

By the Committee on Comprehensive Planning, Local and Military Affairs; and Senators Cowin and Latvala

316-1800-99

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 definitions; amending s.
27 553.38, F.S.; providing responsibility of the
28 Division of Factory-built Housing to enforce
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.

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

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

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

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. The department shall also be the agency
8 responsible for the installation of mobile homes, park
9 trailers, and manufactured buildings to such an extent that
10 residents of this state are as safe as possible with respect
11 to destructive weather.

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

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

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1 transferred to the Division of Factory-built Housing of the
2 Department of Community Affairs.

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

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

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

26 Section 5. Section 320.781, Florida Statutes, is
27 amended to read:

28 320.781 ~~Mobile Home and~~ Recreational Vehicle
29 Protection Trust Fund.--

30 (1) There is hereby established a ~~Mobile Home and~~
31 Recreational Vehicle Protection Trust Fund. The trust fund

1 shall be administered and managed by the Department of Highway
2 Safety and Motor Vehicles. The expenses incurred by the
3 department in administering this section shall be paid only
4 from appropriations made from the trust fund.

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

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

27 (4) The trust fund shall not be liable for any
28 judgment, or part thereof, resulting from any tort claim
29 except as expressly provided in subsection (3), nor for any
30 punitive, exemplary, double, or treble damages. A person, the
31 state, or any political subdivision thereof may recover

1 against the ~~mobile home~~ or recreational vehicle dealer,
2 broker, or surety, jointly and severally, for such damages,
3 restitution, or expenses; provided, however, that in no event
4 shall the trust fund or the surety be liable for an amount in
5 excess of actual damages, restitution, or expenses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 4. Such other information as the department requires.

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

24 (7) Within 90 days after receipt of the application
25 and verified claim, the department shall issue its
26 determination on the claim. Such determination shall not be
27 subject to the provisions of chapter 120, but shall be
28 reviewable only by writ of certiorari in the circuit court in
29 the county in which the claimant resides in the manner and
30 within the time provided by the Florida Rules of Appellate
31 Procedure. The claim must be paid within 45 days after the

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

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

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

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

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

7 Section 6. Section 553.36, Florida Statutes, is
8 amended to read:

9 553.36 Definitions.--The definitions contained in this
10 section govern the construction of this part unless the
11 context otherwise requires.

12 (1) "Approved" means conforming to the requirements of
13 the Department of Community Affairs.

14 (2) "Approved inspection agency" means an organization
15 determined by the department to be especially qualified by
16 reason of facilities, personnel, experience, and demonstrated
17 reliability to investigate, test, and evaluate manufactured
18 building units or systems or the component parts thereof,
19 together with the plans, specifications, and quality control
20 procedures to ensure that such units, systems, or component
21 parts are in full compliance with the standards adopted by the
22 department pursuant to this part and to label such units
23 complying with those standards.

24 (3) "Closed construction" means that condition when
25 any building, component, assembly, subassembly, or system is
26 manufactured in such a manner that all portions cannot be
27 readily inspected at the installation site without disassembly
28 or destruction thereof.

29 (4) "Open construction" means any building, building
30 component, assembly, or system manufactured in such a manner
31 that all portions can be readily inspected at the building

1 site without disassembly thereof, damage thereto, or
2 destruction thereof.

3 (5) "Component" means any assembly, subassembly, or
4 combination of parts for use as a part of a building, which
5 may include structural, electrical, mechanical, and fire
6 protection systems and other systems affecting health and
7 safety.

8 (6) "Department" means the Department of Community
9 Affairs.

10 (7) "Division" means the Division of Factory-built
11 Housing of the department.

12 (8)~~(7)~~ "Insignia" means an approved device or seal
13 issued by the department to indicate compliance with the
14 standards and rules established pursuant to this part.

15 (9)~~(8)~~ "Install" means the assembly of a manufactured
16 building component or system on site and the process of
17 affixing a manufactured building component or system to land,
18 a foundation, or an existing building, and service connections
19 which are a part thereof.

20 (10)~~(9)~~ "Local government" means any municipality,
21 county, district, or combination thereof comprising a
22 governmental unit.

23 (11)~~(10)~~ "Manufacture" means the process of making,
24 fabricating, constructing, forming, or assembling a product
25 from raw, unfinished, semifinished, or finished materials.

26 (12)~~(11)~~ "Manufactured building" means a closed
27 structure, building assembly, or system of subassemblies,
28 which may include structural, electrical, plumbing, heating,
29 ventilating, or other service systems manufactured in
30 manufacturing facilities for installation or erection, with or
31 without other specified components, as a finished building or

1 as part of a finished building, which shall include, but not
2 be limited to, residential, commercial, institutional,
3 storage, and industrial structures. This part does not apply
4 to mobile homes. Manufactured building may also mean, at the
5 option of the manufacturer, any building of open construction
6 made or assembled in manufacturing facilities away from the
7 building site for installation, or assembly and installation,
8 on the building site.

9 (13)(a) "Mobile home" means a structure, transportable
10 in one or more sections, which is 8 body feet or more in width
11 and which is built on an integral chassis and designed to be
12 used as a dwelling when connected to the required utilities,
13 and includes the plumbing, heating, air-conditioning, and
14 electrical systems contained therein. For tax purposes, the
15 length of a mobile home is the distance from the exterior of
16 the wall nearest to the drawbar and coupling mechanism to the
17 exterior of the wall at the opposite end of the home where
18 such walls enclose living or other interior space. Such
19 distance includes expandable rooms, but excludes bay windows,
20 porches, drawbars, couplings, hitches, wall and roof
21 extensions, or other attachments that do not enclose interior
22 space. If the mobile home owner has no proof of the length of
23 the drawbar, coupling, or hitch, the tax collector may, in his
24 or her discretion, inspect the home to determine the actual
25 length or assume 4 feet to be the length of the drawbar,
26 coupling, or hitch.

27 (b) "Manufactured home" means a structure,
28 transportable in one or more sections, which, in the traveling
29 mode, is 8 body feet or more in width or 40 body feet or more
30 in length or, when erected on site, is 320 or more square
31 feet, and which is built on a permanent chassis and designed

1 to be used as a dwelling with or without a permanent
2 foundation when connected to the required utilities, and
3 includes the plumbing, heating, air-conditioning, and
4 electrical systems contained therein. Calculations used to
5 determine the number of square feet in a structure will be
6 based on the structure's exterior dimensions, measured at the
7 largest horizontal projections when erected on site. These
8 dimensions will include all expandable rooms, cabinets, and
9 other projections containing interior space, but do not
10 include bay windows. This term includes all structures that
11 meet these requirements, except for the size requirements and
12 with respect to which the manufacturer voluntarily files a
13 certification pursuant to s. 3282.13 and complies with the
14 standards set forth in Part 3280. Nothing in this subsection
15 should be interpreted to mean that a "manufactured home"
16 necessarily meets the requirements of HUD's Minimum Property
17 Standards (HUD Handbook 4900.1) or that it is automatically
18 eligible for financing under 12 U.S.C. s. 1709(b).

19 (14) "Park trailer," means a transportable unit that
20 has a body width not exceeding 14 feet and that is built on a
21 single chassis and is designed to provide seasonal or
22 temporary living quarters when connected to utilities
23 necessary for operation of installed fixtures and appliances.
24 The total area of the unit in a setup mode, when measured from
25 the exterior surface of the exterior stud walls at the level
26 of maximum dimensions, not including any bay window, does not
27 exceed 400 square feet when constructed to ANSI A-119.5
28 standards, and 500 square feet when constructed to United
29 States Department of Housing and Urban Development Standards.
30 The length of a park trailer means the distance from the
31 exterior of the front of the body (nearest to the drawbar and

1 coupling mechanism) to the exterior of the rear of the body
2 (at the opposite end of the body), including any protrusions.

3 ~~(12) "Mobile home" means any residential unit~~
4 ~~constructed to standards promulgated by the United States~~
5 ~~Department of Housing and Urban Development.~~

6 (15)~~(13)~~ "Site" is the location on which a
7 manufactured building is installed or is to be installed.

8 (16)~~(14)~~ "System" means structural, plumbing,
9 mechanical, heating, electrical, or ventilating elements,
10 materials, or components combined for use in a building.

11 Section 7. Section 553.38, Florida Statutes, is
12 amended to read:

13 553.38 Application and scope.--

14 (1) The department, through the division, shall adopt
15 ~~promulgate~~ rules which protect the health, safety, and
16 property of the people of this state by assuring that each
17 manufactured building is structurally sound and properly
18 installed on site and that plumbing, heating, electrical, and
19 other systems thereof are reasonably safe, and which interpret
20 and make specific the provisions of this part.

21 (2) The division ~~department~~ shall enforce every
22 provision of this part and the rules adopted pursuant hereto,
23 except that local land use and zoning requirements, fire
24 zones, building setback requirements, side and rear yard
25 requirements, site development requirements, property line
26 requirements, subdivision control, and onsite installation
27 requirements, as well as the review and regulation of
28 architectural and aesthetic requirements, are specifically and
29 entirely reserved to local authorities. Such local
30 requirements and rules which may be enacted by local
31 authorities must be reasonable and uniformly applied and

1 enforced without any distinction as to whether a building is a
2 conventionally constructed or manufactured building. A local
3 government shall require permit fees only for those
4 inspections actually performed by the local government for the
5 installation of a factory-built structure. Such fees shall be
6 equal to the amount charged for similar inspections on
7 conventionally built housing.

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

10 553.431 Nonresident mobile home dealer's license.--

11 (1) Any person who is a nonresident of the state, who
12 does not have a dealer's contract from the manufacturer or
13 manufacturer's distributor of mobile homes authorizing the
14 sale thereof in definite Florida territory, and who sells or
15 engages in the business of selling said vehicles at retail
16 within the state shall register with the Department of Revenue
17 for a sales tax dealer registration number and comply with
18 chapter 212, and pay a license tax of \$2,000 per annum in each
19 county where such sales are made; \$1,250 of said tax shall be
20 transmitted to the Department of Banking and Finance to be
21 deposited in the department's Operating Trust Fund of the
22 state, and \$750 thereof shall be returned to the county. The
23 license tax shall cover the period from January 1 to the
24 following December 31, and no such license shall be issued for
25 any fractional part of a year.

26 (2) The acceptance by any person of a license under
27 this section shall be deemed equivalent to an appointment by
28 such person of the Secretary of State as the agent of such
29 person upon whom may be served all lawful process in any
30 action, suit, or proceeding against such person arising out of
31 any transaction or operation connected with or incidental to

1 any activities of such person carried on under such license,
2 and the acceptance of such license shall be signification of
3 the agreement of such person that any process against the
4 person which is so served shall be of the same legal force and
5 validity as if served personally on him or her. Service of
6 such process shall be in accordance with and in the same
7 manner as now provided for service of process upon
8 nonresidents under the provisions of chapter 48.

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

11 553.4315 Nonresident dealers in secondhand mobile
12 homes.--Every dealer in used or secondhand mobile homes who is
13 a nonresident of the state, does not have a permanent place of
14 business in this state, and has not qualified as a dealer
15 under the provisions of s. 553.432, and any person other than
16 a dealer qualified under the provisions of s. 553.432, who
17 brings any used or secondhand mobile home into the state for
18 the purpose of sale, except to a dealer licensed under the
19 provisions of s. 553.432, shall, at least 10 days prior to the
20 sale of said mobile home, the offering of said mobile home for
21 sale, or the advertising of said mobile home for sale, make
22 and file with the division the official application for a
23 certificate of title for said mobile home as provided by law.
24 Any person who has had one or more transactions involving the
25 sale of three or more used or secondhand mobile homes in this
26 state during any 12-month period shall be deemed to be a
27 secondhand dealer in mobile homes.

28 Section 10. Section 320.77, Florida Statutes, is
29 transferred and renumbered as section 553.432, Florida
30 Statutes, and is amended to read:

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1 553.432 ~~320.77~~ License required of mobile home
2 dealers.--
3 (1) DEFINITIONS.--As used in this section:
4 (a) "Dealer" means any person engaged in the business
5 of buying, selling, or dealing in mobile homes or offering or
6 displaying mobile homes for sale. The term "dealer" includes
7 a mobile home broker. Any person who buys, sells, deals in, or
8 offers or displays for sale, or who acts as the agent for the
9 sale of, one or more mobile homes in any 12-month period shall
10 be prima facie presumed to be a dealer. The terms "selling"
11 and "sale" include lease-purchase transactions. The term
12 "dealer" does not include banks, credit unions, and finance
13 companies that acquire mobile homes as an incident to their
14 regular business and does not include mobile home rental and
15 leasing companies that sell mobile homes to dealers licensed
16 under this section. ~~A licensed dealer may transact business in~~
17 ~~recreational vehicles with a motor vehicle auction as defined~~
18 ~~in s. 320.27(1)(c)4.~~ Any licensed dealer dealing exclusively
19 in mobile homes shall not have benefit of the privilege of
20 using dealer license plates.
21 (b) "Mobile home broker" means any person who is
22 engaged in the business of offering to procure or procuring
23 used mobile homes for the general public; who holds himself or
24 herself out through solicitation, advertisement, or otherwise
25 as one who offers to procure or procures used mobile homes for
26 the general public; or who acts as the agent or intermediary
27 on behalf of the owner or seller of a used mobile home which
28 is for sale or who assists or represents the seller in finding
29 a buyer for the mobile home.
30 (2) LICENSE REQUIRED.--No person shall engage in
31 business as, or serve in the capacity of, a dealer in this

1 state unless such person possesses a valid, current license as
2 provided in this section.

3 (3) APPLICATION.--The application for such license
4 shall be in the form prescribed by the division ~~department~~ and
5 subject to such rules as may be prescribed by it. The
6 application shall be verified by oath or affirmation and shall
7 contain:

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

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

13 (c) The names and places of residence of the principal
14 officers, if the applicant is a body corporate or other
15 artificial body.

16 (d) The name of the state under whose laws the
17 corporation is organized.

18 (e) The former place or places of residence of the
19 applicant.

20 (f) The prior businesses in which the applicant has
21 been engaged, the dates during which the applicant was engaged
22 in such businesses, and the locations thereof.

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

27 (h) Certification by the applicant that the location
28 is a permanent one, not a tent or a temporary stand or other
29 temporary quarters; and, except in the case of a mobile home
30 broker, that the location affords sufficient unoccupied space
31 to store all mobile homes offered and displayed for sale; and

1 that the location is a suitable place in which the applicant
2 can in good faith carry on business and keep and maintain
3 books, records, and files necessary to conduct such business,
4 which will be available at all reasonable hours to inspection
5 by the department or any of its inspectors or other employees.
6 This subsection shall not preclude a licensed mobile home
7 dealer from displaying and offering for sale mobile homes in a
8 mobile home park.

9 (i) Certification by the applicant that the business
10 of a mobile home dealer is the principal business which shall
11 be conducted at that location; however, this provision shall
12 not apply to mobile home park operators licensed as mobile
13 home dealers.

14 (j) Such other relevant information as may be required
15 by the division ~~department~~. Each applicant, general partner in
16 the case of a partnership, or corporate officer and director
17 in the case of a corporate applicant, must file a set of
18 fingerprints with the division ~~department~~ for the purpose of
19 determining any prior criminal record or any outstanding
20 warrants. The division ~~department~~ shall submit the
21 fingerprinting to the Department of Law Enforcement for state
22 processing and forwarding to the Federal Bureau of
23 Investigation for federal processing. The actual cost of such
24 state and federal processing shall be borne by the applicant
25 and is to be in addition to the fee for licensure. The
26 division ~~department~~ may issue a license to an applicant
27 pending the results of the fingerprint investigation, which
28 license is fully revocable if the division ~~department~~
29 subsequently determines that any facts set forth in the
30 application are not true or correctly represented.

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1 The division ~~department~~ shall, if it deems necessary, cause an
2 investigation to be made to ascertain if the facts set forth
3 in the application are true and shall not issue a license to
4 the applicant until it is satisfied that the facts set forth
5 in the application are true.

6 (4) FEES.--Upon making initial application, the
7 applicant shall pay to the division ~~department~~ a fee of \$300
8 in addition to any other fees now required by law. The fee
9 for renewal application shall be \$100. The fee for
10 application for change of location shall be \$25. Any
11 applicant for renewal who has failed to submit his or her
12 renewal application by October 1 shall pay a renewal
13 application fee equal to the original application fee. No fee
14 is refundable. All fees shall be deposited into the
15 department's Operating Trust ~~General Revenue~~ Fund.

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

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

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

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

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

27 (e) The division ~~department~~ has proof of unfitness of
28 the applicant.

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

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

6
7 Upon denial of a license, the division ~~department~~ shall notify
8 the applicant within 10 days, stating in writing its grounds
9 for denial. The applicant is entitled to a public hearing and
10 may request that such hearing be held within 45 days of denial
11 of the license. All proceedings shall be pursuant to chapter
12 120.

13 (6) LICENSE CERTIFICATE.--A license certificate shall
14 be issued by the division ~~department~~ in accordance with the
15 application when the same is regular in form and in compliance
16 with the provisions of this section. The license certificate
17 may be in the form of a document or a computerized card as
18 determined by the division ~~department~~. The cost of each
19 original, additional, or replacement computerized card shall
20 be borne by the licensee and is in addition to the fee for
21 licensure. The fees charged applicants for both the required
22 background investigation and the computerized card as provided
23 in this section shall be deposited into the department's
24 ~~Highway Safety~~ Operating Trust Fund. The license, when so
25 issued, shall entitle the licensee to carry on and conduct the
26 business of a mobile home dealer at the location set forth in
27 the license for a period of 1 year from October 1 preceding
28 the date of issuance. Each initial application received by the
29 division ~~department~~ shall be accompanied by verification that,
30 within the preceding 6 months, the applicant or one or more of
31 his or her designated employees has attended a training and

1 information seminar conducted by the division ~~department~~ or by
2 a public or private provider approved by the division
3 ~~department~~. Such seminar shall include, but not be limited to,
4 statutory dealer requirements, which requirements include
5 required bookkeeping and recording procedures, requirements
6 for the collection of sales and use taxes, and such other
7 information that in the opinion of the division ~~department~~
8 will promote good business practices.

9 (7) SUPPLEMENTAL LICENSE.--Any person licensed
10 pursuant to this section shall be entitled to operate one or
11 more additional places of business under a supplemental
12 license for each such business if the ownership of each
13 business is identical to that of the principal business for
14 which the original license is issued. Each supplemental
15 license shall run concurrently with the original license and
16 shall be issued upon application by the licensee on a form to
17 be furnished by the division ~~department~~ and payment of a fee
18 of \$50 for each such license. Only one licensed dealer shall
19 operate at the same place of business. A supplemental license
20 authorizing off-premises sales shall be issued, at no charge
21 to the dealer, for a period not to exceed 10 consecutive
22 calendar days.

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

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

28 (b) The description of each such mobile home,
29 including the identification or serial number and such other
30 numbers or identification marks as may be thereon, and a
31

1 statement that a number has been obliterated, defaced, or
2 changed, if such fact is apparent; and

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

7 (9) EVIDENCE OF TITLE REQUIRED.--The licensee shall
8 also have in his or her possession for each new mobile home a
9 manufacturer's invoice or statement of origin, and for each
10 used mobile home a properly assigned certificate of title or
11 registration certificate if the used mobile home was
12 previously registered in a nontitle state, from the time the
13 mobile home is delivered to the licensee until it has been
14 disposed of by him or her.

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

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

23 (12) INJUNCTION.--In addition to the remedies provided
24 in this chapter, and notwithstanding the existence of any
25 adequate remedy at law, the division ~~department~~ is authorized
26 to make application to any circuit court of the state, and the
27 circuit court shall have jurisdiction, upon a hearing and for
28 cause shown, to grant a temporary or permanent injunction
29 restraining any person from acting as a mobile home dealer
30 under the terms of this section who is not properly licensed
31 or who violates or fails or refuses to comply with any of the

1 provisions of ~~chapter 319~~ and this part ~~chapter~~ or any rule or
2 regulation adopted thereunder. Such injunction shall be issued
3 without bond. A single act in violation of the provisions of
4 ~~chapter 319~~ or this part ~~chapter~~ shall be sufficient to
5 authorize the issuance of an injunction.

6 (13) SUSPENSION OR REVOCATION.--The division
7 ~~department~~ shall, as it deems necessary, either suspend or
8 revoke any license issued hereunder upon a finding that the
9 licensee violated any provision of this section or of any
10 other law of this state having to do with dealing in mobile
11 homes or perpetrated a fraud upon any person as a result of
12 such dealing in mobile homes.

13 (14) ADMINISTRATIVE FINES.--In addition to the
14 exercise of other powers provided in this section, the
15 division ~~department~~ is authorized to assess, impose, levy, and
16 collect by legal process fines, in an amount not to exceed
17 \$1,000 for each violation, against any licensee if it finds
18 that a licensee has violated any provision of this section or
19 has violated any other law of this state having to do with
20 dealing in mobile homes ~~motor vehicles~~. Any licensee shall be
21 entitled to a hearing pursuant to chapter 120 should the
22 licensee wish to contest the fine levied, or about to be
23 levied, upon him or her.

24 (15) BOND.--

25 (a) Before any license shall be issued or renewed, the
26 applicant shall deliver to the division ~~department~~ a good and
27 sufficient surety bond, executed by the applicant as principal
28 and by a surety company qualified to do business in the state
29 as surety. The bond shall be in a form to be approved by the
30 division ~~department~~ and shall be conditioned upon the dealer's
31 complying with the conditions of any written contract made by

1 the dealer in connection with the sale, exchange, or
2 improvement of any mobile home and his or her not violating
3 any of the provisions of ~~chapter 319~~ or this part ~~chapter~~ in
4 the conduct of the business for which the dealer is licensed.
5 The bond shall be to the division ~~department~~ and in favor of
6 any retail customer who shall suffer any loss as a result of
7 any violation of the conditions hereinabove contained. The
8 bond shall be for the license period, and a new bond or a
9 proper continuation certificate shall be delivered to the
10 division ~~department~~ at the beginning of each license period.
11 However, the aggregate liability of the surety in any one
12 license year shall in no event exceed the sum of such bond.
13 The amount of the bond required shall be as follows:

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

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

20
21 ~~For the purposes of this paragraph, any person who buys,~~
22 ~~sells, or deals in both mobile homes and recreational vehicles~~
23 ~~shall provide the same surety bond required of dealers who~~
24 ~~buy, sell, or deal in mobile homes only.~~

25 (b) The division ~~department~~ shall, upon denial,
26 suspension, or revocation of any license, notify the surety
27 company of the licensee, in writing, that the license has been
28 denied, suspended, or revoked and shall state the reason for
29 such denial, suspension, or revocation.

30 (c) Any surety company which pays any claim against
31 the bond of any licensee shall notify the division ~~department~~,

1 in writing, that it has paid such a claim and shall state the
2 amount of the claim.

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

6 Section 11. Section 553.433, Florida Statutes, is
7 created to read:

8 553.433 Factory-built housing judgment liability.--

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

13 (2) Beginning July 31, 1999, the division shall charge
14 and collect an additional fee of \$1 for each new mobile home
15 transaction for which it charges a fee. This additional fee
16 shall be deposited into the department's operating trust fund.
17 The division shall charge a fee of \$40 per annual dealer and
18 manufacturer license and license renewal, which shall be
19 deposited into such fund. The sums deposited into such fund
20 pursuant to this section shall be used exclusively for
21 carrying out the purposes of this section. These sums may be
22 invested and reinvested by the Treasurer under the same
23 limitations as apply to investment of other state moneys, with
24 all interest from these investments deposited to the credit of
25 such fund.

26 (3) Moneys deposited into the department's operating
27 trust fund under this section shall be used to satisfy any
28 judgment by any person, as provided by this section, against a
29 mobile home dealer or broker for damages, restitution, or
30 expenses, including reasonable attorney's fees, resulting from
31 a cause of action directly related to the conditions of any

1 written contract made by him or her in connection with the
2 sale, exchange, or improvement of any mobile home, or for any
3 violation of this part.

4 (4) The department's operating trust fund shall not be
5 liable for any judgment, or part thereof, resulting from any
6 tort claim except as expressly provided in subsection (3), nor
7 for any punitive, exemplary, double, or treble damages. A
8 person, the state, or any political subdivision thereof may
9 recover against the mobile home dealer, broker, or surety,
10 jointly and severally, for such damages, restitution, or
11 expenses; provided, however, that in no event shall the such
12 fund or the surety be liable for an amount in excess of actual
13 damages, restitution, or expenses.

14 (5) Subject to the limitations and requirements of
15 this section, moneys deposited into the department's operating
16 trust fund under this section shall be used by the division to
17 compensate persons who have unsatisfied judgments, or in
18 certain limited circumstances unsatisfied claims, against a
19 mobile home dealer or broker in one of the following
20 situations:

21 (a) The claimant has obtained a final judgment which
22 is unsatisfied against the mobile home dealer or broker or its
23 surety jointly and severally, or against the mobile home
24 dealer or broker only, if the court found that the surety was
25 not liable due to prior payment of valid claims against the
26 bond in an amount equal to, or greater than, the face amount
27 of the applicable bond.

28 (b) The claimant has obtained a judgment against the
29 surety of the mobile home dealer or broker that is
30 unsatisfied.

31

1 (c) The claimant has alleged a claim against the
2 mobile home dealer or broker in a lawsuit which has been
3 stayed or discharged as a result of the filing for
4 reorganization or discharge in bankruptcy by the dealer or
5 broker, and judgment against the surety is not possible
6 because of the bankruptcy or liquidation of the surety, or
7 because the surety has been found by a court of competent
8 jurisdiction not to be liable due to prior payment of valid
9 claims against the bond in an amount equal to, or greater
10 than, the face amount of the applicable bond.

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

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

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

20 b. That the judgment against the mobile home dealer or
21 broker contains a specific finding that the surety has no
22 liability, that execution has been returned unsatisfied, and
23 that a judgment lien has been perfected;

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

28 3. The amount of payment or other consideration
29 received, if any, from the mobile home dealer or broker or its
30 surety;

31

1 4. The amount that may be realized, if any, from the
2 sale of real or personal property or other assets of the
3 judgment debtor liable to be sold or applied in satisfaction
4 of the judgment and the balance remaining due on the judgment
5 after application of the amount which has been realized and a
6 certification that the claimant has made a good faith effort
7 to collect the judgment; and

8 5. Such other information as the division requires.

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

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

16 2. Allegations of the acts or omissions by the mobile
17 home dealer or broker setting forth the specific acts or
18 omissions complained of which resulted in actual damage to the
19 person, along with the actual dollar amount necessary to
20 reimburse or compensate the person for costs or expenses
21 resulting from the acts or omissions of which the person
22 complained;

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

28 4. Such other information as the division requires.

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

31

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

17 (8) The division, in its discretion and where
18 feasible, may try to recover from the mobile home dealer or
19 broker, or the judgment debtor or its surety, all sums paid to
20 persons from the department's operating trust fund under this
21 section. Any sums recovered shall be deposited to the credit
22 of such fund. The division shall be awarded a reasonable
23 attorney's fee for all actions taken to recover any sums paid
24 to persons from such fund pursuant to this section.

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

31

1 (10) Neither the division, nor the department's
2 operating trust fund shall be liable to any person for
3 recovery if such fund, from moneys deposited into the fund
4 under this section, does not have the moneys necessary to pay
5 amounts claimed. If the fund does not have sufficient assets
6 to pay the claimant, it shall log the time and date of its
7 determination for payment to a claimant. If moneys become
8 available pursuant this section, the division shall pay the
9 claimant whose unpaid claim is the earliest by time and date
10 of determination.

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

17 Section 12. Section 553.434, Florida Statutes, is
18 created to read:

19 553.434 Definitions.--In construing ss.
20 553.434-553.458, unless the context otherwise requires, the
21 following words or phrases have the following meanings:

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

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

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

29 (b) The Uniform Standards Code approved by the
30 American National Standards Institute, ANSI A-119.2 for
31 recreational vehicles and ANSI A-119.5 for park trailers or

1 the United States Department of Housing and Urban Development
2 standard for park trailers certified as meeting that standard;
3 or

4 (c) The Mobile Home Repair and Remodeling Code and
5 Used Recreational Vehicle Code.

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

12 (4) "Division" means the Division of Factory-built
13 Housing.

14 (5) "Institute" means the American National Standards
15 Institute.

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

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

28 (8) "Licensee" means any person licensed or required
29 to be licensed under s. 553.435.

30 (9) "Mobile home dealer" means any person engaged in
31 the business of buying, selling, or dealing in mobile homes or

1 offering or displaying mobile homes for sale. Any person who
2 buys, sells, or deals in one or more mobile homes in any
3 12-month period or who offers or displays for sale one or more
4 mobile homes in any 12-month period shall be prima facie
5 presumed to be engaged in the business of a mobile home
6 dealer. The terms "selling" and "sale" include lease-purchase
7 transactions. The term "mobile home dealer" does not include
8 a bank, credit union, or finance company that acquires mobile
9 homes as an incident to its regular business, does not include
10 a mobile home rental or leasing company that sells mobile
11 homes to mobile home dealers licensed under s. 553.432, and
12 does not include persons who are selling their own mobile
13 homes.

14 (10) "Mobile home manufacturer" means any person,
15 resident or nonresident, who, as a trade or commerce,
16 manufactures or assembles mobile homes.

17 (11) "Responsible party" means a manufacturer, dealer,
18 or supplier.

19 (12) "Seal" or "label" means a device issued by the
20 department certifying that a mobile home meets the appropriate
21 code, which device is to be displayed on the exterior of the
22 mobile home.

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

29 (14) "Substantial defect" means:
30
31

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

4 (b) Any structural element, utility system, or
5 component of the mobile home, which fails to comply with the
6 code.

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

13 (16) "Width of a mobile home" means the distance from
14 the exterior of one side wall to the exterior of the opposite
15 side wall where such walls enclose living or other interior
16 space and such distance includes expandable rooms but not bay
17 windows, porches, wall and roof extensions, or other
18 attachments.

19 (17) "Body size" of a park trailer means the distance
20 from the exterior side or end to the opposite exterior side or
21 end of the body. Such distance includes expandable rooms, bay
22 windows, wall and roof extensions, or other extrusions in the
23 travel mode, except park trailers constructed to ANSI A-119.5
24 shall not exceed 400 square feet. Park trailers constructed to
25 the United States Department of Housing and Urban Development
26 standard shall not exceed 500 square feet. All square footage
27 measurements are of the exterior when in setup mode and do not
28 include bay windows.

29 Section 13. Section 553.435, Florida Statutes, is
30 created to read:

31 553.435 Mobile home manufacturer's license.--

1 (1) LICENSE REQUIRED.--Any person who engages in the
2 business of a mobile home manufacturer in this state, or who
3 manufactures mobile homes out of state which are ultimately
4 offered for sale in this state, shall obtain annually a
5 license for each factory location in this state and for each
6 factory location out of state which manufactures mobile homes
7 for sale in this state, prior to distributing mobile homes for
8 sale in this state.

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

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

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 division, 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 division 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 (b) The division shall adopt rules pursuant to chapter
24 120 consistent with this section in providing assurance of
25 satisfaction of claims.

26 (c) The division shall, upon denial, suspension, or
27 revocation of any license, notify the surety company of the
28 licensee, in writing, that the license has been denied,
29 suspended, or revoked and shall state the reason for such
30 denial, suspension, or revocation.

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1 (d) Any surety company which pays any claim against
2 the bond of any licensee shall notify the division, in
3 writing, that it has paid such a claim and shall state the
4 amount of the claim.

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

8 (6) LICENSE YEAR.--A license issued to a mobile home
9 manufacturer entitles the licensee to conduct the business of
10 a mobile home manufacturer for a period of 1 year from October
11 1 preceding the date of issuance.

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

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

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

18 (c) The applicant has failed to provide warranty
19 service.

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

23 (e) The division has proof of unfitness of the
24 applicant.

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

28 (g) The applicant or licensee has violated any of the
29 provisions of the National Mobile Home Construction and Safety
30 Standards Act of 1974 or any rule or regulation of the
31

1 Department of Housing and Urban Development promulgated
2 thereunder.

3
4 Upon denial of a license, the division shall notify the
5 applicant within 10 days, stating in writing its grounds for
6 denial. The applicant is entitled to a public hearing and may
7 request that such hearing be held within 45 days of denial of
8 the license. All proceedings shall be pursuant to chapter
9 120.

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

20 (9) CIVIL PENALTIES; PROCEDURE.--In addition to the
21 exercise of other powers provided in this section, the
22 division is authorized to assess, impose, levy, and collect by
23 legal process a civil penalty, in an amount not to exceed
24 \$1,000 for each violation, against any licensee if it finds
25 that a licensee has violated any provision of this section or
26 has violated any other law of this state having to do with
27 dealing in mobile homes. Any licensee shall be entitled to a
28 hearing pursuant to chapter 120 should the licensee wish to
29 contest the fine levied, or about to be levied, upon him or
30 her.

31

1 Section 14. Section 320.823, Florida Statutes, is
2 transferred and renumbered as section 553.436, Florida
3 Statutes.

4 Section 15. Section 553.4365, Florida Statutes, is
5 created to read:

6 553.4365 Establishment of uniform standards for park
7 trailers.--Park trailers exceeding 400 square feet shall meet
8 the Federal Manufactured Home Construction and Safety
9 Standards and shall have a United States Department of Housing
10 and Urban Development label.

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

13 553.437 Rules and regulations, changes and
14 modifications of standards.--

15 (1) The division may adopt such rules as it deems
16 necessary or proper for the effective administration and
17 enforcement of ss. 553.431-553.458 and may adopt any changes
18 in, or additions to, the standards adopted in s. 553.436 or s.
19 553.4365, which are approved and officially published by the
20 institute or adopted by the Department of Housing and Urban
21 Development subsequent to the effective date of this act.

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

27 Section 17. Section 553.438, Florida Statutes, is
28 created to read:

29 553.438 Limitation of alteration or modification to
30 mobile homes.--

31

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

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

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

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

27 (3) AUTHORITY OF THE DIVISION.--The division is
28 authorized to adopt rules and regulations pursuant to chapter
29 120 which define the alterations or modifications which must
30 be made by qualified personnel. The division may regulate
31

1 only those alterations and modifications which substantially
2 impair the structural integrity or safety of the mobile home.

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

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

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

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

29 Section 18. Section 320.8249, Florida Statutes, is
30 transferred and renumbered as section 553.439, Florida
31 Statutes, and is amended to read:

1 553.439 ~~320.8249~~ Mobile home installers license.--

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

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

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

1 performed by said installer shall have recourse against said
2 installer's performance bond.

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

15 (4)~~(5)~~ A direct employee of a licensed mobile home
16 installer working under the supervision of the licensee and
17 within the job scope of the licensee is not required to be
18 licensed as a mobile home installer. The licensed mobile home
19 installer is responsible for supervising all such employees
20 and for the proper and competent performance of all employees
21 working under his or her supervision.

22 (5)~~(6)~~ "Installation," as used herein, is synonymous
23 with "setup" as defined in s. 553.434 ~~320.822(14)~~.

24 (6)~~(7)~~ No person shall:

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

27 (b) Falsely impersonate a licensed mobile home
28 installer;

29 (c) Present as his or her own the mobile home
30 installers license of another;

31

1 (d) Knowingly give false or forged evidence to the
2 division ~~department~~;

3 (e) Use or attempt to use a mobile home installers
4 license which has been suspended or revoked; or

5 (f) Engage in the business or act in the capacity of a
6 licensed mobile home installer or advertise himself or herself
7 or a business organization as available to engage in the
8 business or act in the capacity of a mobile home installer
9 without being duly licensed.

10 (7)~~(8)~~ Any unlicensed person who violates any of the
11 provisions of subsection(6)~~(7)~~is guilty of a misdemeanor of
12 the first degree, punishable as provided in s. 775.082 or s.
13 775.083.

14 (8)~~(9)~~ No licensed person nor licensed applicant
15 shall:

16 (a) Obtain a mobile home installers license by fraud
17 or misrepresentation.

18 (b) Be convicted or found guilty of, or enter a plea
19 of nolo contendere to, regardless of adjudication, a crime in
20 any jurisdiction which directly relates to the practice of
21 mobile home installation or the ability to practice.

22 (c) Violate any lawful order of the division
23 ~~department~~.

24 (d) Commit fraud or deceit in the practice of
25 contracting.

26 (e) Commit incompetence or misconduct in the practice
27 of contracting.

28 (f) Commit gross negligence, repeated negligence, or
29 negligence resulting in a significant danger to life or
30 property.

31

1 (g) Commit violations of the installation standards
2 for mobile homes or manufactured homes contained in rules
3 15C-1.0102 to 15C-1.0104, Florida Administrative Code.

4 (9)~~(10)~~ Any licensed person or license applicant who
5 violates any provision of subsection(8)~~(9)~~ may have any of
6 the following disciplinary penalties imposed by the division
7 ~~department~~:

8 (a) License revocation;

9 (b) License suspension;

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

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

13 (e) Probation;

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

16 (g) A notice of noncompliance; or

17 (h) Refusal of licensure application.

18 ~~(11) Licensed mobile home dealers and licensed mobile
19 home manufacturers are exempt from requirements to obtain a
20 license as a mobile home installer and may perform mobile home
21 installation. Any licensed dealer or licensed manufacturer
22 who does not subcontract with a licensed installer and who
23 performs his or her own installations, either himself or
24 herself or through direct employees, shall have at least one
25 employee who has completed an 8-hour installation training
26 course, as approved by the department. Licensed mobile home
27 dealers and mobile home manufacturers are subject to
28 discipline against their license for violation of subsection
29 ~~(9)~~.~~

30 (10)~~(12)~~ The regulation of manufactured home
31 installers or mobile home installers is preempted to the

1 state, and no person may perform mobile home installation
2 unless licensed pursuant to this section, regardless of
3 whether that person holds a local license.

4 (11)~~(13)~~ No county, municipality, or other unit of
5 local government may require additional licensing of a duly
6 licensed installer who performs setup operations as defined in
7 s. 553.434 ~~320.822~~. However, a county, municipality, or other
8 unit of local government may require an installer to obtain a
9 local occupational license, which license shall not require
10 for its issuance any conditions other than those required by
11 this act and payment of the appropriate occupational license
12 fee.

13 (12)~~(14)~~ All installers, dealers, and manufacturers
14 shall purchase installation decals from the division
15 ~~Department of Highway Safety and Motor Vehicles~~ for a fee not
16 to exceed \$10 per decal. An installation decal shall be
17 affixed to the manufactured home or mobile home prior to
18 installation. This decal shall denote the date of
19 installation, the name of the installer, and the number of the
20 installer's license or the dealer or manufacturer license
21 number. Such decal shall be positioned immediately next to
22 the HUD decal.

23 (13)~~(15)~~ In performing the installation, installers
24 shall not perform plumbing or electrical activities prohibited
25 by division ~~department~~ rules related to setup operations
26 pursuant to s. 553.434 ~~320.822~~.

27 (14)~~(16)~~ Funds received by the division ~~department~~
28 pursuant to this section shall be deposited in the
29 department's Highway Safety Operating Trust Fund.

30 (15)~~(17)~~ When mobile homeowners in a mobile home park
31 obtain evaluations of the wind resistance of their mobile

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

12 Section 19. Section 320.8255, Florida Statutes, is
13 transferred and renumbered as section 553.440, Florida
14 Statutes, and is amended to read:

15 553.440 ~~320.8255~~ Mobile home inspection.--

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

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

27 (3) Mobile home manufacturers and dealers shall be
28 charged a fee for special inspections, including, but not
29 limited to, plant approvals, 100 percent plant inspections,
30 increased frequency inspections, reinspections, and special
31 consumer complaint investigations as requested by a

1 manufacturer or dealer or as may be deemed necessary by the
2 division ~~department~~.

3 (4) The division ~~department~~ shall determine fees for
4 special inspections and for the seal authorized under s.
5 553.441 ~~320.827~~ which are sufficient to cover the cost of
6 inspection and administration under this section. Fees
7 collected shall be deposited into the Department's Operating
8 Trust ~~General Revenue~~ Fund.

9 Section 20. Section 320.827, Florida Statutes, is
10 transferred and renumbered as section 553.441, Florida
11 Statutes, and is amended to read:

12 553.441 ~~320.827~~ Label; procedures for issuance;
13 certification; requirements.--No dealer shall sell or offer
14 for sale in this state any new mobile home ~~manufactured after~~
15 ~~January 1, 1968~~, unless the mobile home bears a label and the
16 certification by the manufacturer that the mobile home to
17 which the label is attached meets or exceeds the appropriate
18 code. Any mobile home bearing the insignia of approval
19 pursuant to this section shall be deemed to comply with the
20 requirements of all local government ordinances or rules which
21 govern construction, and no mobile home bearing the division
22 ~~department~~ insignia of approval shall be in any way modified
23 except in compliance with this chapter. Labels may be issued
24 by the division ~~department~~ when applied for with an affidavit
25 certifying that the ~~dealer or~~ manufacturer applying will not
26 attach a label to any new mobile home that does not meet or
27 exceed the appropriate code. No mobile home may be
28 manufactured in this state unless it bears a label and
29 certification that the mobile home meets or exceeds the code.
30 The label for each mobile home shall be displayed in a manner
31 to be prescribed by the division ~~department~~.

1 Section 21. Section 320.8285, Florida Statutes, is
2 transferred and renumbered as section 553.442, Florida
3 Statutes, and is amended to read:

4 553.442 ~~320.8285~~ Onsite inspection.--

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

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

23 (3) Each county or municipality may designate the
24 persons who are to perform the onsite inspection. If a county
25 or municipality does not so designate, the division ~~department~~
26 shall designate the persons who are to perform the onsite
27 inspection. No person shall be designated to perform onsite
28 inspections unless such person is competent in the areas of
29 mobile home blocking and leveling, tie-downs, utility
30 connections, conversions of appliances, and external
31 improvements. Pursuant to the onsite inspection, each mobile

1 home shall be issued a certificate of occupancy if the mobile
2 home complies with state and local building codes, ordinances,
3 and regulations regarding such functions as blocking and
4 leveling, tie-downs, utility connections, conversion of
5 appliances, and external improvements to the mobile home.

6 (4) Fees for onsite inspections and certificates of
7 occupancy of mobile homes shall be reasonable for the services
8 performed. A guideline for fee schedules shall be issued by
9 the division ~~department~~.

10 (5) The division ~~Department of Highway Safety and~~
11 ~~Motor Vehicles~~ shall enforce every provision of this section
12 and the regulations adopted pursuant hereto, except that local
13 land use and zoning requirements, fire zones, building setback
14 and side and rear yard requirements, site development and
15 property line requirements, subdivision control, and onsite
16 installation requirements, as well as review and regulation of
17 architectural and aesthetic requirements, are hereby
18 specifically and entirely reserved to local jurisdictions.
19 However, any architectural or aesthetic requirement imposed on
20 the mobile home structure itself may pertain only to roofing
21 and siding materials. Such local requirements and regulations
22 and others for manufactured homes must be reasonable,
23 uniformly applied, and enforced without distinctions as to
24 whether such housing is manufactured, located in a mobile home
25 park or a mobile home subdivision, or built in a conventional
26 manner. No local jurisdiction shall prohibit siting or
27 resiting of used mobile homes based solely on the date the
28 unit was manufactured. Mobile homes or manufactured homes
29 moved into or within a county or municipality shall not be
30 required to be brought into compliance with the current
31

1 standards set forth in the Federal Manufactured Home
2 Construction and Safety Standards Act.

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; uniform ~~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. No entity, other than the~~
7 ~~department, shall have authority to amend these uniform~~
8 ~~standards. Such systems ~~devices required under this section,~~~~
9 ~~when properly installed, shall ensure that a manufactured home~~
10 ~~remains secured to the ground when subjected to winds equal to~~
11 ~~or less than their HUD code design criteria and shall cause~~
12 ~~the mobile home or park trailer to resist wind overturning and~~
13 ~~sliding. In promulgating Such rules shall be reasonably~~
14 ~~related to the and regulations, the department may make such~~
15 ~~discriminations regarding mobile home or park trailer tie-down~~
16 ~~requirements as are reasonable when factors such as age and~~
17 ~~windzone of the manufactured housing, location, and~~
18 ~~practicality of tying down a mobile home or park trailer are~~
19 ~~considered. The division shall also develop standards for~~
20 ~~installation and anchoring systems for park trailers. Fees~~
21 ~~and civil penalties collected by the division pursuant to s.~~
22 ~~553.439 shall be deposited into the department's Operating~~
23 ~~Trust Fund for the use by the division for the testing of~~
24 ~~manufactured housing installation systems and their individual~~
25 ~~components to insure that such products being delivered to~~
26 ~~consumers in this state meet the wind design criteria adopted~~
27 ~~by the division.~~

28 (3)(a) Persons licensed in this state to engage in the
29 business of insuring mobile homes or park trailers that are
30 subject to the provisions of this section against damage from
31 windstorm shall issue such insurance only if the mobile home

1 or park trailer has been anchored and tied down in accordance
2 with the provisions of this section.

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

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

27 (5) In addition to other penalties provided in this
28 section, the division ~~department~~ or the state attorneys and
29 their assistants are authorized to apply to the circuit courts
30 within their respective jurisdictions, and such courts shall
31 have jurisdiction, upon hearing and for cause shown, to grant

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

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

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

21 Section 25. Section 553.446, Florida Statutes, is
22 created to read:

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

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

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

14 Section 26. Section 320.8335, Florida Statutes, is
15 transferred and renumbered as section 553.447, Florida
16 Statutes.

17 Section 27. Section 553.448, Florida Statutes, is
18 created to read:

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

1 Section 28. Section 553.449, Florida Statutes, is
2 created to read:

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

11 (1) The manufacturer warrants:

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

17 (b) That 100-ampere electrical service exists in the
18 mobile home.

19 (2) The dealer warrants:

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

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

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

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1 When the setup of a mobile home is performed by a person who
2 is not an employee or agent of the mobile home manufacturer or
3 dealer and is not compensated or authorized by, or connected
4 with, such manufacturer or dealer, then the warranty
5 responsibility of the manufacturer or dealer as to setup shall
6 be limited to transporting the mobile home to the occupancy
7 site free from substantial defect.

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

13 Section 29. Section 553.450, Florida Statutes, is
14 created to read:

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

21 Section 30. Section 553.451, Florida Statutes, is
22 created to read:

23 553.451 Warranty service.--

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

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

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

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

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

22 Section 31. Section 553.452, Florida Statutes, is
23 created to read:

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

1 defect is so severe as to significantly impair the safety of
2 the mobile home, it may assess punitive damages against the
3 responsible party.

4 Section 32. Section 553.453, Florida Statutes, is
5 created to read:

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

14 Section 33. Section 320.840, Florida Statutes, is
15 transferred and renumbered as section 553.454, Florida
16 Statutes.

17 Section 34. Section 553.455, Florida Statutes, is
18 created to read:

19 553.455 Inspection of records; production of evidence;
20 subpoena power.--

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

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

30 Section 35. Section 553.456, Florida Statutes, is
31 created to read:

1 553.456 Revocation of license held by firms or
2 corporations.--If any applicant or licensee is a firm or
3 corporation, it shall be sufficient cause for the denial,
4 suspension, or revocation of a license that any officer,
5 director, or trustee of the firm or corporation, or any member
6 in case of a partnership, has been guilty of an act or
7 omission which would be cause for refusing, suspending, or
8 revoking a license to such party as an individual. Each
9 licensee shall be responsible for the acts of any of its
10 employees while acting as its agent if the licensee approved
11 of, or had knowledge of, the acts or other similar acts and,
12 after such approval or knowledge, retained the benefits,
13 proceeds, profits, or advantages accruing from, or otherwise
14 ratified, the acts.

15 Section 36. Section 553.457, Florida Statutes, is
16 created to read:

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

1 there is one, shall be advised of the disposition by the
2 division of the complaint within 10 days after such action.

3 Section 37. Section 553.458, Florida Statutes, is
4 created to read:

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

9 Section 38. Paragraph (b) of subsection (1) of section
10 161.55, Florida Statutes, is amended to read:

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

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

17 (b) Mobile homes shall conform to the Federal Mobile
18 Home Construction and Safety Standards or the Uniform
19 Standards Code ANSI book A-119.1, pursuant to s. 553.436
20 ~~320.823~~, and to the requirements of paragraph (c).

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

23 316.515 Maximum width, height, length.--

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

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

3 319.001 Definitions.--As used in this chapter, the
4 term:

5 (2) "Licensed dealer," unless otherwise specifically
6 provided, means a motor vehicle dealer licensed under s.
7 320.27, a mobile home dealer licensed under s. 553.432 ~~320.77~~,
8 or a recreational vehicle dealer licensed under s. 320.771.

9 Section 41. Section 320.01, Florida Statutes, is
10 amended to read:

11 320.01 Definitions, general.--As used in the Florida
12 Statutes, except as otherwise provided, the term:

13 (1) "Motor vehicle" means:

14 (a) An automobile, motorcycle, truck, trailer,
15 semitrailer, truck tractor and semitrailer combination, or any
16 other vehicle operated on the roads of this state, used to
17 transport persons or property, and propelled by power other
18 than muscular power, but the term does not include traction
19 engines, road rollers, such vehicles as run only upon a track,
20 bicycles, or mopeds.

21 (b) A recreational vehicle-type unit primarily
22 designed as temporary living quarters for recreational,
23 camping, or travel use, which either has its own motive power
24 or is mounted on or drawn by another vehicle. Recreational
25 vehicle-type units, when traveling on the public roadways of
26 this state, must comply with the length and width provisions
27 of s. 316.515, as that section may hereafter be amended. As
28 defined below, the basic entities are:

29 1. The "travel trailer," which is a vehicular portable
30 unit, mounted on wheels, of such a size or weight as not to
31 require special highway movement permits when drawn by a

1 motorized vehicle. It is primarily designed and constructed to
2 provide temporary living quarters for recreational, camping,
3 or travel use. It has a body width of no more than 8 1/2 feet
4 and an overall body length of no more than 40 feet when
5 factory-equipped for the road.

6 2. The "camping trailer," which is a vehicular
7 portable unit mounted on wheels and constructed with
8 collapsible partial sidewalls which fold for towing by another
9 vehicle and unfold at the campsite to provide temporary living
10 quarters for recreational, camping, or travel use.

11 3. The "truck camper," which is a truck equipped with
12 a portable unit designed to be loaded onto, or affixed to, the
13 bed or chassis of the truck and constructed to provide
14 temporary living quarters for recreational, camping, or travel
15 use.

16 4. The "motor home," which is a vehicular unit which
17 does not exceed 40 feet in length and the height and the width
18 limitations provided in s. 316.515, is a self-propelled motor
19 vehicle, and is primarily designed to provide temporary living
20 quarters for recreational, camping, or travel use.

21 5. The "private motor coach," which is a vehicular
22 unit which does not exceed the length, width, and height
23 limitations provided in s. 316.515(9), is built on a
24 self-propelled bus type chassis having no fewer than three
25 load-bearing axles, and is primarily designed to provide
26 temporary living quarters for recreational, camping, or travel
27 use.

28 6. The "van conversion," which is a vehicular unit
29 which does not exceed the length and width limitations
30 provided in s. 316.515, is built on a self-propelled motor
31

1 vehicle chassis, and is designed for recreation, camping, and
2 travel use.

3 ~~7. The "park trailer," which is a transportable unit~~
4 ~~which has a body width not exceeding 14 feet and which is~~
5 ~~built on a single chassis and is designed to provide seasonal~~
6 ~~or temporary living quarters when connected to utilities~~
7 ~~necessary for operation of installed fixtures and appliances.~~
8 ~~The total area of the unit in a setup mode, when measured from~~
9 ~~the exterior surface of the exterior stud walls at the level~~
10 ~~of maximum dimensions, not including any bay window, does not~~
11 ~~exceed 400 square feet when constructed to ANSI A-119.5~~
12 ~~standards, and 500 square feet when constructed to United~~
13 ~~States Department of Housing and Urban Development Standards.~~
14 ~~The length of a park trailer means the distance from the~~
15 ~~exterior of the front of the body (nearest to the drawbar and~~
16 ~~coupling mechanism) to the exterior of the rear of the body~~
17 ~~(at the opposite end of the body), including any protrusions.~~

18 7.8. The "fifth-wheel trailer," which is a vehicular
19 unit mounted on wheels, designed to provide temporary living
20 quarters for recreational, camping, or travel use, of such
21 size or weight as not to require a special highway movement
22 permit, of gross trailer area not to exceed 400 square feet in
23 the setup mode, and designed to be towed by a motorized
24 vehicle that contains a towing mechanism that is mounted above
25 or forward of the tow vehicle's rear axle.

26 ~~(2)(a) "Mobile home" means a structure, transportable~~
27 ~~in one or more sections, which is 8 body feet or more in width~~
28 ~~and which is built on an integral chassis and designed to be~~
29 ~~used as a dwelling when connected to the required utilities~~
30 ~~and includes the plumbing, heating, air-conditioning, and~~
31 ~~electrical systems contained therein. For tax purposes, the~~

1 ~~length of a mobile home is the distance from the exterior of~~
2 ~~the wall nearest to the drawbar and coupling mechanism to the~~
3 ~~exterior of the wall at the opposite end of the home where~~
4 ~~such walls enclose living or other interior space. Such~~
5 ~~distance includes expandable rooms, but excludes bay windows,~~
6 ~~porches, drawbars, couplings, hitches, wall and roof~~
7 ~~extensions, or other attachments that do not enclose interior~~
8 ~~space. In the event that the mobile home owner has no proof~~
9 ~~of the length of the drawbar, coupling, or hitch, then the tax~~
10 ~~collector may in his or her discretion either inspect the home~~
11 ~~to determine the actual length or may assume 4 feet to be the~~
12 ~~length of the drawbar, coupling, or hitch.~~

13 ~~(b) "Manufactured home" means a mobile home fabricated~~
14 ~~on or after June 15, 1976, in an offsite manufacturing~~
15 ~~facility for installation or assembly at the building site,~~
16 ~~with each section bearing a seal certifying that it is built~~
17 ~~in compliance with the federal Manufactured Home Construction~~
18 ~~and Safety Standard Act.~~

19 ~~(2)(3)~~ "Owner" means any person, firm, corporation, or
20 association controlling any motor vehicle or mobile home by
21 right of purchase, gift, lease, or otherwise.

22 ~~(3)(4)~~ "Trailer" means any vehicle without motive
23 power designed to be coupled to or drawn by a motor vehicle
24 and constructed so that no part of its weight or that of its
25 load rests upon the towing vehicle.

26 ~~(4)(5)~~ "Semitrailer" means any vehicle without motive
27 power designed to be coupled to or drawn by a motor vehicle
28 and constructed so that some part of its weight and that of
29 its load rests upon or is carried by another vehicle.

30 ~~(5)(6)~~ "Net weight" means the actual scale weight in
31 pounds with complete catalog equipment.

1 (6)~~(7)~~ "Gross weight" means the net weight of a motor
2 vehicle in pounds plus the weight of the load carried by it.

3 (7)~~(8)~~ "Cwt" means the weight per hundred pounds, or
4 major fraction thereof, of a motor vehicle.

5 (8)~~(9)~~ "Truck" means any motor vehicle with a net
6 vehicle weight of 5,000 pounds or less and which is designed
7 or used principally for the carriage of goods and includes a
8 motor vehicle to which has been added a cabinet box, a
9 platform, a rack, or other equipment for the purpose of
10 carrying goods other than the personal effects of the
11 passengers.

12 (9)~~(10)~~ "Heavy truck" means any motor vehicle with a
13 net vehicle weight of more than 5,000 pounds, which is
14 registered on the basis of gross vehicle weight in accordance
15 with s. 320.08(4), and which is designed or used for the
16 carriage of goods or designed or equipped with a connecting
17 device for the purpose of drawing a trailer that is attached
18 or coupled thereto by means of such connecting device and
19 includes any such motor vehicle to which has been added a
20 cabinet box, a platform, a rack, or other equipment for the
21 purpose of carrying goods other than the personal effects of
22 the passengers.

23 (10)~~(11)~~ "Truck tractor" means a motor vehicle which
24 has four or more wheels and is designed and equipped with a
25 fifth wheel for the primary purpose of drawing a semitrailer
26 that is attached or coupled thereto by means of such fifth
27 wheel and which has no provision for carrying loads
28 independently.

29 (11)~~(12)~~ "Gross vehicle weight" means:

30 (a) For heavy trucks with a net weight of more than
31 5,000 pounds, but less than 8,000 pounds, the gross weight of

1 the heavy truck. The gross vehicle weight is calculated by
2 adding to the net weight of the heavy truck the weight of the
3 load carried by it, which is the maximum gross weight as
4 declared by the owner or person applying for registration.

5 (b) For heavy trucks with a net weight of 8,000 pounds
6 or more, the gross weight of the heavy truck, including the
7 gross weight of any trailer coupled thereto. The gross
8 vehicle weight is calculated by adding to the gross weight of
9 the heavy truck the gross weight of the trailer, which is the
10 maximum gross weight as declared by the owner or person
11 applying for registration.

12 (c) The gross weight of a truck tractor and
13 semitrailer combination is calculated by adding to the net
14 weight of the truck tractor the gross weight of the
15 semitrailer, which is the maximum gross weight as declared by
16 the owner or person applying for registration; such vehicles
17 are together by means of a fifth-wheel arrangement whereby
18 part of the weight of the semitrailer and load rests upon the
19 truck tractor.

20 (12)~~(13)~~ "Passenger," or any abbreviation thereof,
21 does not include a driver.

22 (13)~~(14)~~ "Private use" means the use of any vehicle
23 which is not properly classified as a for-hire vehicle.

24 (14)~~(15)~~(a) "For-hire vehicle" means any motor
25 vehicle, when used for transporting persons or goods for
26 compensation; let or rented to another for consideration;
27 offered for rent or hire as a means of transportation for
28 compensation; advertised in a newspaper or generally held out
29 as being for rent or hire; used in connection with a travel
30 bureau; or offered or used to provide transportation for
31 persons solicited through personal contact or advertised on a

1 "share-expense" basis. When goods or passengers are
2 transported for compensation in a motor vehicle outside a
3 municipal corporation of this state, or when goods are
4 transported in a motor vehicle not owned by the person owning
5 the goods, such transportation is "for hire." The carriage of
6 goods and other personal property in a motor vehicle by a
7 corporation or association for its stockholders, shareholders,
8 and members, cooperative or otherwise, is transportation "for
9 hire."

10 (b) The following are not included in the term
11 "for-hire vehicle": a motor vehicle used for transporting
12 school children to and from school under contract with school
13 officials; a hearse or ambulance when operated by a licensed
14 embalmer or mortician or his or her agent or employee in this
15 state; a motor vehicle used in the transportation of
16 agricultural or horticultural products or in transporting
17 agricultural or horticultural supplies direct to growers or
18 the consumers of such supplies or to associations of such
19 growers or consumers; a motor vehicle temporarily used by a
20 farmer for the transportation of agricultural or horticultural
21 products from any farm or grove to a packinghouse or to a
22 point of shipment by a transportation company; or a motor
23 vehicle not exceeding 1 1/2 tons under contract with the
24 Government of the United States to carry United States mail,
25 provided such vehicle is not used for commercial purposes.

26 (15)~~(16)~~ "Road" means the entire width between the
27 boundary lines of every way or place of whatever nature when
28 any part thereof is open to the use of the public for purposes
29 of vehicular traffic.

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1 (16)~~(17)~~ "Brake horsepower" means the actual unit of
2 torque developed per unit of time at the output shaft of an
3 engine, as measured by a dynamometer.

4 (17)~~(18)~~ "Department" means the Department of Highway
5 Safety and Motor Vehicles.

6 (18)~~(19)~~ "Registration period" means a period of 12
7 months during which a motor vehicle or mobile home
8 registration is valid.

9 (19)~~(20)~~ "Marine boat trailer dealer" means any person
10 engaged in:

11 (a) The business of buying, selling, manufacturing, or
12 dealing in trailers specifically designed to be drawn by
13 another vehicle and used for the transportation on land of
14 vessels, as defined in s. 327.02; or

15 (b) The offering or displaying of such trailers for
16 sale.

17 (20)~~(21)~~ "Renewal period" means the period during
18 which renewal of a motor vehicle registration or mobile home
19 registration is required, as provided in s. 320.055.

20 (21)~~(22)~~ "Golf cart" means a motor vehicle designed
21 and manufactured for operation on a golf course for sporting
22 or recreational purposes.

23 (22)~~(23)~~ "Apportioned motor vehicle" means any motor
24 vehicle which is required to be registered, or with respect to
25 which an election has been made to register it, under the
26 International Registration Plan.

27 (23)~~(24)~~ "International Registration Plan" means a
28 registration reciprocity agreement among states of the United
29 States and provinces of Canada providing for payment of
30 license fees on the basis of fleet miles operated in various
31 jurisdictions.

1 (24)~~(25)~~ "Apportionable vehicle" means any vehicle,
2 except recreational vehicles, vehicles displaying restricted
3 plates, city pickup and delivery vehicles, buses used in
4 transportation of chartered parties, and government-owned
5 vehicles, which is used or intended for use in two or more
6 member jurisdictions that allocate or proportionally register
7 vehicles and which is used for the transportation of persons
8 for hire or is designed, used, or maintained primarily for the
9 transportation of property and:

10 (a) Is a power unit having a gross vehicle weight in
11 excess of 26,001 pounds;

12 (b) Is a power unit having three or more axles,
13 regardless of weight; or

14 (c) Is used in combination, when the weight of such
15 combination exceeds 26,001 pounds gross vehicle weight.

16
17 Vehicles, or combinations thereof, having a gross vehicle
18 weight of 26,001 pounds or less and two-axle vehicles may be
19 proportionally registered.

20 (25)~~(26)~~ "Commercial motor vehicle" means any vehicle
21 which is not owned or operated by a governmental entity, which
22 uses special fuel or motor fuel on the public highways, and
23 which has a gross vehicle weight of 26,001 pounds or more, or
24 has three or more axles regardless of weight, or is used in
25 combination when the weight of such combination exceeds 26,001
26 pounds gross vehicle weight.

27 (26)~~(27)~~ "Motorcycle" means any motor vehicle having a
28 seat or saddle for the use of the rider and designed to travel
29 on not more than three wheels in contact with the ground, but
30 excluding a tractor or a moped.

31

1 ~~(27)~~(28) "Moped" means any vehicle with pedals to
2 permit propulsion by human power, having a seat or saddle for
3 the use of the rider and designed to travel on not more than
4 three wheels, with a motor rated not in excess of 2 brake
5 horsepower and not capable of propelling the vehicle at a
6 speed greater than 30 miles per hour on level ground, and with
7 a power-drive system that functions directly or automatically
8 without clutching or shifting gears by the operator after the
9 drive system is engaged. If an internal combustion engine is
10 used, the displacement may not exceed 50 cubic centimeters.

11 ~~(28)~~(29) "Interstate" means vehicle movement between
12 or through two or more states.

13 ~~(29)~~(30) "Intrastate" means vehicle movement from one
14 point within a state to another point within the same state.

15 ~~(30)~~(31) "Person" means and includes natural persons,
16 corporations, copartnerships, firms, companies, agencies, or
17 associations, singular or plural.

18 ~~(31)~~(32) "Registrant" means a person in whose name or
19 names a vehicle is properly registered.

20 ~~(32)~~(33) "Motor carrier" means any person owning,
21 controlling, operating, or managing any motor vehicle used to
22 transport persons or property over any public highway.

23 ~~(33)~~(34) "Motorized disability access vehicle" means a
24 vehicle designed primarily for handicapped individuals with
25 normal upper body abilities and designed to be fueled by
26 gasoline, travel on not more than three wheels, with a motor
27 rated not in excess of 2 brake horsepower and not capable of
28 propelling the vehicle at a speed greater than 30 miles per
29 hour on level ground, and with a power-drive system that
30 functions directly or automatically without clutching or
31 shifting gears by the operator after the drive system is

1 engaged. If an internal combustion engine is used, the
2 displacement may not exceed 50 cubic centimeters.

3 (34)~~(35)~~ "Resident" means a person who has his or her
4 principal place of domicile in this state for a period of more
5 than 6 consecutive months, who has registered to vote in this
6 state, who has made a statement of domicile pursuant to s.
7 222.17, or who has filed for homestead tax exemption on
8 property in this state.

9 (35)~~(36)~~ "Nonresident" means a person who is not a
10 resident.

11 (36)~~(37)~~ "Electric vehicle" means a motor vehicle that
12 is powered by an electric motor that draws current from
13 rechargeable storage batteries, fuel cells, or other sources
14 of electrical current.

15 (37)~~(38)~~ "Disabled motor vehicle" means any motor
16 vehicle as defined in subsection (1) which is not operable
17 under its own motive power, excluding a nondisabled trailer or
18 semitrailer, or any motor vehicle that is unsafe for operation
19 upon the highways of this state.

20 (38)~~(39)~~ "Replacement motor vehicle" means any motor
21 vehicle as defined in subsection (1) under tow by a wrecker to
22 the location of a disabled motor vehicle for the purpose of
23 replacing the disabled motor vehicle, thereby permitting the
24 transfer of the disabled motor vehicle's operator, passengers,
25 and load to an operable motor vehicle.

26 (39)~~(40)~~ "Wrecker" means any motor vehicle that is
27 used to tow, carry, or otherwise transport motor vehicles and
28 that is equipped for that purpose with a boom, winch, car
29 carrier, or other similar equipment.

30 (40)~~(41)~~ "Tow" means to pull or draw any motor vehicle
31 with a power unit by means of a direct attachment, drawbar, or

1 other connection or to carry a motor vehicle on a power unit
2 designed to transport such vehicle from one location to
3 another.

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

6 320.27 Motor vehicle dealers.--

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

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

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

20 (c) Perpetration of a fraud upon any person as a
21 result of dealing in motor vehicles, including, without
22 limitation, the misrepresentation to any person by the
23 licensee of the licensee's relationship to any manufacturer,
24 importer, or distributor.

25 (d) Representation that a demonstrator is a new motor
26 vehicle, or the attempt to sell or the sale of a demonstrator
27 as a new motor vehicle without written notice to the purchaser
28 that the vehicle is a demonstrator. For the purposes of this
29 section, a "demonstrator," a "new motor vehicle," and a "used
30 motor vehicle" shall be defined as under s. 320.60.

31

1 (e) Unjustifiable refusal to comply with a licensee's
2 responsibility under the terms of the new motor vehicle
3 warranty issued by its respective manufacturer, distributor,
4 or importer. However, if such refusal is at the direction of
5 the manufacturer, distributor, or importer, such refusal shall
6 not be a ground under this section.

7 (f) Misrepresentation or false, deceptive, or
8 misleading statements with regard to the sale or financing of
9 motor vehicles which any motor vehicle dealer has, or causes
10 to have, advertised, printed, displayed, published,
11 distributed, broadcast, televised, or made in any manner with
12 regard to the sale or financing of motor vehicles.

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

16 (h) Requirement by any motor vehicle dealer that any
17 customer or purchaser finance a motor vehicle with a specific
18 financial institution or company.

19 (i) Failure by any motor vehicle dealer to provide a
20 customer or purchaser with an odometer disclosure statement
21 and a copy of any bona fide written, executed sales contract
22 or agreement of purchase connected with the purchase of the
23 motor vehicle purchased by the customer or purchaser.

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

27 (k) Requirement by the motor vehicle dealer that the
28 purchaser of a motor vehicle contract with the dealer for
29 physical damage insurance.

30 (l) Violation of any of the provisions of s. 319.35 by
31 any motor vehicle dealer.

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

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

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

13 (p) Use of the dealer license identification number by
14 any person other than the licensed dealer or his or her
15 designee.

16 (q) Conviction of a felony.

17 (r) Failure to continually meet the requirements of
18 the licensure law.

19 (s) When a motor vehicle dealer is convicted of a
20 crime which results in his or her being prohibited from
21 continuing in that capacity, the dealer may not continue in
22 any capacity within the industry. The offender shall have no
23 financial interest, management, sales, or other role in the
24 operation of a dealership. Further, the offender may not
25 derive income from the dealership beyond reasonable
26 compensation for the sale of his or her ownership interest in
27 the business.

28 (t) Representation to a customer or any advertisement
29 to the general public representing or suggesting that a motor
30 vehicle is a new motor vehicle if such vehicle lawfully cannot
31 be titled in the name of the customer or other member of the

1 general public by the seller using a manufacturer's statement
2 of origin as permitted in s. 319.23(1).

3 (u) Failure to honor a bank draft or check given to a
4 motor vehicle dealer for the purchase of a motor vehicle by
5 another motor vehicle dealer within 10 days after notification
6 that the bank draft or check has been dishonored. A single
7 violation of this paragraph is sufficient for revocation or
8 suspension. If the transaction is disputed, the maker of the
9 bank draft or check shall post a bond in accordance with the
10 provisions of s. 559.917, and no proceeding for revocation or
11 suspension shall be commenced until the dispute is resolved.

12 Section 43. Section 320.28, Florida Statutes, is
13 amended to read:

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

1 secondhand motor vehicles or,recreational vehicles,~~or mobile~~
2 ~~homes~~ in Florida during any 12-month period shall be deemed to
3 be a secondhand dealer in motor vehicles or,recreational
4 vehicles,~~or mobile homes~~.

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

7 320.71 Nonresident motor vehicle,~~mobile home~~,or
8 recreational vehicle dealer's license.--

9 (1) Any person who is a nonresident of the state, who
10 does not have a dealer's contract from the manufacturer or
11 manufacturer's distributor of motor vehicles,~~mobile homes~~,or
12 recreational vehicles authorizing the sale thereof in definite
13 Florida territory, and who sells or engages in the business of
14 selling said vehicles at retail within the state shall
15 register with the Department of Revenue for a sales tax dealer
16 registration number and comply with chapter 212, and pay a
17 license tax of \$2,000 per annum in each county where such
18 sales are made; \$1,250 of said tax shall be transmitted to the
19 Department of Banking and Finance to be deposited in the
20 General Revenue Fund of the state, and \$750 thereof shall be
21 returned to the county. The license tax shall cover the
22 period from January 1 to the following December 31, and no
23 such license shall be issued for any fractional part of a
24 year.

25 Section 45. Section 320.822, Florida Statutes, is
26 amended to read:

27 320.822 Definitions.--In construing ss.
28 320.822-320.862, unless the context otherwise requires, the
29 following words or phrases have the following meanings:

30 (1) "Buyer" means a person who purchases at retail
31 from a dealer or manufacturer a ~~mobile home~~ or recreational

1 vehicle for his or her own use as a residence, or other
2 related use.

3 (2) "Code" means the appropriate standards found in+

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

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

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

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

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

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

30 ~~(6) "Length of a mobile home" means the distance from~~
31 ~~the exterior of the front wall (nearest to the drawbar and~~

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

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

8 ~~(8)~~ "Mobile home dealer" means any person engaged in
9 the business of buying, selling, or dealing in mobile homes or
10 offering or displaying mobile homes for sale. Any person who
11 buys, sells, or deals in one or more mobile homes in any
12 12-month period or who offers or displays for sale one or more
13 mobile homes in any 12-month period shall be prima facie
14 presumed to be engaged in the business of a mobile home
15 dealer. The terms "selling" and "sale" include lease-purchase
16 transactions. The term "mobile home dealer" does not include
17 a bank, credit union, or finance company that acquires mobile
18 homes as an incident to its regular business, does not include
19 a mobile home rental or leasing company that sells mobile
20 homes to mobile home dealers licensed under s. 320.77, and
21 does not include persons who are selling their own mobile
22 homes.

23 (7)~~(9)~~ "Recreational vehicle dealer" means any person
24 engaged in the business of buying, selling, or dealing in
25 recreational vehicles or offering or displaying recreational
26 vehicles for sale. The term "dealer" includes a recreational
27 vehicle broker. Any person who buys, sells, deals in, or
28 offers or displays for sale, or who acts as the agent for the
29 sale of, one or more recreational vehicles in any 12-month
30 period shall be prima facie presumed to be a dealer. The
31 terms "selling" and "sale" include lease-purchase

1 transactions. The term "dealer" does not include banks,
2 credit unions, and finance companies that acquire recreational
3 vehicles as an incident to their regular business and does not
4 include mobile home rental and leasing companies that sell
5 recreational vehicles to dealers licensed under s. 320.771.

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

9 (8)~~(11)~~ "Recreational vehicle manufacturer" means any
10 person, resident or nonresident, who, as a trade or commerce,
11 manufactures or assembles recreational vehicles or van-type
12 vehicles in such manner that they then qualify as recreational
13 vehicles, for sale in this state.

14 (9)~~(12)~~ "Responsible party" means a manufacturer,
15 dealer, or supplier.

16 (10)~~(13)~~ "Seal" or "label" means a device issued by
17 the department certifying that a ~~mobile home or~~ recreational
18 vehicle meets the appropriate code, which device is to be
19 displayed on the exterior of the ~~mobile home or~~ recreational
20 vehicle.

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

27 (11)~~(15)~~ "Substantial defect" means:

28 (a) Any substantial deficiency or defect in materials
29 or workmanship occurring to a ~~mobile home or~~ recreational
30 vehicle which has been reasonably maintained and cared for in
31 normal use.

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

4 (12)~~(16)~~ "Supplier" means the original producer of
5 completed components, including refrigerators, stoves, hot
6 water heaters, dishwashers, cabinets, air conditioners,
7 heating units, and similar components, which are furnished to
8 a manufacturer or dealer for installation in the ~~mobile home~~
9 ~~or~~ recreational vehicle prior to sale to a buyer.

10 ~~(17)~~ "Width of a mobile home" ~~means the distance from~~
11 ~~the exterior of one side wall to the exterior of the opposite~~
12 ~~side wall where such walls enclose living or other interior~~
13 ~~space and such distance includes expandable rooms but not bay~~
14 ~~windows, porches, wall and roof extensions, or other~~
15 ~~attachments.~~

16 (13)~~(18)~~ "Body size" of a ~~park trailer, travel~~
17 ~~trailer, or fifth-wheel trailer~~ means the distance from the
18 exterior side or end to the opposite exterior side or end of
19 the body. Such distance includes expandable rooms, bay
20 windows, wall and roof extensions, or other extrusions in the
21 travel mode. The following exceptions apply:

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

25 ~~(b) Park trailers constructed to ANSI A-119.5 shall~~
26 ~~not exceed 400 square feet. Park trailers constructed to the~~
27 ~~United States Department of Housing and Urban Development~~
28 ~~standard shall not exceed 500 square feet. All square footage~~
29 ~~measurements are of the exterior when in setup mode and do not~~
30 ~~include bay windows.~~

31

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

4 Section 46. Section 320.8225, Florida Statutes, is
5 amended to read:

6 320.8225 ~~Mobile home and~~ Recreational vehicle
7 manufacturer's license.--

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

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

1 (3) FEES.--Upon making initial application, the
2 applicant shall pay to the department a fee of \$300. Upon
3 making renewal application, the applicant shall pay to the
4 department a fee of \$100. Any applicant for renewal who has
5 failed to submit his or her renewal application by October 1
6 shall pay a renewal application fee equal to the original
7 application fee. No fee is refundable. All fees shall be
8 deposited into the General Revenue Fund.

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

12 (5) REQUIREMENT OF ASSURANCE.--

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

31

1 (a)~~(b)~~ Annually, prior to the receipt of a license to
2 manufacture recreational vehicles, the applicant or licensee
3 shall submit a surety bond, or a proper continuation
4 certificate, sufficient to assure satisfaction of claims
5 against the licensee for failure to comply with appropriate
6 code standards, failure to provide warranty service, or
7 violation of any provisions of this section. The amount of
8 the surety bond shall be \$10,000 per year. The surety bond
9 shall be to the department, in favor of any retail customer
10 who shall suffer loss arising out of noncompliance with code
11 standards or failure to honor or provide warranty service. The
12 department shall have the right to disapprove any bond which
13 does not provide assurance as provided in this section.

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

17 (c)~~(d)~~ The department shall, upon denial, suspension,
18 or revocation of any license, notify the surety company of the
19 licensee, in writing, that the license has been denied,
20 suspended, or revoked and shall state the reason for such
21 denial, suspension, or revocation.

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

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

29 (6) LICENSE YEAR.--A license issued to a ~~mobile home~~
30 ~~or~~ recreational vehicle manufacturer entitles the licensee to
31 conduct the business of a ~~mobile home or~~ recreational vehicle

1 manufacturer for a period of 1 year from October 1 preceding
2 the date of issuance.

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

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

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

10 (c) The applicant has failed to provide warranty
11 service.

12 (d) The applicant or one or more of his or her
13 principals or agents has violated any law, rule, or regulation
14 relating to the manufacture or sale of ~~mobile homes or~~
15 recreational vehicles.

16 (e) The department has proof of unfitness of the
17 applicant.

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

21 (g) The applicant or licensee has violated any of the
22 provisions of the code relating to recreational vehicles of
23 ~~the National Mobile Home Construction and Safety Standards Act~~
24 ~~of 1974 or any rule or regulation of the Department of Housing~~
25 ~~and Urban Development promulgated thereunder.~~

26
27 Upon denial of a license, the department shall notify the
28 applicant within 10 days, stating in writing its grounds for
29 denial. The applicant is entitled to a public hearing and may
30 request that such hearing be held within 45 days of denial of
31

1 the license. All proceedings shall be pursuant to chapter
2 120.

3 (8) REVOCATION OR SUSPENSION OF LICENSE.--The
4 department shall suspend or, in the case of a subsequent
5 offense, shall revoke any license upon a finding that the
6 licensee violated any provision of this chapter or any other
7 law of this state regarding the manufacture, warranty, or sale
8 of ~~mobile homes or~~ recreational vehicles. When any license
9 has been revoked or suspended by the department, it may be
10 reinstated if the department finds that the former licensee
11 has complied with all applicable requirements of this chapter
12 and an application for a license is refiled pursuant to this
13 section.

14 (9) CIVIL PENALTIES; PROCEDURE.--In addition to the
15 exercise of other powers provided in this section, the
16 department is authorized to assess, impose, levy, and collect
17 by legal process a civil penalty, in an amount not to exceed
18 \$1,000 for each violation, against any licensee if it finds
19 that a licensee has violated any provision of this section or
20 has violated any other law of this state having to do with
21 dealing in motor vehicles. Any licensee shall be entitled to
22 a hearing pursuant to chapter 120 should the licensee wish to
23 contest the fine levied, or about to be levied, upon him or
24 her.

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

27 320.8231 Establishment of uniform standards for
28 recreational vehicle-type units ~~and park trailers~~.--

29 (1) Each recreational vehicle-type unit, as defined in
30 s. 320.01(1)(b), manufactured in this state or manufactured
31 outside this state but sold or offered for sale in this state

1 shall meet the Uniform Standards Code ANSI book A-119.2 or
2 A-119.5, as applicable, approved by the American National
3 Standards Institute. Such standards shall include, but are not
4 limited to, standards for the installation of plumbing,
5 heating, and electrical systems and fire and life safety in
6 recreational vehicle-type units ~~and park trailers. However,~~
7 ~~those park trailers exceeding 400 square feet shall meet the~~
8 ~~Federal Manufactured Home Construction and Safety Standards~~
9 ~~and shall have a United States Department of Housing and Urban~~
10 ~~Development label.~~

11 Section 48. Section 320.8232, Florida Statutes, is
12 amended to read:

13 320.8232 Establishment of uniform standards for used
14 recreational vehicles ~~and repair and remodeling code for~~
15 ~~mobile homes.--~~

16 (1) Each used recreational vehicle manufactured after
17 January 1, 1968, and sold or offered for sale in this state by
18 a dealer or manufacturer shall meet the standards of the Used
19 Recreational Vehicle Code. The provisions of said code shall
20 ensure safe and livable housing and shall not be more
21 stringent than those standards required to be met in the
22 manufacture of recreational vehicles. Such provisions shall
23 include, but not be limited to, standards for structural
24 adequacy, plumbing, heating, electrical systems, and fire and
25 life safety.

26 (2) ~~The provisions of the repair and remodeling code~~
27 ~~shall ensure safe and livable housing and shall not be more~~
28 ~~stringent than those standards required to be met in the~~
29 ~~manufacture of mobile homes. Such provisions shall include,~~
30 ~~but not be limited to, standards for structural adequacy,~~

31

1 ~~plumbing, heating, electrical systems, and fire and life~~
2 ~~safety.~~

3 Section 49. Section 320.824, Florida Statutes, 1998
4 Supplement, is amended to read:

5 320.824 Changes and modifications of standards.--

6 ~~(1) The department may adopt by rule changes in, or~~
7 ~~additions to, the standards adopted in s. 320.823 or s.~~
8 ~~320.8231, which are approved and officially published by the~~
9 ~~institute or promulgated by the Department of Housing and~~
10 ~~Urban Development subsequent to the effective date of this~~
11 ~~act.~~

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

17 Section 50. Section 320.8245, Florida Statutes, is
18 amended to read:

19 320.8245 Limitation of alteration or modification to
20 ~~mobile homes or~~ recreational vehicles.--

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

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

31

1 (a) An alteration or modification performed by a
2 ~~mobile home or~~ recreational vehicle dealer or his or her agent
3 or employee shall place warranty responsibility for the
4 altered or modified item upon the dealer. If the manufacturer
5 fulfills, or is required to fulfill, the warranty on the
6 altered or modified item, he or she shall be entitled to
7 recover damages in the amount of his or her costs and
8 attorneys' fees from the dealer.

9 (b) An alteration or modification performed by a
10 ~~mobile home or~~ recreational vehicle owner or his or her agent
11 shall render the manufacturer's warranty as to that item void.
12 A statement shall be displayed clearly and conspicuously on
13 the face of the warranty that the warranty is void as to the
14 altered or modified item if the alteration or modification is
15 performed by other than a qualified person. Failure to
16 display such statement shall result in warranty responsibility
17 on the manufacturer.

18 (3) AUTHORITY OF THE DEPARTMENT.--The department is
19 authorized to promulgate rules and regulations pursuant to
20 chapter 120 which define the alterations or modifications
21 which must be made by qualified personnel. The department may
22 regulate only those alterations and modifications which
23 substantially impair the structural integrity or safety of the
24 recreational vehicle ~~mobile home~~.

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

26 (a) In order to be designated as a person qualified to
27 alter or modify a ~~mobile home or~~ recreational vehicle, a
28 person must comply with local or county licensing or
29 competency requirements in skills relevant to performing
30 alterations or modifications on ~~mobile homes or~~ recreational
31 vehicles.

1 (b) When no local or county licensing or competency
2 requirements exist, the department may certify persons to
3 perform recreational vehicle ~~mobile-home~~ alterations or
4 modifications. The department shall by rule or regulation
5 determine what skills and competency requirements are
6 requisite to the issuance of a certification. A fee
7 sufficient to cover the costs of issuing certifications may be
8 charged by the department. The certification shall be valid
9 for a period which terminates when the county or other local
10 governmental unit enacts relevant competency or licensing
11 requirements. The certification shall be valid only in
12 counties or localities without licensing or competency
13 requirements.

14 (c) The department shall determine which counties and
15 localities have licensing or competency requirements adequate
16 to eliminate the requirement of certification. This
17 determination shall be based on a review of the relevant
18 county or local standards for adequacy in regulating persons
19 who perform alterations or modifications to recreational
20 vehicles ~~mobile-homes~~. The department shall find local or
21 county standards adequate when minimal licensing or competency
22 standards are provided.

23 Section 51. Section 320.8256, Florida Statutes, is
24 amended to read:

25 320.8256 Recreational vehicle inspection.--

26 ~~(1)~~ In order to ensure the highest degree of quality
27 control in the construction of new recreational vehicles and
28 to ensure the safe condition of used recreational vehicles,
29 each new or used recreational vehicle sold in the state shall
30 be inspected by licensed recreational vehicle dealers offering
31 such unit for sale.

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

5 Section 52. Section 320.834, Florida Statutes, is
6 amended to read:

7 320.834 Purpose.--~~It is the intent of the Legislature~~
8 ~~to ensure the safety and welfare of residents of mobile homes~~
9 ~~through an inspection program conducted by the Department of~~
10 ~~Highway Safety and Motor Vehicles. Mobile homes are a primary~~
11 ~~housing resource of many of the residents of the state and~~
12 ~~satisfy a large segment of statewide housing needs. It is the~~
13 ~~further intent of the Legislature that the department,~~
14 recreational vehicle mobile home dealers, and recreational
15 vehicle mobile home manufacturers continue to work together to
16 meet the applicable code requirements for recreational
17 vehicles mobile homes and that such dealers and manufacturers
18 share the responsibilities of warranting recreational vehicles
19 ~~mobile homes~~ in accordance with applicable codes and resolving
20 legitimate consumer complaints in a timely, efficient manner.

21 Section 53. Section 320.835, Florida Statutes, is
22 amended to read:

23 320.835 ~~Mobile home and~~ Recreational vehicle
24 warranties.--Each manufacturer, dealer, and supplier of ~~mobile~~
25 ~~homes or~~ recreational vehicles shall warrant each new ~~mobile~~
26 ~~home or~~ recreational vehicle sold in this state ~~and the setup~~
27 ~~of each such mobile home~~, in accordance with the warranty
28 requirements prescribed by this section, for a period of at
29 least 12 months, measured from ~~the date of delivery of the~~
30 ~~mobile home to the buyer or~~ the date of sale of the
31 recreational vehicle. The warranty requirements of each

1 manufacturer, dealer, and supplier of ~~mobile homes or~~
2 recreational vehicles are as follows:

3 (1) The manufacturer warrants⁺

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

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

11 (2) The dealer warrants⁺

12 (a) that any modifications or alterations made to the
13 ~~mobile home or~~ recreational vehicle by the dealer or
14 authorized by the dealer shall be free from substantial
15 defect. Alterations or modifications made by a dealer shall
16 relieve the manufacturer of warranty responsibility only as to
17 the item altered or modified.

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

20 ~~(c) That substantial defects do not occur to the~~
21 ~~mobile home during setup or by transporting it to the~~
22 ~~occupancy site.~~

23
24 ~~When the setup of a mobile home is performed by a person who~~
25 ~~is not an employee or agent of the mobile home manufacturer or~~
26 ~~dealer and is not compensated or authorized by, or connected~~
27 ~~with, such manufacturer or dealer, then the warranty~~
28 ~~responsibility of the manufacturer or dealer as to setup shall~~
29 ~~be limited to transporting the mobile home to the occupancy~~
30 ~~site free from substantial defect.~~

31

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

7 Section 54. Section 320.865, Florida Statutes, is
8 amended to read:

9 320.865 Maintenance of records by the department.--The
10 department shall maintain uniform records of all complaints
11 filed against licensees licensed under the provisions of ss.
12 320.27, 320.61, ~~320.77~~,320.771, and 320.8225, any other
13 provision of this chapter to the contrary notwithstanding. The
14 records shall contain all enforcement actions taken against
15 licensees and against unlicensed persons acting in a capacity
16 which would require them to be licensed under those sections.
17 The permanent file of each licensee and unlicensed person
18 shall contain a record of any complaints filed against him or
19 her and a record of any enforcement actions taken against him
20 or her. All complaints and satisfactions thereof and
21 enforcement actions on each licensee and unlicensed person
22 shall be entered into the central database in such a manner
23 that rapid retrieval will be facilitated. The complainant and
24 the referring agency, if there is one, shall be advised of the
25 disposition by the department of the complaint within 10 days
26 of such action.

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

29 325.202 Definitions.--As used in this act, the term:

30 (3) "Dealer certificate" means an inspection
31 certificate issued to a motor vehicle dealer, motor vehicle

1 broker as defined in s. 320.07, mobile home dealer as defined
2 in s. 553.432 ~~320.77~~, or recreational vehicle dealer as
3 defined in s. 320.771, indicating that a motor vehicle has
4 passed an emissions inspection, which grants the dealer or
5 broker 12 months in which to sell at retail the identified
6 motor vehicle owned by the dealer or broker.

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

9 325.203 Motor vehicles subject to annual inspection;
10 exemptions.--

11 (8) A motor vehicle dealer, motor vehicle broker as
12 defined in s. 320.27, mobile home dealer as defined in s.
13 553.432 ~~320.77~~, recreational vehicle dealer as defined in s.
14 320.771, governmental agency subject to subsection (5), or
15 person located in a program area may not sell at retail any
16 motor vehicle that is subject to inspection under this act and
17 that is to be registered in a program area unless the motor
18 vehicle has received a valid inspection certificate within 180
19 days before sale or received a valid dealer certificate within
20 12 months before sale. If a motor vehicle is purchased outside
21 the program area and is required to be registered in the
22 program area, the purchaser must meet the inspection
23 requirements of this act before such registration.

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

27 325.213 Self-inspectors.--

28 (2) Any applicant shall pay to the department a
29 nonrefundable fee of \$100 in addition to any other fees
30 required by law. Upon making a renewal application, the
31 applicant shall pay to the department a nonrefundable fee of

1 \$50 in addition to any other fees required by law. If the
2 applicant is a motor vehicle ~~or mobile home~~ dealer licensed
3 under s. 320.27 ~~or s. 320.77~~, or a recreational vehicle dealer
4 licensed under s. 320.771, the nonrefundable application fee
5 and subsequent nonrefundable renewal application fee is \$25,
6 in addition to any other fees required by law.

7 (4) Each self-inspector license issued by the
8 department is valid for the year of issue and shall expire
9 annually on December 31 unless revoked or suspended prior to
10 that date. The self-inspector license for a motor vehicle,
11 ~~mobile home dealer~~, and recreational vehicle dealer shall
12 expire annually on the same date that the dealer license
13 issued pursuant to the provisions of s. 320.27, ~~s. 320.77~~, or
14 s. 320.771 expires. A renewal application made subsequent to
15 the expiration date must be accompanied by a delinquency fee
16 of \$50 in addition to the renewal application fee prescribed
17 in subsection (2).

18 (6)(a) Prior to the issuance of a self-inspector
19 license, the applicant shall deliver to the department a good
20 and sufficient surety bond or irrevocable letter of credit,
21 executed by the applicant as principal, in the sum of \$5,000.
22 If the applicant is a motor vehicle dealer, ~~a mobile home~~
23 ~~dealer~~, or a recreational vehicle dealer licensed by the
24 department, this requirement shall be waived in lieu of the
25 surety bond required under s. 320.27, ~~s. 320.77~~, or s.
26 320.771. A surety bond or letter of credit is not required if
27 the applicant is a state or local government agency.

28 Section 58. Paragraph (b) of subsection (2) of section
29 627.351, Florida Statutes, 1998 Supplement, is amended to
30 read:

31 627.351 Insurance risk apportionment plans.--

1 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--
2 (b) The department shall require all insurers holding
3 a certificate of authority to transact property insurance on a
4 direct basis in this state, other than joint underwriting
5 associations and other entities formed pursuant to this
6 section, to provide windstorm coverage to applicants from
7 areas determined to be eligible pursuant to paragraph (c) who
8 in good faith are entitled to, but are unable to procure, such
9 coverage through ordinary means; or it shall adopt a
10 reasonable plan or plans for the equitable apportionment or
11 sharing among such insurers of windstorm coverage, which may
12 include formation of an association for this purpose. As used
13 in this subsection, the term "property insurance" means
14 insurance on real or personal property, as defined in s.
15 624.604, including insurance for fire, industrial fire, allied
16 lines, farmowners multiperil, homeowners' multiperil,
17 commercial multiperil, and mobile homes, and including
18 liability coverages on all such insurance, but excluding
19 inland marine as defined in s. 624.607(3) and excluding
20 vehicle insurance as defined in s. 624.605(1)(a) other than
21 insurance on mobile homes used as permanent dwellings. The
22 department shall adopt rules that provide a formula for the
23 recovery and repayment of any deferred assessments.

24 1. For the purpose of this section, properties
25 eligible for such windstorm coverage are defined as dwellings,
26 buildings, and other structures, including mobile homes which
27 are used as dwellings and which are tied down in compliance
28 with mobile home tie-down requirements prescribed by the
29 Division of Factory-built Housing of the Department of
30 Community Affairs ~~Highway Safety and Motor Vehicles~~ pursuant
31 to s. 553.445 ~~320.8325~~, and the contents of all such

1 properties. An applicant or policyholder is eligible for
2 coverage only if an offer of coverage cannot be obtained by or
3 for the applicant or policyholder from an admitted insurer at
4 approved rates.

5 2.a.(I) All insurers required to be members of such
6 association shall participate in its writings, expenses, and
7 losses. Surplus of the association shall be retained for the
8 payment of claims and shall not be distributed to the member
9 insurers. Such participation by member insurers shall be in
10 the proportion that the net direct premiums of each member
11 insurer written for property insurance in this state during
12 the preceding calendar year bear to the aggregate net direct
13 premiums for property insurance of all member insurers, as
14 reduced by any credits for voluntary writings, in this state
15 during the preceding calendar year. For the purposes of this
16 subsection, the term "net direct premiums" means direct
17 written premiums for property insurance, reduced by premium
18 for liability coverage and for the following if included in
19 allied lines: rain and hail on growing crops; livestock;
20 association direct premiums booked; National Flood Insurance
21 Program direct premiums; and similar deductions specifically
22 authorized by the plan of operation and approved by the
23 department. A member's participation shall begin on the first
24 day of the calendar year following the year in which it is
25 issued a certificate of authority to transact property
26 insurance in the state and shall terminate 1 year after the
27 end of the calendar year during which it no longer holds a
28 certificate of authority to transact property insurance in the
29 state. The commissioner, after review of annual statements,
30 other reports, and any other statistics that the commissioner
31 deems necessary, shall certify to the association the

1 aggregate direct premiums written for property insurance in
2 this state by all member insurers.

3 (II) The plan of operation shall provide for a board
4 of directors consisting of the Insurance Consumer Advocate
5 appointed under s. 627.0613, 1 consumer representative
6 appointed by the Insurance Commissioner, 1 consumer
7 representative appointed by the Governor, and 12 additional
8 members appointed as specified in the plan of operation. One
9 of the 12 additional members shall be elected by the domestic
10 companies of this state on the basis of cumulative weighted
11 voting based on the net direct premiums of domestic companies
12 in this state. Nothing in the 1997 amendments to this
13 paragraph terminates the existing board or the terms of any
14 members of the board.

15 (III) The plan of operation shall provide a formula
16 whereby a company voluntarily providing windstorm coverage in
17 affected areas will be relieved wholly or partially from
18 apportionment of a regular assessment pursuant to
19 sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II).

20 (IV) A company which is a member of a group of
21 companies under common management may elect to have its
22 credits applied on a group basis, and any company or group may
23 elect to have its credits applied to any other company or
24 group.

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

28 (VI) The plan of operation may also provide for the
29 award of credits, for a period not to exceed 3 years, from a
30 regular assessment pursuant to sub-sub-subparagraph d.(I) or
31 sub-sub-subparagraph d.(II) as an incentive for taking

1 policies out of the Residential Property and Casualty Joint
2 Underwriting Association. In order to qualify for the
3 exemption under this sub-sub-subparagraph, the take-out plan
4 must provide that at least 40 percent of the policies removed
5 from the Residential Property and Casualty Joint Underwriting
6 Association cover risks located in Dade, Broward, and Palm
7 Beach Counties or at least 30 percent of the policies so
8 removed cover risks located in Dade, Broward, and Palm Beach
9 Counties and an additional 50 percent of the policies so
10 removed cover risks located in other coastal counties, and
11 must also provide that no more than 15 percent of the policies
12 so removed may exclude windstorm coverage. With the approval
13 of the department, the association may waive these geographic
14 criteria for a take-out plan that removes at least the lesser
15 of 100,000 Residential Property and Casualty Joint
16 Underwriting Association policies or 15 percent of the total
17 number of Residential Property and Casualty Joint Underwriting
18 Association policies, provided the governing board of the
19 Residential Property and Casualty Joint Underwriting
20 Association certifies that the take-out plan will materially
21 reduce the Residential Property and Casualty Joint
22 Underwriting Association's 100-year probable maximum loss from
23 hurricanes. With the approval of the department, the board
24 may extend such credits for an additional year if the insurer
25 guarantees an additional year of renewability for all policies
26 removed from the Residential Property and Casualty Joint
27 Underwriting Association, or for 2 additional years if the
28 insurer guarantees 2 additional years of renewability for all
29 policies removed from the Residential Property and Casualty
30 Joint Underwriting Association.
31

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

4 c. The Legislature finds that the potential for
5 unlimited deficit assessments under this subparagraph may
6 induce insurers to attempt to reduce their writings in the
7 voluntary market, and that such actions would worsen the
8 availability problems that the association was created to
9 remedy. It is the intent of the Legislature that insurers
10 remain fully responsible for paying regular assessments and
11 collecting emergency assessments for any deficits of the
12 association; however, it is also the intent of the Legislature
13 to provide a means by which assessment liabilities may be
14 amortized over a period of years.

15 d.(I) When the deficit incurred in a particular
16 calendar year is 10 percent or less of the aggregate statewide
17 direct written premium for property insurance for the prior
18 calendar year for all member insurers, the association shall
19 levy an assessment on member insurers in an amount equal to
20 the deficit.

21 (II) When the deficit incurred in a particular
22 calendar year exceeds 10 percent of the aggregate statewide
23 direct written premium for property insurance for the prior
24 calendar year for all member insurers, the association shall
25 levy an assessment on member insurers in an amount equal to
26 the greater of 10 percent of the deficit or 10 percent of the
27 aggregate statewide direct written premium for property
28 insurance for the prior calendar year for member insurers. Any
29 remaining deficit shall be recovered through emergency
30 assessments under sub-sub-subparagraph (III).

31

1 (III) Upon a determination by the board of directors
2 that a deficit exceeds the amount that will be recovered
3 through regular assessments on member insurers, pursuant to
4 sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the
5 board shall levy, after verification by the department,
6 emergency assessments to be collected by member insurers and
7 by underwriting associations created pursuant to this section
8 which write property insurance, upon issuance or renewal of
9 property insurance policies other than National Flood
10 Insurance policies in the year or years following levy of the
11 regular assessments. The amount of the emergency assessment
12 collected in a particular year shall be a uniform percentage
13 of that year's direct written premium for property insurance
14 for all member insurers and underwriting associations,
15 excluding National Flood Insurance policy premiums, as
16 annually determined by the board and verified by the
17 department. The department shall verify the arithmetic
18 calculations involved in the board's determination within 30
19 days after receipt of the information on which the
20 determination was based. Notwithstanding any other provision
21 of law, each member insurer and each underwriting association
22 created pursuant to this section shall collect emergency
23 assessments from its policyholders without such obligation
24 being affected by any credit, limitation, exemption, or
25 deferment. The emergency assessments so collected shall be
26 transferred directly to the association on a periodic basis as
27 determined by the association. The aggregate amount of
28 emergency assessments levied under this sub-sub-subparagraph
29 in any calendar year may not exceed the greater of 10 percent
30 of the amount needed to cover the original deficit, plus
31 interest, fees, commissions, required reserves, and other

1 costs associated with financing of the original deficit, or 10
2 percent of the aggregate statewide direct written premium for
3 property insurance written by member insurers and underwriting
4 associations for the prior year, plus interest, fees,
5 commissions, required reserves, and other costs associated
6 with financing the original deficit. The board may pledge the
7 proceeds of the emergency assessments under this
8 sub-sub-subparagraph as the source of revenue for bonds, to
9 retire any other debt incurred as a result of the deficit or
10 events giving rise to the deficit, or in any other way that
11 the board determines will efficiently recover the deficit. The
12 emergency assessments under this sub-sub-subparagraph shall
13 continue as long as any bonds issued or other indebtedness
14 incurred with respect to a deficit for which the assessment
15 was imposed remain outstanding, unless adequate provision has
16 been made for the payment of such bonds or other indebtedness
17 pursuant to the document governing such bonds or other
18 indebtedness. Emergency assessments collected under this
19 sub-sub-subparagraph are not part of an insurer's rates, are
20 not premium, and are not subject to premium tax, fees, or
21 commissions; however, failure to pay the emergency assessment
22 shall be treated as failure to pay premium.

23 (IV) Each member insurer's share of the total regular
24 assessments under sub-sub-subparagraph (I) or
25 sub-sub-subparagraph (II) shall be in the proportion that the
26 insurer's net direct premium for property insurance in this
27 state, for the year preceding the assessment bears to the
28 aggregate statewide net direct premium for property insurance
29 of all member insurers, as reduced by any credits for
30 voluntary writings for that year.

31

1 (V) If regular deficit assessments are made under
2 sub-sub-subparagraph (I) or sub-sub-subparagraph (II), or by
3 the Residential Property and Casualty Joint Underwriting
4 Association under sub-subparagraph (6)(b)3.a. or
5 sub-subparagraph (6)(b)3.b., the association shall levy upon
6 the association's policyholders, as part of its next rate
7 filing, or by a separate rate filing solely for this purpose,
8 a market equalization surcharge in a percentage equal to the
9 total amount of such regular assessments divided by the
10 aggregate statewide direct written premium for property
11 insurance for member insurers for the prior calendar year.
12 Market equalization surcharges under this sub-sub-subparagraph
13 are not considered premium and are not subject to commissions,
14 fees, or premium taxes; however, failure to pay a market
15 equalization surcharge shall be treated as failure to pay
16 premium.

17 e. The governing body of any unit of local government,
18 any residents of which are insured under the plan, may issue
19 bonds as defined in s. 125.013 or s. 166.101 to fund an
20 assistance program, in conjunction with the association, for
21 the purpose of defraying deficits of the association. In order
22 to avoid needless and indiscriminate proliferation,
23 duplication, and fragmentation of such assistance programs,
24 any unit of local government, any residents of which are
25 insured by the association, may provide for the payment of
26 losses, regardless of whether or not the losses occurred
27 within or outside of the territorial jurisdiction of the local
28 government. Revenue bonds may not be issued until validated
29 pursuant to chapter 75, unless a state of emergency is
30 declared by executive order or proclamation of the Governor
31 pursuant to s. 252.36 making such findings as are necessary to

1 determine that it is in the best interests of, and necessary
2 for, the protection of the public health, safety, and general
3 welfare of residents of this state and the protection and
4 preservation of the economic stability of insurers operating
5 in this state, and declaring it an essential public purpose to
6 permit certain municipalities or counties to issue bonds as
7 will provide relief to claimants and policyholders of the
8 association and insurers responsible for apportionment of plan
9 losses. Any such unit of local government may enter into such
10 contracts with the association and with any other entity
11 created pursuant to this subsection as are necessary to carry
12 out this paragraph. Any bonds issued under this
13 sub-subparagraph shall be payable from and secured by moneys
14 received by the association from assessments under this
15 subparagraph, and assigned and pledged to or on behalf of the
16 unit of local government for the benefit of the holders of
17 such bonds. The funds, credit, property, and taxing power of
18 the state or of the unit of local government shall not be
19 pledged for the payment of such bonds. If any of the bonds
20 remain unsold 60 days after issuance, the department shall
21 require all insurers subject to assessment to purchase the
22 bonds, which shall be treated as admitted assets; each insurer
23 shall be required to purchase that percentage of the unsold
24 portion of the bond issue that equals the insurer's relative
25 share of assessment liability under this subsection. An
26 insurer shall not be required to purchase the bonds to the
27 extent that the department determines that the purchase would
28 endanger or impair the solvency of the insurer. The authority
29 granted by this sub-subparagraph is additional to any bonding
30 authority granted by subparagraph 6.

31

1 3. The plan shall also provide that any member with a
2 surplus as to policyholders of \$20 million or less writing 25
3 percent or more of its total countrywide property insurance
4 premiums in this state may petition the department, within the
5 first 90 days of each calendar year, to qualify as a limited
6 apportionment company. The apportionment of such a member
7 company in any calendar year for which it is qualified shall
8 not exceed its gross participation, which shall not be
9 affected by the formula for voluntary writings. In no event
10 shall a limited apportionment company be required to
11 participate in any apportionment of losses pursuant to
12 sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II)
13 in the aggregate which exceeds \$50 million after payment of
14 available plan funds in any calendar year. However, a limited
15 apportionment company shall collect from its policyholders any
16 emergency assessment imposed under sub-sub-subparagraph
17 2.d.(III). The plan shall provide that, if the department
18 determines that any regular assessment will result in an
19 impairment of the surplus of a limited apportionment company,
20 the department may direct that all or part of such assessment
21 be deferred. However, there shall be no limitation or
22 deferment of an emergency assessment to be collected from
23 policyholders under sub-sub-subparagraph 2.d.(III).

24 4. The plan shall provide for the deferment, in whole
25 or in part, of a regular assessment of a member insurer under
26 sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II),
27 but not for an emergency assessment collected from
28 policyholders under sub-sub-subparagraph 2.d.(III), if, in the
29 opinion of the commissioner, payment of such regular
30 assessment would endanger or impair the solvency of the member
31 insurer. In the event a regular assessment against a member

1 insurer is deferred in whole or in part, the amount by which
2 such assessment is deferred may be assessed against the other
3 member insurers in a manner consistent with the basis for
4 assessments set forth in sub-sub-subparagraph 2.d.(I) or
5 sub-sub-subparagraph 2.d.(II).

6 5.a. The plan of operation may include deductibles and
7 rules for classification of risks and rate modifications
8 consistent with the objective of providing and maintaining
9 funds sufficient to pay catastrophe losses.

10 b. The association may require arbitration of a rate
11 filing under s. 627.062(6). It is the intent of the
12 Legislature that the rates for coverage provided by the
13 association be actuarially sound and not competitive with
14 approved rates charged in the admitted voluntary market such
15 that the association functions as a residual market mechanism
16 to provide insurance only when the insurance cannot be
17 procured in the voluntary market. The plan of operation shall
18 provide a mechanism to assure that, beginning no later than
19 January 1, 1999, the rates charged by the association for each
20 line of business are reflective of approved rates in the
21 voluntary market for hurricane coverage for each line of
22 business in the various areas eligible for association
23 coverage.

24 c. The association shall provide for windstorm
25 coverage on residential properties in limits up to \$10 million
26 for commercial lines residential risks and up to \$1 million
27 for personal lines residential risks. If coverage with the
28 association is sought for a residential risk valued in excess
29 of these limits, coverage shall be available to the risk up to
30 the replacement cost or actual cash value of the property, at
31 the option of the insured, if coverage for the risk cannot be

1 located in the authorized market. The association must accept
2 a commercial lines residential risk with limits above \$10
3 million or a personal lines residential risk with limits above
4 \$1 million if coverage is not available in the authorized
5 market. The association may write coverage above the limits
6 specified in this subparagraph with or without facultative or
7 other reinsurance coverage, as the association determines
8 appropriate.

9 d. The plan of operation must provide objective
10 criteria and procedures, approved by the department, to be
11 uniformly applied for all applicants in determining whether an
12 individual risk is so hazardous as to be uninsurable. In
13 making this determination and in establishing the criteria and
14 procedures, the following shall be considered:

15 (I) Whether the likelihood of a loss for the
16 individual risk is substantially higher than for other risks
17 of the same class; and

18 (II) Whether the uncertainty associated with the
19 individual risk is such that an appropriate premium cannot be
20 determined.

21
22 The acceptance or rejection of a risk by the association
23 pursuant to such criteria and procedures must be construed as
24 the private placement of insurance, and the provisions of
25 chapter 120 do not apply.

26 e. The policies issued by the association must provide
27 that if the association obtains an offer from an authorized
28 insurer to cover the risk at its approved rates under either a
29 standard policy including wind coverage or, if consistent with
30 the insurer's underwriting rules as filed with the department,
31 a basic policy including wind coverage, the risk is no longer

1 eligible for coverage through the association. Upon
2 termination of eligibility, the association shall provide
3 written notice to the policyholder and agent of record stating
4 that the association policy must be canceled as of 60 days
5 after the date of the notice because of the offer of coverage
6 from an authorized insurer. Other provisions of the insurance
7 code relating to cancellation and notice of cancellation do
8 not apply to actions under this sub-subparagraph.

9 f. Association policies and applications must include
10 a notice that the association policy could, under this
11 section, be replaced with a policy issued by an authorized
12 insurer that does not provide coverage identical to the
13 coverage provided by the association. The notice shall also
14 specify that acceptance of association coverage creates a
15 conclusive presumption that the applicant or policyholder is
16 aware of this potential.

17 6.a. The plan of operation may authorize the formation
18 of a private nonprofit corporation, a private nonprofit
19 unincorporated association, a partnership, a trust, a limited
20 liability company, or a nonprofit mutual company which may be
21 empowered, among other things, to borrow money by issuing
22 bonds or by incurring other indebtedness and to accumulate
23 reserves or funds to be used for the payment of insured
24 catastrophe losses. The plan may authorize all actions
25 necessary to facilitate the issuance of bonds, including the
26 pledging of assessments or other revenues.

27 b. Any entity created under this subsection, or any
28 entity formed for the purposes of this subsection, may sue and
29 be sued, may borrow money; issue bonds, notes, or debt
30 instruments; pledge or sell assessments, market equalization
31 surcharges and other surcharges, rights, premiums, contractual

1 rights, projected recoveries from the Florida Hurricane
2 Catastrophe Fund, other reinsurance recoverables, and other
3 assets as security for such bonds, notes, or debt instruments;
4 enter into any contracts or agreements necessary or proper to
5 accomplish such borrowings; and take other actions necessary
6 to carry out the purposes of this subsection. The association
7 may issue bonds or incur other indebtedness, or have bonds
8 issued on its behalf by a unit of local government pursuant to
9 subparagraph (g)2., in the absence of a hurricane or other
10 weather-related event, upon a determination by the association
11 subject to approval by the department that such action would
12 enable it to efficiently meet the financial obligations of the
13 association and that such financings are reasonably necessary
14 to effectuate the requirements of this subsection. Any such
15 entity may accumulate reserves and retain surpluses as of the
16 end of any association year to provide for the payment of
17 losses incurred by the association during that year or any
18 future year. The association shall incorporate and continue
19 the plan of operation and articles of agreement in effect on
20 the effective date of chapter 76-96, Laws of Florida, to the
21 extent that it is not inconsistent with chapter 76-96, and as
22 subsequently modified consistent with chapter 76-96. The board
23 of directors and officers currently serving shall continue to
24 serve until their successors are duly qualified as provided
25 under the plan. The assets and obligations of the plan in
26 effect immediately prior to the effective date of chapter
27 76-96 shall be construed to be the assets and obligations of
28 the successor plan created herein.

29 c. In recognition of s. 10, Art. I of the State
30 Constitution, prohibiting the impairment of obligations of
31 contracts, it is the intent of the Legislature that no action

1 be taken whose purpose is to impair any bond indenture or
2 financing agreement or any revenue source committed by
3 contract to such bond or other indebtedness issued or incurred
4 by the association or any other entity created under this
5 subsection.

6 7. On such coverage, an agent's remuneration shall be
7 that amount of money payable to the agent by the terms of his
8 or her contract with the company with which the business is
9 placed. However, no commission will be paid on that portion of
10 the premium which is in excess of the standard premium of that
11 company.

12 8. Subject to approval by the department, the
13 association may establish different eligibility requirements
14 and operational procedures for any line or type of coverage
15 for any specified eligible area or portion of an eligible area
16 if the board determines that such changes to the eligibility
17 requirements and operational procedures are justified due to
18 the voluntary market being sufficiently stable and competitive
19 in such area or for such line or type of coverage and that
20 consumers who, in good faith, are unable to obtain insurance
21 through the voluntary market through ordinary methods would
22 continue to have access to coverage from the association. When
23 coverage is sought in connection with a real property
24 transfer, such requirements and procedures shall not provide
25 for an effective date of coverage later than the date of the
26 closing of the transfer as established by the transferor, the
27 transferee, and, if applicable, the lender.

28 9. Notwithstanding any other provision of law:

29 a. The pledge or sale of, the lien upon, and the
30 security interest in any rights, revenues, or other assets of
31 the association created or purported to be created pursuant to

1 any financing documents to secure any bonds or other
2 indebtedness of the association shall be and remain valid and
3 enforceable, notwithstanding the commencement of and during
4 the continuation of, and after, any rehabilitation,
5 insolvency, liquidation, bankruptcy, receivership,
6 conservatorship, reorganization, or similar proceeding against
7 the association under the laws of this state or any other
8 applicable laws.

9 b. No such proceeding shall relieve the association of
10 its obligation, or otherwise affect its ability to perform its
11 obligation, to continue to collect, or levy and collect,
12 assessments, market equalization or other surcharges,
13 projected recoveries from the Florida Hurricane Catastrophe
14 Fund, reinsurance recoverables, or any other rights, revenues,
15 or other assets of the association pledged.

16 c. Each such pledge or sale of, lien upon, and
17 security interest in, including the priority of such pledge,
18 lien, or security interest, any such assessments, emergency
19 assessments, market equalization or renewal surcharges,
20 projected recoveries from the Florida Hurricane Catastrophe
21 Fund, reinsurance recoverables, or other rights, revenues, or
22 other assets which are collected, or levied and collected,
23 after the commencement of and during the pendency of or after
24 any such proceeding shall continue unaffected by such
25 proceeding.

26 d. As used in this subsection, the term "financing
27 documents" means any agreement, instrument, or other document
28 now existing or hereafter created evidencing any bonds or
29 other indebtedness of the association or pursuant to which any
30 such bonds or other indebtedness has been or may be issued and
31 pursuant to which any rights, revenues, or other assets of the

1 association are pledged or sold to secure the repayment of
2 such bonds or indebtedness, together with the payment of
3 interest on such bonds or such indebtedness, or the payment of
4 any other obligation of the association related to such bonds
5 or indebtedness.

6 e. Any such pledge or sale of assessments, revenues,
7 contract rights or other rights or assets of the association
8 shall constitute a lien and security interest, or sale, as the
9 case may be, that is immediately effective and attaches to
10 such assessments, revenues, contract, or other rights or
11 assets, whether or not imposed or collected at the time the
12 pledge or sale is made. Any such pledge or sale is effective,
13 valid, binding, and enforceable against the association or
14 other entity making such pledge or sale, and valid and binding
15 against and superior to any competing claims or obligations
16 owed to any other person or entity, including policyholders in
17 this state, asserting rights in any such assessments,
18 revenues, contract, or other rights or assets to the extent
19 set forth in and in accordance with the terms of the pledge or
20 sale contained in the applicable financing documents, whether
21 or not any such person or entity has notice of such pledge or
22 sale and without the need for any physical delivery,
23 recordation, filing, or other action.

24 f. There shall be no liability on the part of, and no
25 cause of action of any nature shall arise against, any member
26 insurer or its agents or employees, agents or employees of the
27 association, members of the board of directors of the
28 association, or the department or its representatives, for any
29 action taken by them in the performance of their duties or
30 responsibilities under this subsection. Such immunity does not
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1 apply to actions for breach of any contract or agreement
2 pertaining to insurance, or any willful tort.

3 Section 59. Subsections (1) and (5) of section
4 627.702, Florida Statutes, are amended to read:

5 627.702 Valued policy law.--

6 (1) In the event of the total loss of any building,
7 structure, mobile home as defined in s. 320.01(2), or
8 manufactured building as defined in s. 553.36(12)~~(11)~~, located
9 in this state and insured by any insurer as to a covered
10 peril, in the absence of any change increasing the risk
11 without the insurer's consent and in the absence of fraudulent
12 or criminal fault on the part of the insured or one acting in
13 her or his behalf, the insurer's liability, if any, under the
14 policy for such total loss shall be in the amount of money for
15 which such property was so insured as specified in the policy
16 and for which a premium has been charged and paid.

17 (5) This section does not apply as to personal
18 property or any interest therein, except with respect to
19 mobile homes as defined in s. 320.01(2) or manufactured
20 buildings as defined in s. 553.36(12)~~(11)~~. Nor does this
21 section apply to coverage of an appurtenant structure or other
22 structure or any coverage or claim in which the dollar amount
23 of coverage available as to the structure involved is not
24 directly stated in the policy as a dollar amount specifically
25 applicable to that particular structure.

26 Section 60. This act shall take effect July 31, 1999.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1026
4 Requires license and inspection fees be deposited in the
5 department's operating trust fund, rather than the General
6 Revenue fund of the state;
7 Replaces the definition of mobile home, and includes
8 definitions of manufactured home and park trailers in the
9 bill;
10 Requires DCA be responsible for the installation of park
11 trailers, as well as mobile homes and manufactured buildings;
12 Specifies that counties and cities are not allowed to require
13 used mobile or manufactured homes moved into their
14 jurisdiction to be brought into compliance with the current
15 federal codes;
16 Specifies that only DCA has the authority to amend the uniform
17 mobile home and park trailer installation standards;
18 Includes the inspection of park trailers in the inspection
19 responsibilities of the new division;
20 Deletes the definition of park trailer, mobile home, and
21 manufactured home from s. 320.01, F.S.;
22 Makes a number of technical changes to the bill; and
23 Changes the effective date of the bill from January 1, 2000 to
24 July 31, 1999.
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