or
10 microphotographs shall be admitted in evidence equally with
11 the original photographs or microphotographs.

12 Section 26. Section 320.8335, Florida Statutes, is
13 transferred and renumbered as section 553.447, Florida
14 Statutes.

15 Section 27. Section 553.448, Florida Statutes, is
16 created to read:

17 553.448 Purpose.--It is the intent of the Legislature
18 to ensure the safety and welfare of residents of mobile homes
19 through an inspection program conducted by the division.
20 Mobile homes are a primary housing resource of many of the
21 residents of the state and satisfy a large segment of
22 statewide housing needs. It is the further intent of the
23 Legislature that the division, mobile home dealers, and mobile
24 home manufacturers continue to work together to meet the
25 applicable code requirements for mobile homes and that such
26 dealers and manufacturers share the responsibilities of
27 warranting mobile homes in accordance with applicable codes
28 and resolving legitimate consumer complaints in a timely,
29 efficient manner.

30 Section 28. Section 553.449, Florida Statutes, is
31 created to read:

1 553.449 Mobile home warranties.--Each manufacturer,
2 dealer, and supplier of mobile homes shall warrant each new
3 mobile home sold in this state and the setup of each such
4 mobile home, in accordance with the warranty requirements
5 prescribed by this section, for a period of at least 12
6 months, measured from the date of delivery of the mobile home
7 to the buyer. The warranty requirements of each manufacturer,
8 dealer, and supplier of mobile homes are as follows:

9 (1) The manufacturer warrants:

10 (a) For a mobile home, that all structural elements;
11 plumbing systems; heating, cooling, and fuel-burning systems;
12 electrical systems; fire prevention systems; and any other
13 components or conditions included by the manufacturer are free
14 from substantial defect.

15 (b) That 100-ampere electrical service exists in the
16 mobile home.

17 (2) The dealer warrants:

18 (a) That any modifications or alterations made to the
19 mobile home by the dealer or authorized by the dealer shall be
20 free from substantial defect. Alterations or modifications
21 made by a dealer shall relieve the manufacturer of warranty
22 responsibility only as to the item altered or modified.

23 (b) That setup operations performed on the mobile home
24 are performed in compliance with s. 553.445.

25 (c) That substantial defects do not occur to the
26 mobile home during setup or by transporting it to the
27 occupancy site.

28
29 When the setup of a mobile home is performed by a person who
30 is not an employee or agent of the mobile home manufacturer or
31 dealer and is not compensated or authorized by, or connected

1 with, such manufacturer or dealer, then the warranty
2 responsibility of the manufacturer or dealer as to setup shall
3 be limited to transporting the mobile home to the occupancy
4 site free from substantial defect.

5 (3) The supplier warrants that any warranties
6 generally offered in the ordinary sale of his or her product
7 to consumers shall be extended to buyers of mobile homes.
8 When no warranty is extended by suppliers, the manufacturer
9 shall assume warranty responsibility for that component.

10 Section 29. Section 553.450, Florida Statutes, is
11 created to read:

12 553.450 Presenting warranty claim.--The claim in
13 writing, stating the substance of the warranty defect, may be
14 presented to the manufacturer, dealer, or supplier. When the
15 person notified is not the responsible party he or she shall
16 inform the claimant and shall notify the responsible party of
17 the warranty claim immediately.

18 Section 30. Section 553.451, Florida Statutes, is
19 created to read:

20 553.451 Warranty service.--

21 (1) When a service agreement exists between
22 manufacturers, dealers, and suppliers to provide warranty
23 service, the agreement may specify which party is to remedy
24 warranty defects. However, when a warranty defect is not
25 properly remedied, the responsible party as determined
26 pursuant to s. 553.449 shall be responsible for providing
27 warranty service.

28 (2) When no service agreement exists for warranty
29 service, the responsible party as designated by s. 553.449 is
30 responsible for remedying the warranty defect.

31

1 (3) The defect shall be remedied within 30 days of
2 receipt of the written notification of the warranty claim
3 unless the claim is unreasonable or bona fide reasons exist
4 for not remedying the defect. When sufficient reasons exist
5 for not remedying the defect or the claim is unreasonable, the
6 responsible party shall respond to the claimant in writing
7 with its reasons for not promptly remedying the defect and
8 what further action is contemplated by the responsible party.

9 (4) When the person remedying the defect is not the
10 responsible party as designated by s. 553.449 he or she shall
11 be entitled to reasonable compensation paid to him or her by
12 the responsible party. Conduct which coerces or requires a
13 nonresponsible party to perform warranty service is a
14 violation of this section.

15 (5) Warranty service shall be performed at the site at
16 which the mobile home is initially delivered to the buyer,
17 except for components which can be removed for service without
18 substantial expense or inconvenience to the buyer.

19 Section 31. Section 553.452, Florida Statutes, is
20 created to read:

21 553.452 Civil action.--Notwithstanding the existence
22 of other remedies, a buyer may bring a civil suit for damages
23 against a responsible party who fails to satisfactorily
24 resolve a warranty claim. Damages shall be the actual costs
25 of remedying the defect. Court costs and reasonable attorney
26 fees may be awarded to the prevailing party. When the court
27 finds that failure to honor warranty claims is a consistent
28 pattern of conduct of the responsible party, or that the
29 defect is so severe as to significantly impair the safety of
30 the mobile home, it may assess punitive damages against the
31 responsible party.

1 Section 32. Section 553.453, Florida Statutes, is
2 created to read:

3 553.453 Cumulative remedies.--The warranty provided
4 for in this act shall be in addition to, and not in derogation
5 of, any other rights and privileges which the buyer may have
6 under any other law or instrument. The manufacturer, dealer
7 or supplier shall not require the buyer to waive his or her
8 rights under this act or any other rights under law. Any such
9 waiver shall be deemed contrary to public policy and
10 unenforceable and void.

11 Section 33. Section 320.840, Florida Statutes, is
12 transferred and renumbered as section 553.454, Florida
13 Statutes.

14 Section 34. Section 553.455, Florida Statutes, is
15 created to read:

16 553.455 Inspection of records; production of evidence;
17 subpoena power.--

18 (1) The division may inspect the pertinent books,
19 records, letters, and contracts of any licensee, whether
20 dealer or manufacturer, relating to any written complaint made
21 to it against such licensee.

22 (2) The division is granted and authorized to exercise
23 the power of subpoena for the attendance of witnesses and the
24 production of any documentary evidence necessary to the
25 disposition by it of any written complaint against any
26 licensee, whether dealer or manufacturer.

27 Section 35. Section 553.456, Florida Statutes, is
28 created to read:

29 553.456 Revocation of license held by firms or
30 corporations.--If any applicant or licensee is a firm or
31 corporation, it shall be sufficient cause for the denial,

1 suspension, or revocation of a license that any officer,
2 director, or trustee of the firm or corporation, or any member
3 in case of a partnership, has been guilty of an act or
4 omission which would be cause for refusing, suspending, or
5 revoking a license to such party as an individual. Each
6 licensee shall be responsible for the acts of any of its
7 employees while acting as its agent if the licensee approved
8 of, or had knowledge of, the acts or other similar acts and,
9 after such approval or knowledge, retained the benefits,
10 proceeds, profits, or advantages accruing from, or otherwise
11 ratified, the acts.

12 Section 36. Section 553.457, Florida Statutes, is
13 created to read:

14 553.457 Maintenance of records by the division.--The
15 division shall maintain uniform records of all complaints
16 filed against licensees licensed under the provisions of ss.
17 553.432 and 553.435, any other provision of this part to the
18 contrary notwithstanding. The records shall contain all
19 enforcement actions taken against licensees and against
20 unlicensed persons acting in a capacity which would require
21 them to be licensed under those sections. The permanent file
22 of each licensee and unlicensed person shall contain a record
23 of any complaints filed against him or her and a record of any
24 enforcement actions taken against him or her. All complaints
25 and satisfactions thereof and enforcement actions on each
26 licensee and unlicensed person shall be entered into the
27 central database in such a manner that rapid retrieval will be
28 facilitated. The complainant and the referring agency, if
29 there is one, shall be advised of the disposition by the
30 division of the complaint within 10 days after such action.

31

1 Section 37. Section 553.458, Florida Statutes, is
2 created to read:

3 553.458 Transactions by electronic or telephonic
4 means.--The division is authorized to accept any application
5 provided for under this chapter by electronic or telephonic
6 means.

7 Section 38. Paragraph (b) of subsection (1) of section
8 161.55, Florida Statutes, is amended to read:

9 161.55 Requirements for activities or construction
10 within the coastal building zone.--The following requirements
11 shall apply beginning March 1, 1986, to construction within
12 the coastal building zone and shall be minimum standards for
13 construction in this area:

14 (1) STRUCTURAL REQUIREMENTS; MAJOR STRUCTURES.--

15 (b) Mobile homes shall conform to the Federal Mobile
16 Home Construction and Safety Standards or the Uniform
17 Standards Code ANSI book A-119.1, pursuant to s. 553.436
18 ~~320.823~~, and to the requirements of paragraph (c).

19 Section 39. Subsection (14) of section 316.515,
20 Florida Statutes, is amended to read.

21 316.515 Maximum width, height, length.--

22 (14) MANUFACTURED BUILDINGS.--The Department of
23 Transportation may, in its discretion and upon application and
24 good cause shown therefor that the same is not contrary to the
25 public interest, issue a special permit for truck
26 tractor-semitrailer combinations where the total number of
27 overwidth deliveries of manufactured buildings, as defined in
28 s. 553.36(12)(~~11~~), may be reduced by permitting the use of an
29 overlength trailer of no more than 54 feet.

30 Section 40. Subsection (2) of section 319.001, Florida
31 Statutes, is amended to read:

1 319.001 Definitions.--As used in this chapter, the
2 term:

3 (2) "Licensed dealer," unless otherwise specifically
4 provided, means a motor vehicle dealer licensed under s.
5 320.27, a mobile home dealer licensed under s. 553.432 ~~320.77~~,
6 or a recreational vehicle dealer licensed under s. 320.771.

7 Section 41. Paragraph (d) of subsection (1) of section
8 320.131, Florida Statutes, is amended to read:

9 320.131 Temporary tags.--

10 (1) The department is authorized and empowered to
11 design, issue, and regulate the use of temporary tags to be
12 designated "temporary tags" for use in the following cases:

13 (d) For banks, credit unions, and other financial
14 institutions which are not required to be licensed under the
15 provisions of s. 320.27, s. 553.432 ~~320.77~~, or s. 320.771, but
16 need temporary tags for the purpose of demonstrating
17 repossessions for sale.

18
19 Further, the department is authorized to disallow the purchase
20 of temporary tags by licensed dealers, common carriers, or
21 financial institutions in those cases where abuse has
22 occurred.

23 Section 42. Subsection (9) of section 320.27, Florida
24 Statutes, is amended to read:

25 320.27 Motor vehicle dealers.--

26 (9) DENIAL, SUSPENSION, OR REVOCATION.--The department
27 may deny, suspend, or revoke any license issued hereunder or
28 under the provisions of ~~s. 320.77~~ or s. 320.771, upon proof
29 that a licensee has failed to comply with any of the following
30 provisions with sufficient frequency so as to establish a
31 pattern of wrongdoing on the part of the licensee:

1 (a) Willful violation of any other law of this state,
2 including chapter 319, this chapter, or ss. 559.901-559.9221,
3 which has to do with dealing in or repairing motor vehicles or
4 mobile homes or willful failure to comply with any
5 administrative rule promulgated by the department.

6 (b) Commission of fraud or willful misrepresentation
7 in application for or in obtaining a license.

8 (c) Perpetration of a fraud upon any person as a
9 result of dealing in motor vehicles, including, without
10 limitation, the misrepresentation to any person by the
11 licensee of the licensee's relationship to any manufacturer,
12 importer, or distributor.

13 (d) Representation that a demonstrator is a new motor
14 vehicle, or the attempt to sell or the sale of a demonstrator
15 as a new motor vehicle without written notice to the purchaser
16 that the vehicle is a demonstrator. For the purposes of this
17 section, a "demonstrator," a "new motor vehicle," and a "used
18 motor vehicle" shall be defined as under s. 320.60.

19 (e) Unjustifiable refusal to comply with a licensee's
20 responsibility under the terms of the new motor vehicle
21 warranty issued by its respective manufacturer, distributor,
22 or importer. However, if such refusal is at the direction of
23 the manufacturer, distributor, or importer, such refusal shall
24 not be a ground under this section.

25 (f) Misrepresentation or false, deceptive, or
26 misleading statements with regard to the sale or financing of
27 motor vehicles which any motor vehicle dealer has, or causes
28 to have, advertised, printed, displayed, published,
29 distributed, broadcast, televised, or made in any manner with
30 regard to the sale or financing of motor vehicles.

31

1 (g) Requirement by any motor vehicle dealer that a
2 customer or purchaser accept equipment on his or her motor
3 vehicle which was not ordered by the customer or purchaser.

4 (h) Requirement by any motor vehicle dealer that any
5 customer or purchaser finance a motor vehicle with a specific
6 financial institution or company.

7 (i) Failure by any motor vehicle dealer to provide a
8 customer or purchaser with an odometer disclosure statement
9 and a copy of any bona fide written, executed sales contract
10 or agreement of purchase connected with the purchase of the
11 motor vehicle purchased by the customer or purchaser.

12 (j) Failure of any motor vehicle dealer to comply with
13 the terms of any bona fide written, executed agreement,
14 pursuant to the sale of a motor vehicle.

15 (k) Requirement by the motor vehicle dealer that the
16 purchaser of a motor vehicle contract with the dealer for
17 physical damage insurance.

18 (l) Violation of any of the provisions of s. 319.35 by
19 any motor vehicle dealer.

20 (m) Either a history of bad credit or an unfavorable
21 credit rating as revealed by the applicant's official credit
22 report or by investigation by the department.

23 (n) Failure to disclose damage to a new motor vehicle
24 as defined in s. 320.60(10) of which the dealer had actual
25 knowledge if the dealer's actual cost of repair, excluding
26 tires, bumpers, and glass, exceeds 3 percent of the
27 manufacturer's suggested retail price; provided, however, if
28 only the application of exterior paint is involved, disclosure
29 shall be made if such touch-up paint application exceeds \$100.

30 (o) Failure to apply for transfer of a title as
31 prescribed in s. 319.23(6).

1 (p) Use of the dealer license identification number by
2 any person other than the licensed dealer or his or her
3 designee.

4 (q) Conviction of a felony.

5 (r) Failure to continually meet the requirements of
6 the licensure law.

7 (s) When a motor vehicle dealer is convicted of a
8 crime which results in his or her being prohibited from
9 continuing in that capacity, the dealer may not continue in
10 any capacity within the industry. The offender shall have no
11 financial interest, management, sales, or other role in the
12 operation of a dealership. Further, the offender may not
13 derive income from the dealership beyond reasonable
14 compensation for the sale of his or her ownership interest in
15 the business.

16 (t) Representation to a customer or any advertisement
17 to the general public representing or suggesting that a motor
18 vehicle is a new motor vehicle if such vehicle lawfully cannot
19 be titled in the name of the customer or other member of the
20 general public by the seller using a manufacturer's statement
21 of origin as permitted in s. 319.23(1).

22 (u) Failure to honor a bank draft or check given to a
23 motor vehicle dealer for the purchase of a motor vehicle by
24 another motor vehicle dealer within 10 days after notification
25 that the bank draft or check has been dishonored. A single
26 violation of this paragraph is sufficient for revocation or
27 suspension. If the transaction is disputed, the maker of the
28 bank draft or check shall post a bond in accordance with the
29 provisions of s. 559.917, and no proceeding for revocation or
30 suspension shall be commenced until the dispute is resolved.

31

1 Section 43. Section 320.28, Florida Statutes, is
2 amended to read:

3 320.28 Nonresident dealers in secondhand motor
4 vehicles or,recreational vehicles,~~or mobile homes~~.--Every
5 dealer in used or secondhand motor vehicles or,recreational
6 vehicles,~~or mobile homes~~ who is a nonresident of the state,
7 does not have a permanent place of business in this state, and
8 has not qualified as a dealer under the provisions of ss.
9 320.27,~~320.77~~,and 320.771, and any person other than a
10 dealer qualified under the provisions of said ss. 320.27,
11 ~~320.77~~,and 320.771, who brings any used or secondhand motor
12 vehicle or,recreational vehicle,~~or mobile home~~ into the
13 state for the purpose of sale, except to a dealer licensed
14 under the provisions of ss. 320.27,~~320.77~~,and 320.771,
15 shall, at least 10 days prior to the sale of said vehicle, the
16 offering of said vehicle for sale, or the advertising of said
17 vehicle for sale, make and file with the department the
18 official application for a certificate of title for said
19 vehicle as provided by law. Any person who has had one or
20 more transactions involving the sale of three or more used or
21 secondhand motor vehicles or,recreational vehicles,~~or mobile~~
22 ~~homes~~ in Florida during any 12-month period shall be deemed to
23 be a secondhand dealer in motor vehicles or,recreational
24 vehicles,~~or mobile homes~~.

25 Section 44. Subsection (1) of section 320.71, Florida
26 Statutes, is amended to read:

27 320.71 Nonresident motor vehicle,~~mobile home~~,or
28 recreational vehicle dealer's license.--

29 (1) Any person who is a nonresident of the state, who
30 does not have a dealer's contract from the manufacturer or
31 manufacturer's distributor of motor vehicles,~~mobile homes~~,or

1 recreational vehicles authorizing the sale thereof in definite
2 Florida territory, and who sells or engages in the business of
3 selling said vehicles at retail within the state shall
4 register with the Department of Revenue for a sales tax dealer
5 registration number and comply with chapter 212, and pay a
6 license tax of \$2,000 per annum in each county where such
7 sales are made; \$1,250 of said tax shall be transmitted to the
8 Department of Banking and Finance to be deposited in the
9 General Revenue Fund of the state, and \$750 thereof shall be
10 returned to the county. The license tax shall cover the
11 period from January 1 to the following December 31, and no
12 such license shall be issued for any fractional part of a
13 year.

14 Section 45. Section 320.822, Florida Statutes, is
15 amended to read:

16 320.822 Definitions.--In construing ss.
17 320.822-320.862, unless the context otherwise requires, the
18 following words or phrases have the following meanings:

19 (1) "Buyer" means a person who purchases at retail
20 from a dealer or manufacturer a ~~mobile home or~~ recreational
21 vehicle for his or her own use as a residence, or other
22 related use.

23 (2) "Code" means the appropriate standards found in:

24 ~~(a) The Federal Manufactured Housing Construction and~~
25 ~~Safety Standards for single-family mobile homes, promulgated~~
26 ~~by the Department of Housing and Urban Development;~~

27 ~~(b) the Uniform Standards Code approved by the~~
28 ~~American National Standards Institute, ANSI A-119.2 for~~
29 ~~recreational vehicles and ANSI A-119.5 for park trailers or~~
30 ~~the United States Department of Housing and Urban Development~~

31

1 ~~standard for park trailers certified as meeting that standard;~~
2 or

3 ~~(c) The Mobile Home Repair and Remodeling Code and the~~
4 Used Recreational Vehicle Code.

5 (3) "Construction" means the minimum requirements for
6 materials, products, equipment, and workmanship needed to
7 assure that the ~~mobile home or~~ recreational vehicle will
8 provide structural strength and rigidity; protection against
9 corrosion, decay, and other similar destructive forces;
10 resistance to the elements; and durability and economy of
11 maintenance.

12 (4) "Institute" means the American National ~~United~~
13 ~~States of America~~ Standards Institute.

14 (5) "Length," for purposes of transportation only,
15 means the distance from the extreme front of the ~~mobile home~~
16 ~~or~~ recreational vehicle, to the extreme rear, including the
17 drawbar and coupling mechanism, but not including expandable
18 features that do not project from the body during
19 transportation.

20 ~~(6) "Length of a mobile home" means the distance from~~
21 ~~the exterior of the front wall (nearest to the drawbar and~~
22 ~~coupling mechanism) to the exterior of the rear wall (at the~~
23 ~~opposite end of the home) where such walls enclose living or~~
24 ~~other interior space and such distance includes expandable~~
25 ~~rooms but not bay windows, porches, drawbars, couplings,~~
26 ~~hitches, wall and roof extensions, or other attachments.~~

27 ~~(6)(7)~~ (6) "Licensee" means any person licensed or
28 required to be licensed under s. 320.8225.

29 ~~(8) "Mobile home dealer" means any person engaged in~~
30 ~~the business of buying, selling, or dealing in mobile homes or~~
31 ~~offering or displaying mobile homes for sale. Any person who~~

1 ~~buys, sells, or deals in one or more mobile homes in any~~
2 ~~12-month period or who offers or displays for sale one or more~~
3 ~~mobile homes in any 12-month period shall be prima facie~~
4 ~~presumed to be engaged in the business of a mobile home~~
5 ~~dealer. The terms "selling" and "sale" include lease-purchase~~
6 ~~transactions. The term "mobile home dealer" does not include~~
7 ~~a bank, credit union, or finance company that acquires mobile~~
8 ~~homes as an incident to its regular business, does not include~~
9 ~~a mobile home rental or leasing company that sells mobile~~
10 ~~homes to mobile home dealers licensed under s. 320.77, and~~
11 ~~does not include persons who are selling their own mobile~~
12 ~~homes.~~

13 (7)~~(9)~~ "Recreational vehicle dealer" means any person
14 engaged in the business of buying, selling, or dealing in
15 recreational vehicles or offering or displaying recreational
16 vehicles for sale. The term "dealer" includes a recreational
17 vehicle broker. Any person who buys, sells, deals in, or
18 offers or displays for sale, or who acts as the agent for the
19 sale of, one or more recreational vehicles in any 12-month
20 period shall be prima facie presumed to be a dealer. The
21 terms "selling" and "sale" include lease-purchase
22 transactions. The term "dealer" does not include banks,
23 credit unions, and finance companies that acquire recreational
24 vehicles as an incident to their regular business and does not
25 include mobile home rental and leasing companies that sell
26 recreational vehicles to dealers licensed under s. 320.771.

27 ~~(10) "Mobile home manufacturer" means any person,~~
28 ~~resident or nonresident, who, as a trade or commerce,~~
29 ~~manufactures or assembles mobile homes.~~

30 (8)~~(11)~~ "Recreational vehicle manufacturer" means any
31 person, resident or nonresident, who, as a trade or commerce,

1 manufactures or assembles recreational vehicles or van-type
2 vehicles in such manner that they then qualify as recreational
3 vehicles, for sale in this state.

4 (9)~~(12)~~ "Responsible party" means a manufacturer,
5 dealer, or supplier.

6 (10)~~(13)~~ "Seal" or "label" means a device issued by
7 the department certifying that a ~~mobile home or~~ recreational
8 vehicle meets the appropriate code, which device is to be
9 displayed on the exterior of the ~~mobile home or~~ recreational
10 vehicle.

11 ~~(14) "Setup" means the operations performed at the~~
12 ~~occupancy site which render a mobile home or park trailer fit~~
13 ~~for habitation. Such operations include, but are not limited~~
14 ~~to, transporting, positioning, blocking, leveling, supporting,~~
15 ~~tying down, connecting utility systems, making minor~~
16 ~~adjustments, or assembling multiple or expandable units.~~

17 (11)~~(15)~~ "Substantial defect" means:

18 (a) Any substantial deficiency or defect in materials
19 or workmanship occurring to a ~~mobile home or~~ recreational
20 vehicle which has been reasonably maintained and cared for in
21 normal use.

22 (b) Any structural element, utility system, or
23 component of the ~~mobile home or~~ recreational vehicle, which
24 fails to comply with the code.

25 (12)~~(16)~~ "Supplier" means the original producer of
26 completed components, including refrigerators, stoves, hot
27 water heaters, dishwashers, cabinets, air conditioners,
28 heating units, and similar components, which are furnished to
29 a manufacturer or dealer for installation in the ~~mobile home~~
30 ~~or~~ recreational vehicle prior to sale to a buyer.

31

1 ~~(17)~~ "Width of a mobile home" means the distance from
2 the exterior of one side wall to the exterior of the opposite
3 side wall where such walls enclose living or other interior
4 space and such distance includes expandable rooms but not bay
5 windows, porches, wall and roof extensions, or other
6 attachments.

7 (13)~~(18)~~ "Body size" of a ~~park trailer,~~ travel
8 trailer, or fifth-wheel trailer means the distance from the
9 exterior side or end to the opposite exterior side or end of
10 the body. Such distance includes expandable rooms, bay
11 windows, wall and roof extensions, or other extrusions in the
12 travel mode. The following exceptions apply:

13 (a) Travel trailers shall not exceed 320 square feet.
14 All square footage measurements are of the exterior when in
15 setup mode, including bay windows.

16 ~~(b) Park trailers constructed to ANSI A-119.5 shall~~
17 ~~not exceed 400 square feet. Park trailers constructed to the~~
18 ~~United States Department of Housing and Urban Development~~
19 ~~standard shall not exceed 500 square feet. All square footage~~
20 ~~measurements are of the exterior when in setup mode and do not~~
21 ~~include bay windows.~~

22 (b)~~(c)~~ Fifth-wheel trailers may not exceed 400 square
23 feet. All square footage measurements are of the exterior when
24 in setup mode, including bay windows.

25 Section 46. Section 320.8225, Florida Statutes, is
26 amended to read:

27 320.8225 ~~Mobile home and~~ Recreational vehicle
28 manufacturer's license.--

29 (1) LICENSE REQUIRED.--Any person who engages in the
30 business of a ~~mobile home or~~ recreational vehicle manufacturer
31 in this state, or who manufactures ~~mobile homes or~~

1 recreational vehicles out of state which are ultimately
2 offered for sale in this state, shall obtain annually a
3 license for each factory location in this state and for each
4 factory location out of state which manufactures ~~mobile homes~~
5 ~~or~~ recreational vehicles for sale in this state, prior to
6 distributing ~~mobile homes or~~ recreational vehicles for sale in
7 this state.

8 (2) APPLICATION.--The application for a license shall
9 be in the form prescribed by the department and shall contain
10 sufficient information to disclose the identity, location, and
11 responsibility of the applicant. The application shall also
12 include a copy of the warranty and a complete statement of any
13 service agreement or policy to be utilized by the applicant,
14 any information relating to the applicant's solvency and
15 financial standing, and any other pertinent matter
16 commensurate with safeguarding the public. The department may
17 prescribe an abbreviated application for renewal of a license
18 if the licensee had previously filed an initial application
19 pursuant to this section. The application for renewal shall
20 include any information necessary to bring current the
21 information required in the initial application.

22 (3) FEES.--Upon making initial application, the
23 applicant shall pay to the department a fee of \$300. Upon
24 making renewal application, the applicant shall pay to the
25 department a fee of \$100. Any applicant for renewal who has
26 failed to submit his or her renewal application by October 1
27 shall pay a renewal application fee equal to the original
28 application fee. No fee is refundable. All fees shall be
29 deposited into the General Revenue Fund.

30
31

1 (4) NONRESIDENT.--Any person applying for a license
2 who is not a resident of this state shall have designated an
3 agent for service of process pursuant to s. 48.181.

4 (5) REQUIREMENT OF ASSURANCE.--

5 ~~(a) Annually, prior to the receipt of a license to~~
6 ~~manufacture mobile homes, the applicant or licensee shall~~
7 ~~submit a surety bond, cash bond, or letter of credit from a~~
8 ~~financial institution, or a proper continuation certificate,~~
9 ~~sufficient to assure satisfaction of claims against the~~
10 ~~licensee for failure to comply with appropriate code~~
11 ~~standards, failure to provide warranty service, or violation~~
12 ~~of any provisions of this section. The amount of the surety~~
13 ~~bond, cash bond, or letter of credit shall be \$50,000. Only~~
14 ~~one surety bond, cash bond, or letter of credit shall be~~
15 ~~required for each manufacturer, regardless of the number of~~
16 ~~factory locations. The surety bond, cash bond, or letter of~~
17 ~~credit shall be to the department, in favor of any retail~~
18 ~~customer who shall suffer loss arising out of noncompliance~~
19 ~~with code standards or failure to honor or provide warranty~~
20 ~~service. The department shall have the right to disapprove any~~
21 ~~bond or letter of credit that does not provide assurance as~~
22 ~~provided in this section.~~

23 (a)~~(b)~~ Annually, prior to the receipt of a license to
24 manufacture recreational vehicles, the applicant or licensee
25 shall submit a surety bond, or a proper continuation
26 certificate, sufficient to assure satisfaction of claims
27 against the licensee for failure to comply with appropriate
28 code standards, failure to provide warranty service, or
29 violation of any provisions of this section. The amount of
30 the surety bond shall be \$10,000 per year. The surety bond
31 shall be to the department, in favor of any retail customer

1 who shall suffer loss arising out of noncompliance with code
2 standards or failure to honor or provide warranty service. The
3 department shall have the right to disapprove any bond which
4 does not provide assurance as provided in this section.

5 (b)~~(c)~~ The department shall adopt rules pursuant to
6 chapter 120 consistent with this section in providing
7 assurance of satisfaction of claims.

8 (c)~~(d)~~ The department shall, upon denial, suspension,
9 or revocation of any license, notify the surety company of the
10 licensee, in writing, that the license has been denied,
11 suspended, or revoked and shall state the reason for such
12 denial, suspension, or revocation.

13 (d)~~(e)~~ Any surety company which pays any claim against
14 the bond of any licensee shall notify the department, in
15 writing, that it has paid such a claim and shall state the
16 amount of the claim.

17 (e)~~(f)~~ Any surety company which cancels the bond of
18 any licensee shall notify the department, in writing, of such
19 cancellation, giving reason for the cancellation.

20 (6) LICENSE YEAR.--A license issued to a ~~mobile home~~
21 ~~or~~ recreational vehicle manufacturer entitles the licensee to
22 conduct the business of a ~~mobile home or~~ recreational vehicle
23 manufacturer for a period of 1 year from October 1 preceding
24 the date of issuance.

25 (7) DENIAL OF LICENSE.--The department may deny a
26 ~~mobile home or~~ recreational vehicle manufacturer's license on
27 the ground that:

28 (a) The applicant has made a material misstatement in
29 his or her application for a license.

30 (b) The applicant has failed to comply with any
31 applicable provision of this chapter.

1 (c) The applicant has failed to provide warranty
2 service.

3 (d) The applicant or one or more of his or her
4 principals or agents has violated any law, rule, or regulation
5 relating to the manufacture or sale of ~~mobile homes or~~
6 recreational vehicles.

7 (e) The department has proof of unfitness of the
8 applicant.

9 (f) The applicant or licensee has engaged in previous
10 conduct in any state which would have been a ground for
11 revocation or suspension of a license in this state.

12 (g) The applicant or licensee has violated any of the
13 provisions of the code relating to recreational vehicles of
14 ~~the National Mobile Home Construction and Safety Standards Act~~
15 ~~of 1974 or any rule or regulation of the Department of Housing~~
16 ~~and Urban Development promulgated thereunder.~~

17
18 Upon denial of a license, the department shall notify the
19 applicant within 10 days, stating in writing its grounds for
20 denial. The applicant is entitled to a public hearing and may
21 request that such hearing be held within 45 days of denial of
22 the license. All proceedings shall be pursuant to chapter
23 120.

24 (8) REVOCATION OR SUSPENSION OF LICENSE.--The
25 department shall suspend or, in the case of a subsequent
26 offense, shall revoke any license upon a finding that the
27 licensee violated any provision of this chapter or any other
28 law of this state regarding the manufacture, warranty, or sale
29 of ~~mobile homes or~~ recreational vehicles. When any license
30 has been revoked or suspended by the department, it may be
31 reinstated if the department finds that the former licensee

1 has complied with all applicable requirements of this chapter
2 and an application for a license is refiled pursuant to this
3 section.

4 (9) CIVIL PENALTIES; PROCEDURE.--In addition to the
5 exercise of other powers provided in this section, the
6 department is authorized to assess, impose, levy, and collect
7 by legal process a civil penalty, in an amount not to exceed
8 \$1,000 for each violation, against any licensee if it finds
9 that a licensee has violated any provision of this section or
10 has violated any other law of this state having to do with
11 dealing in motor vehicles. Any licensee shall be entitled to
12 a hearing pursuant to chapter 120 should the licensee wish to
13 contest the fine levied, or about to be levied, upon him or
14 her.

15 Section 47. Subsection (1) of section 320.8231,
16 Florida Statutes, is amended to read:

17 320.8231 Establishment of uniform standards for
18 recreational vehicle-type units ~~and park trailers~~.--

19 (1) Each recreational vehicle-type unit, as defined in
20 s. 320.01(1)(b), manufactured in this state or manufactured
21 outside this state but sold or offered for sale in this state
22 shall meet the Uniform Standards Code ANSI book A-119.2 or
23 A-119.5, as applicable, approved by the American National
24 Standards Institute. Such standards shall include, but are not
25 limited to, standards for the installation of plumbing,
26 heating, and electrical systems and fire and life safety in
27 recreational vehicle-type units ~~and park trailers~~. ~~However,~~
28 ~~those park trailers exceeding 400 square feet shall meet the~~
29 ~~Federal Manufactured Home Construction and Safety Standards~~
30 ~~and shall have a United States Department of Housing and Urban~~
31 ~~Development label.~~

1 Section 48. Section 320.8232, Florida Statutes, is
2 amended to read:

3 320.8232 Establishment of uniform standards for used
4 recreational vehicles ~~and repair and remodeling code for~~
5 ~~mobile homes.--~~

6 (1) Each used recreational vehicle manufactured after
7 January 1, 1968, and sold or offered for sale in this state by
8 a dealer or manufacturer shall meet the standards of the Used
9 Recreational Vehicle Code. The provisions of said code shall
10 ensure safe and livable housing and shall not be more
11 stringent than those standards required to be met in the
12 manufacture of recreational vehicles. Such provisions shall
13 include, but not be limited to, standards for structural
14 adequacy, plumbing, heating, electrical systems, and fire and
15 life safety.

16 ~~(2) The provisions of the repair and remodeling code~~
17 ~~shall ensure safe and livable housing and shall not be more~~
18 ~~stringent than those standards required to be met in the~~
19 ~~manufacture of mobile homes. Such provisions shall include,~~
20 ~~but not be limited to, standards for structural adequacy,~~
21 ~~plumbing, heating, electrical systems, and fire and life~~
22 ~~safety.~~

23 Section 49. Section 320.824, Florida Statutes, 1998
24 Supplement, is amended to read:

25 320.824 Changes and modifications of standards.--

26 (1) The department may adopt by rule changes in, or
27 additions to, the standards adopted in ~~s. 320.823~~ or s.
28 320.8231, which are approved and officially published by the
29 institute or promulgated by the Department of Housing and
30 Urban Development subsequent to the effective date of this
31 act.

1 ~~(2) The department or its authorized agent may enter~~
2 ~~any place or establishment where mobile homes are~~
3 ~~manufactured, sold, or offered for sale, for the purpose of~~
4 ~~ascertaining whether the requirements of the code and the~~
5 ~~rules adopted by the department have been met.~~

6 Section 50. Section 320.8245, Florida Statutes, is
7 amended to read:

8 320.8245 Limitation of alteration or modification to
9 ~~mobile homes or recreational vehicles.--~~

10 (1) LIMITATION OF ALTERATIONS OR MODIFICATIONS.--No
11 alteration or modification shall be made to a ~~mobile home or~~
12 recreational vehicle by a licensed dealer after shipment from
13 the manufacturer's plant unless such alteration or
14 modification is authorized in this section.

15 (2) EFFECT ON ~~MOBILE HOME~~ WARRANTY.--Unless an
16 alteration or modification is performed by a qualified person
17 as defined in subsection (4), the warranty responsibility of
18 the manufacturer as to the altered or modified item shall be
19 void.

20 (a) An alteration or modification performed by a
21 ~~mobile home or recreational vehicle dealer or his or her agent~~
22 or employee shall place warranty responsibility for the
23 altered or modified item upon the dealer. If the manufacturer
24 fulfills, or is required to fulfill, the warranty on the
25 altered or modified item, he or she shall be entitled to
26 recover damages in the amount of his or her costs and
27 attorneys' fees from the dealer.

28 (b) An alteration or modification performed by a
29 ~~mobile home or recreational vehicle owner or his or her agent~~
30 shall render the manufacturer's warranty as to that item void.
31 A statement shall be displayed clearly and conspicuously on

1 the face of the warranty that the warranty is void as to the
2 altered or modified item if the alteration or modification is
3 performed by other than a qualified person. Failure to
4 display such statement shall result in warranty responsibility
5 on the manufacturer.

6 (3) AUTHORITY OF THE DEPARTMENT.--The department is
7 authorized to promulgate rules and regulations pursuant to
8 chapter 120 which define the alterations or modifications
9 which must be made by qualified personnel. The department may
10 regulate only those alterations and modifications which
11 substantially impair the structural integrity or safety of the
12 recreational vehicle ~~mobile home~~.

13 (4) DESIGNATION AS A QUALIFIED PERSON.--

14 (a) In order to be designated as a person qualified to
15 alter or modify a ~~mobile home~~ or recreational vehicle, a
16 person must comply with local or county licensing or
17 competency requirements in skills relevant to performing
18 alterations or modifications on ~~mobile homes~~ or recreational
19 vehicles.

20 (b) When no local or county licensing or competency
21 requirements exist, the department may certify persons to
22 perform recreational vehicle ~~mobile home~~ alterations or
23 modifications. The department shall by rule or regulation
24 determine what skills and competency requirements are
25 requisite to the issuance of a certification. A fee
26 sufficient to cover the costs of issuing certifications may be
27 charged by the department. The certification shall be valid
28 for a period which terminates when the county or other local
29 governmental unit enacts relevant competency or licensing
30 requirements. The certification shall be valid only in
31

1 counties or localities without licensing or competency
2 requirements.

3 (c) The department shall determine which counties and
4 localities have licensing or competency requirements adequate
5 to eliminate the requirement of certification. This
6 determination shall be based on a review of the relevant
7 county or local standards for adequacy in regulating persons
8 who perform alterations or modifications to recreational
9 vehicles ~~mobile homes~~. The department shall find local or
10 county standards adequate when minimal licensing or competency
11 standards are provided.

12 Section 51. Section 320.8256, Florida Statutes, is
13 amended to read:

14 320.8256 Recreational vehicle inspection.--

15 ~~(1)~~ In order to ensure the highest degree of quality
16 control in the construction of new recreational vehicles and
17 to ensure the safe condition of used recreational vehicles,
18 each new or used recreational vehicle sold in the state shall
19 be inspected by licensed recreational vehicle dealers offering
20 such unit for sale.

21 ~~(2) The department shall determine a fee for the seal~~
22 ~~authorized under s. 320.827 which is sufficient to cover the~~
23 ~~cost of producing and issuing the seal. Fees collected shall~~
24 ~~be deposited into the General Revenue Fund.~~

25 Section 52. Section 320.834, Florida Statutes, is
26 amended to read:

27 320.834 Purpose.--It is the intent of the Legislature
28 to ensure the safety and welfare of residents of recreational
29 vehicles ~~mobile homes~~ through an inspection program conducted
30 by the Department of Highway Safety and Motor Vehicles.
31 ~~Mobile homes are a primary housing resource of many of the~~

1 ~~residents of the state and satisfy a large segment of~~
2 ~~statewide housing needs.~~ It is the further intent of the
3 Legislature that the department, recreational vehicle ~~mobile~~
4 ~~home~~ dealers, and recreational vehicle ~~mobile home~~
5 manufacturers continue to work together to meet the applicable
6 code requirements for recreational vehicles ~~mobile homes~~ and
7 that such dealers and manufacturers share the responsibilities
8 of warranting recreational vehicles ~~mobile homes~~ in accordance
9 with applicable codes and resolving legitimate consumer
10 complaints in a timely, efficient manner.

11 Section 53. Section 320.835, Florida Statutes, is
12 amended to read:

13 320.835 ~~Mobile home and~~ Recreational vehicle
14 warranties.--Each manufacturer, dealer, and supplier of ~~mobile~~
15 ~~homes or~~ recreational vehicles shall warrant each new ~~mobile~~
16 ~~home or~~ recreational vehicle sold in this state ~~and the setup~~
17 ~~of each such mobile home,~~ in accordance with the warranty
18 requirements prescribed by this section, for a period of at
19 least 12 months, measured from ~~the date of delivery of the~~
20 ~~mobile home to the buyer or~~ the date of sale of the
21 recreational vehicle. The warranty requirements of each
22 manufacturer, dealer, and supplier of ~~mobile homes or~~
23 recreational vehicles are as follows:

24 (1) The manufacturer warrants:

25 (a) for a ~~mobile home or~~ recreational vehicle, that
26 all structural elements; plumbing systems; heating, cooling,
27 and fuel-burning systems; electrical systems; fire prevention
28 systems; and any other components or conditions included by
29 the manufacturer are free from substantial defect.

30 (b) ~~That 100-ampere electrical service exists in the~~
31 ~~mobile home.~~

1 (2) The dealer warrants+
2 ~~(a) that any modifications or alterations made to the~~
3 ~~mobile home or recreational vehicle by the dealer or~~
4 ~~authorized by the dealer shall be free from substantial~~
5 ~~defect. Alterations or modifications made by a dealer shall~~
6 ~~relieve the manufacturer of warranty responsibility only as to~~
7 ~~the item altered or modified.~~

8 ~~(b) That setup operations performed on the mobile home~~
9 ~~are performed in compliance with s. 320.8325.~~

10 ~~(c) That substantial defects do not occur to the~~
11 ~~mobile home during setup or by transporting it to the~~
12 ~~occupancy site.~~

13
14 ~~When the setup of a mobile home is performed by a person who~~
15 ~~is not an employee or agent of the mobile home manufacturer or~~
16 ~~dealer and is not compensated or authorized by, or connected~~
17 ~~with, such manufacturer or dealer, then the warranty~~
18 ~~responsibility of the manufacturer or dealer as to setup shall~~
19 ~~be limited to transporting the mobile home to the occupancy~~
20 ~~site free from substantial defect.~~

21 (3) The supplier warrants that any warranties
22 generally offered in the ordinary sale of his or her product
23 to consumers shall be extended to buyers of ~~mobile homes and~~
24 recreational vehicles. When no warranty is extended by
25 suppliers, the manufacturer shall assume warranty
26 responsibility for that component.

27 Section 54. Section 320.865, Florida Statutes, is
28 amended to read:

29 320.865 Maintenance of records by the department.--The
30 department shall maintain uniform records of all complaints
31 filed against licensees licensed under the provisions of ss.

1 320.27, 320.61, ~~320.77~~, 320.771, and 320.8225, any other
2 provision of this chapter to the contrary notwithstanding. The
3 records shall contain all enforcement actions taken against
4 licensees and against unlicensed persons acting in a capacity
5 which would require them to be licensed under those sections.
6 The permanent file of each licensee and unlicensed person
7 shall contain a record of any complaints filed against him or
8 her and a record of any enforcement actions taken against him
9 or her. All complaints and satisfactions thereof and
10 enforcement actions on each licensee and unlicensed person
11 shall be entered into the central database in such a manner
12 that rapid retrieval will be facilitated. The complainant and
13 the referring agency, if there is one, shall be advised of the
14 disposition by the department of the complaint within 10 days
15 of such action.

16 Section 55. Subsection (3) of section 325.202, Florida
17 Statutes, is amended to read:

18 325.202 Definitions.--As used in this act, the term:

19 (3) "Dealer certificate" means an inspection
20 certificate issued to a motor vehicle dealer, motor vehicle
21 broker as defined in s. 320.07, mobile home dealer as defined
22 in s. 553.432 ~~320.77~~, or recreational vehicle dealer as
23 defined in s. 320.771, indicating that a motor vehicle has
24 passed an emissions inspection, which grants the dealer or
25 broker 12 months in which to sell at retail the identified
26 motor vehicle owned by the dealer or broker.

27 Section 56. Subsection (8) of section 325.203, Florida
28 Statutes, is amended to read:

29 325.203 Motor vehicles subject to annual inspection;
30 exemptions.--

31

1 (8) A motor vehicle dealer, motor vehicle broker as
2 defined in s. 320.27, mobile home dealer as defined in s.
3 553.432 ~~320.77~~, recreational vehicle dealer as defined in s.
4 320.771, governmental agency subject to subsection (5), or
5 person located in a program area may not sell at retail any
6 motor vehicle that is subject to inspection under this act and
7 that is to be registered in a program area unless the motor
8 vehicle has received a valid inspection certificate within 180
9 days before sale or received a valid dealer certificate within
10 12 months before sale. If a motor vehicle is purchased outside
11 the program area and is required to be registered in the
12 program area, the purchaser must meet the inspection
13 requirements of this act before such registration.

14 Section 57. Subsections (2) and (4) and paragraph (a)
15 of subsection (6) of section 325.213, Florida Statutes, are
16 amended to read:

17 325.213 Self-inspectors.--

18 (2) Any applicant shall pay to the department a
19 nonrefundable fee of \$100 in addition to any other fees
20 required by law. Upon making a renewal application, the
21 applicant shall pay to the department a nonrefundable fee of
22 \$50 in addition to any other fees required by law. If the
23 applicant is a motor vehicle ~~or mobile home~~ dealer licensed
24 under s. 320.27 ~~or s. 320.77~~, or a recreational vehicle dealer
25 licensed under s. 320.771, the nonrefundable application fee
26 and subsequent nonrefundable renewal application fee is \$25,
27 in addition to any other fees required by law.

28 (4) Each self-inspector license issued by the
29 department is valid for the year of issue and shall expire
30 annually on December 31 unless revoked or suspended prior to
31 that date. The self-inspector license for a motor vehicle,

1 ~~mobile home dealer~~, and recreational vehicle dealer shall
2 expire annually on the same date that the dealer license
3 issued pursuant to the provisions of s. 320.27, ~~s. 320.77~~, or
4 s. 320.771 expires. A renewal application made subsequent to
5 the expiration date must be accompanied by a delinquency fee
6 of \$50 in addition to the renewal application fee prescribed
7 in subsection (2).

8 (6)(a) Prior to the issuance of a self-inspector
9 license, the applicant shall deliver to the department a good
10 and sufficient surety bond or irrevocable letter of credit,
11 executed by the applicant as principal, in the sum of \$5,000.
12 If the applicant is a motor vehicle dealer, ~~a mobile home~~
13 ~~dealer~~, or a recreational vehicle dealer licensed by the
14 department, this requirement shall be waived in lieu of the
15 surety bond required under s. 320.27, ~~s. 320.77~~, or s.
16 320.771. A surety bond or letter of credit is not required if
17 the applicant is a state or local government agency.

18 Section 58. Paragraph (b) of subsection (2) of section
19 627.351, Florida Statutes, 1998 Supplement, is amended to
20 read:

21 627.351 Insurance risk apportionment plans.--

22 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--

23 (b) The department shall require all insurers holding
24 a certificate of authority to transact property insurance on a
25 direct basis in this state, other than joint underwriting
26 associations and other entities formed pursuant to this
27 section, to provide windstorm coverage to applicants from
28 areas determined to be eligible pursuant to paragraph (c) who
29 in good faith are entitled to, but are unable to procure, such
30 coverage through ordinary means; or it shall adopt a
31 reasonable plan or plans for the equitable apportionment or

1 sharing among such insurers of windstorm coverage, which may
2 include formation of an association for this purpose. As used
3 in this subsection, the term "property insurance" means
4 insurance on real or personal property, as defined in s.
5 624.604, including insurance for fire, industrial fire, allied
6 lines, farmowners multiperil, homeowners' multiperil,
7 commercial multiperil, and mobile homes, and including
8 liability coverages on all such insurance, but excluding
9 inland marine as defined in s. 624.607(3) and excluding
10 vehicle insurance as defined in s. 624.605(1)(a) other than
11 insurance on mobile homes used as permanent dwellings. The
12 department shall adopt rules that provide a formula for the
13 recovery and repayment of any deferred assessments.

14 1. For the purpose of this section, properties
15 eligible for such windstorm coverage are defined as dwellings,
16 buildings, and other structures, including mobile homes which
17 are used as dwellings and which are tied down in compliance
18 with mobile home tie-down requirements prescribed by the
19 Division of Factory-built Housing of the Department of
20 Community Affairs ~~Highway Safety and Motor Vehicles~~ pursuant
21 to s. 553.445 ~~320.8325~~, and the contents of all such
22 properties. An applicant or policyholder is eligible for
23 coverage only if an offer of coverage cannot be obtained by or
24 for the applicant or policyholder from an admitted insurer at
25 approved rates.

26 2.a.(I) All insurers required to be members of such
27 association shall participate in its writings, expenses, and
28 losses. Surplus of the association shall be retained for the
29 payment of claims and shall not be distributed to the member
30 insurers. Such participation by member insurers shall be in
31 the proportion that the net direct premiums of each member

1 insurer written for property insurance in this state during
2 the preceding calendar year bear to the aggregate net direct
3 premiums for property insurance of all member insurers, as
4 reduced by any credits for voluntary writings, in this state
5 during the preceding calendar year. For the purposes of this
6 subsection, the term "net direct premiums" means direct
7 written premiums for property insurance, reduced by premium
8 for liability coverage and for the following if included in
9 allied lines: rain and hail on growing crops; livestock;
10 association direct premiums booked; National Flood Insurance
11 Program direct premiums; and similar deductions specifically
12 authorized by the plan of operation and approved by the
13 department. A member's participation shall begin on the first
14 day of the calendar year following the year in which it is
15 issued a certificate of authority to transact property
16 insurance in the state and shall terminate 1 year after the
17 end of the calendar year during which it no longer holds a
18 certificate of authority to transact property insurance in the
19 state. The commissioner, after review of annual statements,
20 other reports, and any other statistics that the commissioner
21 deems necessary, shall certify to the association the
22 aggregate direct premiums written for property insurance in
23 this state by all member insurers.

24 (II) The plan of operation shall provide for a board
25 of directors consisting of the Insurance Consumer Advocate
26 appointed under s. 627.0613, 1 consumer representative
27 appointed by the Insurance Commissioner, 1 consumer
28 representative appointed by the Governor, and 12 additional
29 members appointed as specified in the plan of operation. One
30 of the 12 additional members shall be elected by the domestic
31 companies of this state on the basis of cumulative weighted

1 voting based on the net direct premiums of domestic companies
2 in this state. Nothing in the 1997 amendments to this
3 paragraph terminates the existing board or the terms of any
4 members of the board.

5 (III) The plan of operation shall provide a formula
6 whereby a company voluntarily providing windstorm coverage in
7 affected areas will be relieved wholly or partially from
8 apportionment of a regular assessment pursuant to
9 sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II).

10 (IV) A company which is a member of a group of
11 companies under common management may elect to have its
12 credits applied on a group basis, and any company or group may
13 elect to have its credits applied to any other company or
14 group.

15 (V) There shall be no credits or relief from
16 apportionment to a company for emergency assessments collected
17 from its policyholders under sub-sub-subparagraph d.(III).

18 (VI) The plan of operation may also provide for the
19 award of credits, for a period not to exceed 3 years, from a
20 regular assessment pursuant to sub-sub-subparagraph d.(I) or
21 sub-sub-subparagraph d.(II) as an incentive for taking
22 policies out of the Residential Property and Casualty Joint
23 Underwriting Association. In order to qualify for the
24 exemption under this sub-sub-subparagraph, the take-out plan
25 must provide that at least 40 percent of the policies removed
26 from the Residential Property and Casualty Joint Underwriting
27 Association cover risks located in Dade, Broward, and Palm
28 Beach Counties or at least 30 percent of the policies so
29 removed cover risks located in Dade, Broward, and Palm Beach
30 Counties and an additional 50 percent of the policies so
31 removed cover risks located in other coastal counties, and

1 must also provide that no more than 15 percent of the policies
2 so removed may exclude windstorm coverage. With the approval
3 of the department, the association may waive these geographic
4 criteria for a take-out plan that removes at least the lesser
5 of 100,000 Residential Property and Casualty Joint
6 Underwriting Association policies or 15 percent of the total
7 number of Residential Property and Casualty Joint Underwriting
8 Association policies, provided the governing board of the
9 Residential Property and Casualty Joint Underwriting
10 Association certifies that the take-out plan will materially
11 reduce the Residential Property and Casualty Joint
12 Underwriting Association's 100-year probable maximum loss from
13 hurricanes. With the approval of the department, the board
14 may extend such credits for an additional year if the insurer
15 guarantees an additional year of renewability for all policies
16 removed from the Residential Property and Casualty Joint
17 Underwriting Association, or for 2 additional years if the
18 insurer guarantees 2 additional years of renewability for all
19 policies removed from the Residential Property and Casualty
20 Joint Underwriting Association.

21 b. Assessments to pay deficits in the association
22 under this subparagraph shall be included as an appropriate
23 factor in the making of rates as provided in s. 627.3512.

24 c. The Legislature finds that the potential for
25 unlimited deficit assessments under this subparagraph may
26 induce insurers to attempt to reduce their writings in the
27 voluntary market, and that such actions would worsen the
28 availability problems that the association was created to
29 remedy. It is the intent of the Legislature that insurers
30 remain fully responsible for paying regular assessments and
31 collecting emergency assessments for any deficits of the

1 association; however, it is also the intent of the Legislature
2 to provide a means by which assessment liabilities may be
3 amortized over a period of years.

4 d.(I) When the deficit incurred in a particular
5 calendar year is 10 percent or less of the aggregate statewide
6 direct written premium for property insurance for the prior
7 calendar year for all member insurers, the association shall
8 levy an assessment on member insurers in an amount equal to
9 the deficit.

10 (II) When the deficit incurred in a particular
11 calendar year exceeds 10 percent of the aggregate statewide
12 direct written premium for property insurance for the prior
13 calendar year for all member insurers, the association shall
14 levy an assessment on member insurers in an amount equal to
15 the greater of 10 percent of the deficit or 10 percent of the
16 aggregate statewide direct written premium for property
17 insurance for the prior calendar year for member insurers. Any
18 remaining deficit shall be recovered through emergency
19 assessments under sub-sub-subparagraph (III).

20 (III) Upon a determination by the board of directors
21 that a deficit exceeds the amount that will be recovered
22 through regular assessments on member insurers, pursuant to
23 sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the
24 board shall levy, after verification by the department,
25 emergency assessments to be collected by member insurers and
26 by underwriting associations created pursuant to this section
27 which write property insurance, upon issuance or renewal of
28 property insurance policies other than National Flood
29 Insurance policies in the year or years following levy of the
30 regular assessments. The amount of the emergency assessment
31 collected in a particular year shall be a uniform percentage

1 of that year's direct written premium for property insurance
2 for all member insurers and underwriting associations,
3 excluding National Flood Insurance policy premiums, as
4 annually determined by the board and verified by the
5 department. The department shall verify the arithmetic
6 calculations involved in the board's determination within 30
7 days after receipt of the information on which the
8 determination was based. Notwithstanding any other provision
9 of law, each member insurer and each underwriting association
10 created pursuant to this section shall collect emergency
11 assessments from its policyholders without such obligation
12 being affected by any credit, limitation, exemption, or
13 deferment. The emergency assessments so collected shall be
14 transferred directly to the association on a periodic basis as
15 determined by the association. The aggregate amount of
16 emergency assessments levied under this sub-sub-subparagraph
17 in any calendar year may not exceed the greater of 10 percent
18 of the amount needed to cover the original deficit, plus
19 interest, fees, commissions, required reserves, and other
20 costs associated with financing of the original deficit, or 10
21 percent of the aggregate statewide direct written premium for
22 property insurance written by member insurers and underwriting
23 associations for the prior year, plus interest, fees,
24 commissions, required reserves, and other costs associated
25 with financing the original deficit. The board may pledge the
26 proceeds of the emergency assessments under this
27 sub-sub-subparagraph as the source of revenue for bonds, to
28 retire any other debt incurred as a result of the deficit or
29 events giving rise to the deficit, or in any other way that
30 the board determines will efficiently recover the deficit. The
31 emergency assessments under this sub-sub-subparagraph shall

1 continue as long as any bonds issued or other indebtedness
2 incurred with respect to a deficit for which the assessment
3 was imposed remain outstanding, unless adequate provision has
4 been made for the payment of such bonds or other indebtedness
5 pursuant to the document governing such bonds or other
6 indebtedness. Emergency assessments collected under this
7 sub-sub-subparagraph are not part of an insurer's rates, are
8 not premium, and are not subject to premium tax, fees, or
9 commissions; however, failure to pay the emergency assessment
10 shall be treated as failure to pay premium.

11 (IV) Each member insurer's share of the total regular
12 assessments under sub-sub-subparagraph (I) or
13 sub-sub-subparagraph (II) shall be in the proportion that the
14 insurer's net direct premium for property insurance in this
15 state, for the year preceding the assessment bears to the
16 aggregate statewide net direct premium for property insurance
17 of all member insurers, as reduced by any credits for
18 voluntary writings for that year.

19 (V) If regular deficit assessments are made under
20 sub-sub-subparagraph (I) or sub-sub-subparagraph (II), or by
21 the Residential Property and Casualty Joint Underwriting
22 Association under sub-subparagraph (6)(b)3.a. or
23 sub-subparagraph (6)(b)3.b., the association shall levy upon
24 the association's policyholders, as part of its next rate
25 filing, or by a separate rate filing solely for this purpose,
26 a market equalization surcharge in a percentage equal to the
27 total amount of such regular assessments divided by the
28 aggregate statewide direct written premium for property
29 insurance for member insurers for the prior calendar year.
30 Market equalization surcharges under this sub-sub-subparagraph
31 are not considered premium and are not subject to commissions,

1 fees, or premium taxes; however, failure to pay a market
2 equalization surcharge shall be treated as failure to pay
3 premium.

4 e. The governing body of any unit of local government,
5 any residents of which are insured under the plan, may issue
6 bonds as defined in s. 125.013 or s. 166.101 to fund an
7 assistance program, in conjunction with the association, for
8 the purpose of defraying deficits of the association. In order
9 to avoid needless and indiscriminate proliferation,
10 duplication, and fragmentation of such assistance programs,
11 any unit of local government, any residents of which are
12 insured by the association, may provide for the payment of
13 losses, regardless of whether or not the losses occurred
14 within or outside of the territorial jurisdiction of the local
15 government. Revenue bonds may not be issued until validated
16 pursuant to chapter 75, unless a state of emergency is
17 declared by executive order or proclamation of the Governor
18 pursuant to s. 252.36 making such findings as are necessary to
19 determine that it is in the best interests of, and necessary
20 for, the protection of the public health, safety, and general
21 welfare of residents of this state and the protection and
22 preservation of the economic stability of insurers operating
23 in this state, and declaring it an essential public purpose to
24 permit certain municipalities or counties to issue bonds as
25 will provide relief to claimants and policyholders of the
26 association and insurers responsible for apportionment of plan
27 losses. Any such unit of local government may enter into such
28 contracts with the association and with any other entity
29 created pursuant to this subsection as are necessary to carry
30 out this paragraph. Any bonds issued under this
31 sub-subparagraph shall be payable from and secured by moneys

1 received by the association from assessments under this
2 subparagraph, and assigned and pledged to or on behalf of the
3 unit of local government for the benefit of the holders of
4 such bonds. The funds, credit, property, and taxing power of
5 the state or of the unit of local government shall not be
6 pledged for the payment of such bonds. If any of the bonds
7 remain unsold 60 days after issuance, the department shall
8 require all insurers subject to assessment to purchase the
9 bonds, which shall be treated as admitted assets; each insurer
10 shall be required to purchase that percentage of the unsold
11 portion of the bond issue that equals the insurer's relative
12 share of assessment liability under this subsection. An
13 insurer shall not be required to purchase the bonds to the
14 extent that the department determines that the purchase would
15 endanger or impair the solvency of the insurer. The authority
16 granted by this sub-subparagraph is additional to any bonding
17 authority granted by subparagraph 6.

18 3. The plan shall also provide that any member with a
19 surplus as to policyholders of \$20 million or less writing 25
20 percent or more of its total countrywide property insurance
21 premiums in this state may petition the department, within the
22 first 90 days of each calendar year, to qualify as a limited
23 apportionment company. The apportionment of such a member
24 company in any calendar year for which it is qualified shall
25 not exceed its gross participation, which shall not be
26 affected by the formula for voluntary writings. In no event
27 shall a limited apportionment company be required to
28 participate in any apportionment of losses pursuant to
29 sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II)
30 in the aggregate which exceeds \$50 million after payment of
31 available plan funds in any calendar year. However, a limited

1 apportionment company shall collect from its policyholders any
2 emergency assessment imposed under sub-sub-subparagraph
3 2.d.(III). The plan shall provide that, if the department
4 determines that any regular assessment will result in an
5 impairment of the surplus of a limited apportionment company,
6 the department may direct that all or part of such assessment
7 be deferred. However, there shall be no limitation or
8 deferment of an emergency assessment to be collected from
9 policyholders under sub-sub-subparagraph 2.d.(III).

10 4. The plan shall provide for the deferment, in whole
11 or in part, of a regular assessment of a member insurer under
12 sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II),
13 but not for an emergency assessment collected from
14 policyholders under sub-sub-subparagraph 2.d.(III), if, in the
15 opinion of the commissioner, payment of such regular
16 assessment would endanger or impair the solvency of the member
17 insurer. In the event a regular assessment against a member
18 insurer is deferred in whole or in part, the amount by which
19 such assessment is deferred may be assessed against the other
20 member insurers in a manner consistent with the basis for
21 assessments set forth in sub-sub-subparagraph 2.d.(I) or
22 sub-sub-subparagraph 2.d.(II).

23 5.a. The plan of operation may include deductibles and
24 rules for classification of risks and rate modifications
25 consistent with the objective of providing and maintaining
26 funds sufficient to pay catastrophe losses.

27 b. The association may require arbitration of a rate
28 filing under s. 627.062(6). It is the intent of the
29 Legislature that the rates for coverage provided by the
30 association be actuarially sound and not competitive with
31 approved rates charged in the admitted voluntary market such

1 that the association functions as a residual market mechanism
2 to provide insurance only when the insurance cannot be
3 procured in the voluntary market. The plan of operation shall
4 provide a mechanism to assure that, beginning no later than
5 January 1, 1999, the rates charged by the association for each
6 line of business are reflective of approved rates in the
7 voluntary market for hurricane coverage for each line of
8 business in the various areas eligible for association
9 coverage.

10 c. The association shall provide for windstorm
11 coverage on residential properties in limits up to \$10 million
12 for commercial lines residential risks and up to \$1 million
13 for personal lines residential risks. If coverage with the
14 association is sought for a residential risk valued in excess
15 of these limits, coverage shall be available to the risk up to
16 the replacement cost or actual cash value of the property, at
17 the option of the insured, if coverage for the risk cannot be
18 located in the authorized market. The association must accept
19 a commercial lines residential risk with limits above \$10
20 million or a personal lines residential risk with limits above
21 \$1 million if coverage is not available in the authorized
22 market. The association may write coverage above the limits
23 specified in this subparagraph with or without facultative or
24 other reinsurance coverage, as the association determines
25 appropriate.

26 d. The plan of operation must provide objective
27 criteria and procedures, approved by the department, to be
28 uniformly applied for all applicants in determining whether an
29 individual risk is so hazardous as to be uninsurable. In
30 making this determination and in establishing the criteria and
31 procedures, the following shall be considered:

1 (I) Whether the likelihood of a loss for the
2 individual risk is substantially higher than for other risks
3 of the same class; and

4 (II) Whether the uncertainty associated with the
5 individual risk is such that an appropriate premium cannot be
6 determined.

7
8 The acceptance or rejection of a risk by the association
9 pursuant to such criteria and procedures must be construed as
10 the private placement of insurance, and the provisions of
11 chapter 120 do not apply.

12 e. The policies issued by the association must provide
13 that if the association obtains an offer from an authorized
14 insurer to cover the risk at its approved rates under either a
15 standard policy including wind coverage or, if consistent with
16 the insurer's underwriting rules as filed with the department,
17 a basic policy including wind coverage, the risk is no longer
18 eligible for coverage through the association. Upon
19 termination of eligibility, the association shall provide
20 written notice to the policyholder and agent of record stating
21 that the association policy must be canceled as of 60 days
22 after the date of the notice because of the offer of coverage
23 from an authorized insurer. Other provisions of the insurance
24 code relating to cancellation and notice of cancellation do
25 not apply to actions under this sub-subparagraph.

26 f. Association policies and applications must include
27 a notice that the association policy could, under this
28 section, be replaced with a policy issued by an authorized
29 insurer that does not provide coverage identical to the
30 coverage provided by the association. The notice shall also
31 specify that acceptance of association coverage creates a

1 conclusive presumption that the applicant or policyholder is
2 aware of this potential.

3 6.a. The plan of operation may authorize the formation
4 of a private nonprofit corporation, a private nonprofit
5 unincorporated association, a partnership, a trust, a limited
6 liability company, or a nonprofit mutual company which may be
7 empowered, among other things, to borrow money by issuing
8 bonds or by incurring other indebtedness and to accumulate
9 reserves or funds to be used for the payment of insured
10 catastrophe losses. The plan may authorize all actions
11 necessary to facilitate the issuance of bonds, including the
12 pledging of assessments or other revenues.

13 b. Any entity created under this subsection, or any
14 entity formed for the purposes of this subsection, may sue and
15 be sued, may borrow money; issue bonds, notes, or debt
16 instruments; pledge or sell assessments, market equalization
17 surcharges and other surcharges, rights, premiums, contractual
18 rights, projected recoveries from the Florida Hurricane
19 Catastrophe Fund, other reinsurance recoverables, and other
20 assets as security for such bonds, notes, or debt instruments;
21 enter into any contracts or agreements necessary or proper to
22 accomplish such borrowings; and take other actions necessary
23 to carry out the purposes of this subsection. The association
24 may issue bonds or incur other indebtedness, or have bonds
25 issued on its behalf by a unit of local government pursuant to
26 subparagraph (g)2., in the absence of a hurricane or other
27 weather-related event, upon a determination by the association
28 subject to approval by the department that such action would
29 enable it to efficiently meet the financial obligations of the
30 association and that such financings are reasonably necessary
31 to effectuate the requirements of this subsection. Any such

1 entity may accumulate reserves and retain surpluses as of the
2 end of any association year to provide for the payment of
3 losses incurred by the association during that year or any
4 future year. The association shall incorporate and continue
5 the plan of operation and articles of agreement in effect on
6 the effective date of chapter 76-96, Laws of Florida, to the
7 extent that it is not inconsistent with chapter 76-96, and as
8 subsequently modified consistent with chapter 76-96. The board
9 of directors and officers currently serving shall continue to
10 serve until their successors are duly qualified as provided
11 under the plan. The assets and obligations of the plan in
12 effect immediately prior to the effective date of chapter
13 76-96 shall be construed to be the assets and obligations of
14 the successor plan created herein.

15 c. In recognition of s. 10, Art. I of the State
16 Constitution, prohibiting the impairment of obligations of
17 contracts, it is the intent of the Legislature that no action
18 be taken whose purpose is to impair any bond indenture or
19 financing agreement or any revenue source committed by
20 contract to such bond or other indebtedness issued or incurred
21 by the association or any other entity created under this
22 subsection.

23 7. On such coverage, an agent's remuneration shall be
24 that amount of money payable to the agent by the terms of his
25 or her contract with the company with which the business is
26 placed. However, no commission will be paid on that portion of
27 the premium which is in excess of the standard premium of that
28 company.

29 8. Subject to approval by the department, the
30 association may establish different eligibility requirements
31 and operational procedures for any line or type of coverage

1 for any specified eligible area or portion of an eligible area
2 if the board determines that such changes to the eligibility
3 requirements and operational procedures are justified due to
4 the voluntary market being sufficiently stable and competitive
5 in such area or for such line or type of coverage and that
6 consumers who, in good faith, are unable to obtain insurance
7 through the voluntary market through ordinary methods would
8 continue to have access to coverage from the association. When
9 coverage is sought in connection with a real property
10 transfer, such requirements and procedures shall not provide
11 for an effective date of coverage later than the date of the
12 closing of the transfer as established by the transferor, the
13 transferee, and, if applicable, the lender.

14 9. Notwithstanding any other provision of law:

15 a. The pledge or sale of, the lien upon, and the
16 security interest in any rights, revenues, or other assets of
17 the association created or purported to be created pursuant to
18 any financing documents to secure any bonds or other
19 indebtedness of the association shall be and remain valid and
20 enforceable, notwithstanding the commencement of and during
21 the continuation of, and after, any rehabilitation,
22 insolvency, liquidation, bankruptcy, receivership,
23 conservatorship, reorganization, or similar proceeding against
24 the association under the laws of this state or any other
25 applicable laws.

26 b. No such proceeding shall relieve the association of
27 its obligation, or otherwise affect its ability to perform its
28 obligation, to continue to collect, or levy and collect,
29 assessments, market equalization or other surcharges,
30 projected recoveries from the Florida Hurricane Catastrophe
31

1 Fund, reinsurance recoverables, or any other rights, revenues,
2 or other assets of the association pledged.

3 c. Each such pledge or sale of, lien upon, and
4 security interest in, including the priority of such pledge,
5 lien, or security interest, any such assessments, emergency
6 assessments, market equalization or renewal surcharges,
7 projected recoveries from the Florida Hurricane Catastrophe
8 Fund, reinsurance recoverables, or other rights, revenues, or
9 other assets which are collected, or levied and collected,
10 after the commencement of and during the pendency of or after
11 any such proceeding shall continue unaffected by such
12 proceeding.

13 d. As used in this subsection, the term "financing
14 documents" means any agreement, instrument, or other document
15 now existing or hereafter created evidencing any bonds or
16 other indebtedness of the association or pursuant to which any
17 such bonds or other indebtedness has been or may be issued and
18 pursuant to which any rights, revenues, or other assets of the
19 association are pledged or sold to secure the repayment of
20 such bonds or indebtedness, together with the payment of
21 interest on such bonds or such indebtedness, or the payment of
22 any other obligation of the association related to such bonds
23 or indebtedness.

24 e. Any such pledge or sale of assessments, revenues,
25 contract rights or other rights or assets of the association
26 shall constitute a lien and security interest, or sale, as the
27 case may be, that is immediately effective and attaches to
28 such assessments, revenues, contract, or other rights or
29 assets, whether or not imposed or collected at the time the
30 pledge or sale is made. Any such pledge or sale is effective,
31 valid, binding, and enforceable against the association or

1 other entity making such pledge or sale, and valid and binding
2 against and superior to any competing claims or obligations
3 owed to any other person or entity, including policyholders in
4 this state, asserting rights in any such assessments,
5 revenues, contract, or other rights or assets to the extent
6 set forth in and in accordance with the terms of the pledge or
7 sale contained in the applicable financing documents, whether
8 or not any such person or entity has notice of such pledge or
9 sale and without the need for any physical delivery,
10 recordation, filing, or other action.

11 f. There shall be no liability on the part of, and no
12 cause of action of any nature shall arise against, any member
13 insurer or its agents or employees, agents or employees of the
14 association, members of the board of directors of the
15 association, or the department or its representatives, for any
16 action taken by them in the performance of their duties or
17 responsibilities under this subsection. Such immunity does not
18 apply to actions for breach of any contract or agreement
19 pertaining to insurance, or any willful tort.

20 Section 59. Subsections (1) and (5) of section
21 627.702, Florida Statutes, are amended to read:

22 627.702 Valued policy law.--

23 (1) In the event of the total loss of any building,
24 structure, mobile home as defined in s. 320.01(2), or
25 manufactured building as defined in s. 553.36(12)~~(11)~~, located
26 in this state and insured by any insurer as to a covered
27 peril, in the absence of any change increasing the risk
28 without the insurer's consent and in the absence of fraudulent
29 or criminal fault on the part of the insured or one acting in
30 her or his behalf, the insurer's liability, if any, under the
31 policy for such total loss shall be in the amount of money for

1 which such property was so insured as specified in the policy
2 and for which a premium has been charged and paid.

3 (5) This section does not apply as to personal
4 property or any interest therein, except with respect to
5 mobile homes as defined in s. 320.01(2) or manufactured
6 buildings as defined in s. 553.36(12)~~(11)~~. Nor does this
7 section apply to coverage of an appurtenant structure or other
8 structure or any coverage or claim in which the dollar amount
9 of coverage available as to the structure involved is not
10 directly stated in the policy as a dollar amount specifically
11 applicable to that particular structure.

12 Section 60. This act shall take effect January 1,
13 2000.

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16 LEGISLATIVE SUMMARY

17 Creates the Division of Factory-built Housing in the
18 Department of Community Affairs and provides a mission
19 statement for the department. Provides for the transfer
20 of the mobile home portion of the Mobile Home and
21 Recreational Vehicle Protection Trust Fund into the
22 department's operating trust fund for described purposes.
23 Transfers the portion of the Highway Safety Operating
Trust Fund relating to mobile homes into the department's
operating trust fund for described purposes. Provides for
the responsibility of the Division of Factory-built
Housing to administer part IV of chapter 553, F.S. (See
bill for details.)

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