

STORAGE NAME: h0063.ca

DATE: March 27, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS**

BILL #: HB 63

RELATING TO: Manufactured Housing

SPONSOR(S): Representative Constantine and others

COMPANION BILL(S): HB 623(c), CS/SB 1026(c)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS (PRC)
 - (2) JUDICIARY (CJC)
 - (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS (FRC)
 - (4)
 - (5)
-

I. SUMMARY:

This bill transfers duties and responsibilities related to the construction and installation of mobile homes from the Bureau of Mobile Home and Recreational Vehicle Construction within the Department of Highway Safety and Motor Vehicles (DHSMV) to the Department of Community Affairs (DCA). The DCA will organize the transferred responsibilities under a newly created Bureau of Manufactured Housing within its Division of Housing and Community Development.

The bill provides for tie-down requirements, installation standards, injunctions, and penalties with respect to mobile homes and park trailers.

According to the DHSMV, the bill has a positive revenue impact on the DHSMV.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

PROPOSAL TO CONSOLIDATE PROGRAMS

The DHSMV regulates Florida's mobile homes within its Bureau of Mobile Home and Recreational Vehicle Construction. Chapter 320, Florida Statutes, relates to motor vehicle licenses and includes requirements for the construction, sale, and installation of mobile homes.

A 1996 report by the House Committee on Transportation examined the current state of mobile home regulation as an outcome of the House State Government Function/Activity Review Interim Project. The report acknowledged that over the years, mobile homes have evolved from a "motor vehicle" into a more permanent residential structure evidenced by provisions such as s. 193.075, Florida Statutes. This section provides that "a mobile home shall be considered permanently affixed if it is tied down and connected to the normal and usual utilities." The report also recognized the distinction between the missions of DHSMV and the Department of Community Affairs. While the DHSMV is the agency that regulates "moving" vehicles, the DCA oversees permanent structures such as fabricated commercial buildings (manufactured housing) and single-family dwellings.

Part IV of chapter 553, Florida Statutes, is the Florida Manufactured Building Act of 1979. Manufactured buildings are distinct from mobile homes. The DCA is responsible for enforcing the act, assuring that each manufactured building is structurally sound and properly installed on site and that the various systems in the building are reasonably safe. The Codes and Standards Section of the Division of Housing and Community Development at DCA, administers this act. The department contracts with private individuals to inspect manufactured buildings. Four (4) staff positions within DCA monitor these inspectors.

As a result, the report considered the feasibility of consolidating the Bureau of Mobile Home and Recreational Vehicle Construction services component with the DCA manufactured building program (which currently excludes mobile homes from its regulatory powers). Based on the report, the intent in consolidating is to reduce program duplication and costs.

GENERAL FEDERAL AND STATE BACKGROUND ON MOBILE HOMES

The Federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C., 600 et seq.) established federal construction and safety standards for manufactured homes. The Department of Housing and Urban Development (HUD) was directed to develop a federal standard building code for mobile homes. These standards supersede any standards regarding mobile home construction or safety. Thus, mobile homes are exempt from state or local regulation and are governed by the federal act and the corresponding rules promulgated by the HUD.

Florida entered into two contracts with HUD in 1976, to carry out the enforcement of the federal program. The Bureau of Mobile Home and Recreational Vehicle Construction within the DHSMV has since administered the contracts. The Bureau of Mobile Home and Recreational Vehicle Construction is the "State Administrative Agency" for monitoring all manufactured housing produced or installed in Florida. The Bureau of Mobile Home and Recreational Vehicle Construction inspects manufacturer facilities and dealer lots for compliance with the federal code; investigates and resolves consumer complaints against manufacturers and dealers; monitors retail lots; approves alterations made by retailers; and monitors the installation of mobile homes.

Florida is one of 36 states that perform these functions. Ten of those 36 states also perform as an in-plant primary inspection agency (IPIA) under a second contract. Florida is one of these states. According to the IPIA contract, the DHSMV must certify that a manufacturer is following approved quality control procedures and provide on-going in-plant inspection of the manufacturing process for conformance with the federal code standards. If the manufacturer complies, it is issued a label for each of the mobile homes manufactured in Florida.

According to the Office of Program Policy and Government Accountability (OPPAGA), Florida is one of the top three states receiving the largest number of manufactured homes. Florida is ranked seventh in the nation in highest production. During Fiscal Year 1997-98, the program registered 168,466 mobile homes and inspected 20,649 mobile homes at manufacturing plants. The program

issued 4,223 manufacturer non-compliance notices. Currently, Florida licenses 364 manufactured home installers.

B. EFFECT OF PROPOSED CHANGES:

The bill establishes the Bureau of Manufactured Housing within the DCA's Division of Housing and Community Development. It effectively transfers all statutory powers, duties, and appropriations relating to mobile home regulation from the Bureau of Mobile Home and Recreational Vehicle Construction within the DHSMV to the DCA under its newly established Bureau of Manufactured Housing. The bill grants the DCA and the DHSMV authority to enter into interagency agreements with each other to effectuate such transfer.

The bill requires the DCA to be the agency responsible for ensuring that there is adequate affordable housing in this state through the use of manufactured homes defined in s. 553.36(12), Florida Statutes (See Comments Section). The bill conforms s. 320.781, Florida Statutes, relating to the Mobile Home and Recreational Vehicle Protection Trust Fund, to the bill's provisions by removing the term "Mobile Home."

The bill renames part IV of chapter 553, Florida Statutes, from "Factory-built Housing" to "Manufactured Building and Housing." A factory-built housing judgement liability program is established. The program is a system for compensating persons with uncompensated judgments or claims against a mobile home dealer or broker. The bill provides tie-down requirements, installation standards, injunctions, and penalties with respect to mobile homes and park trailers.

The bill corrects cross-references in ss. 316.515 (State Uniform Traffic Control) and 627.702 (Insurance Rates and Contracts), Florida Statutes.

The bill fails to conform pertinent sections under chapter 320, Florida Statutes, to the provisions of this bill. Neither does the bill effectively transfer all the appropriate provisions to part IV, chapter 553, Florida Statutes, from chapter 320, Florida Statutes. Further, the bill provides little consistency in its nomenclature for various fabricated buildings. For example, the term "mobile home" is sometimes used interchangeably with "manufactured homes or housing" and vice versa, though technically the terms have different meanings. The bill addresses this dilemma by redefining "manufactured home."

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The DCA must establish a Bureau of Manufactured Housing to regulate the construction, sale, and installation of mobile homes. The Department of Highway Safety and Motor Vehicle must transfer its Bureau of Mobile Home and Recreational Vehicle Construction to the DCA.

(3) any entitlement to a government service or benefit?

Mobile home owners with claims against mobile home dealers are entitled to compensation when certain conditions are met.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Chapters 20, 320, Part IV of chapter 553, 316, and 627, Florida Statutes.

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 20.18, Florida Statutes, 1998 Supplement; establishes the Bureau of Manufactured Housing within the DCA's Division of Housing and Community Development; provides that the DCA be responsible for assuring that there is adequate affordable housing in the state of Florida through the use of manufactured homes; provides that the DCA be responsible for

assuring that the federal code on manufactured homes be observed by manufacturers; provides that the DCA be responsible for assuring that the state code for manufactured buildings is an efficient method for providing manufactured buildings to residents; and provides that the DCA be responsible for installation of manufactured homes and buildings to the extent that residents of the state are safe.

Section 2: Transfers all statutory powers, duties, functions, records, personnel, property, and unexpended funds of the Bureau of Mobile Home and Recreational Vehicle Construction of the DHSMV relating to regulation and administration of mobile homes to DCA; and provides the DCA and the DHSMV the authority to enter into certain interagency agreements to effectuate such transfer.

Section 3: Provides that the portion of the Mobile Home and Recreational Vehicle Protection Trust Fund relating to manufactured homes be transferred to the Operating Trust Fund of the DCA; and provides that the portion of the Highway Safety Operating Trust Fund relating to manufactured home fees and penalties and all fees and penalties deposited into the General Revenue Fund be transferred to the Operating Trust Fund of the DCA.

Section 4: Provides that all powers, duties, and functions of the DHSMV relating to regulation or licensing of mobile home installers be transferred to the Bureau of Manufactured Housing of the DCA.

Section 5: Amends s. 320.781, Florida Statutes; renames the Mobile Home and Recreational Vehicle Protection Trust Fund as the Recreational Vehicle Protection Trust Fund; and deletes all references to mobile homes with regard to the fund.

Section 6: Renames part IV of chapter 553, Florida Statutes; as Manufactured Building and Housing.

Section 7: Amends s. 553.35, Florida Statutes; renames the "Florida Manufactured Building Act of 1979" as the "Florida Manufactured Building and Housing Act of 1999".

Section 8: Amends s. 553.36, Florida Statutes; defines "division" as the Division of Housing and Community Development which contains the Bureau of Manufactured Housing in the DCA; renumbers certain subsections of section 553.36, Florida Statutes; defines "manufactured home" as any mobile home or residential unit constructed to standards promulgated by the United States Department of Housing and Urban Development.

Section 9: Creates s. 553.433; establishes factory-built housing judgement liability; provides that an additional fee of \$1 be charged by the division for each new mobile home transaction for which it charges a fee; provides that a fee of \$40 per annual dealer or manufacturer license be charged by the division; provides that these fees be deposited into the DCA's Operating Trust Fund; provides that moneys in the fund be used to satisfy certain judgments against a mobile home dealer or broker; provides that the fund not be liable for judgments resulting from certain tort claims; provides three situations in which moneys from the operating trust fund may be used to compensate for certain unsatisfied claims; provides an application procedure for recovering funds from the operating trust fund; provides that, within 90 days after receipt of the application and verified claim, the Division of Housing and Community Development must issue its determination which may not be in excess of \$25,000 per mobile home; provides that the division may try to recover funds paid from the operating trust fund from the mobile home dealer or broker; provides that a person may not recover a claim from the fund that resulted from a cause of action directly related to the sale, lease-purchase, exchange, brokerage, or installation of a mobile home prior to January 1, 2000; provides that moneys to pay claims only come from the operating trust fund, and be paid only when the necessary funds are available in the trust fund; and provides punishment for false statements or notices.

Section 10: Amends s. 553.38, Florida Statutes; revises language with regard to application and scope; provides that the Division of Housing and Community Development, through its Bureau of Manufactured Housing, promulgate rules and enforce provisions.

Section 11: Amends s. 320.8325, Florida Statutes; transfers subsection (2) of section 320.8325, Florida Statutes, to section 553.775, Florida Statutes; provides for tie-down requirements, installation standards, injunctions, and penalties with regard to mobile homes and park trailers.

Section 12: Amends s. 316.515, Florida Statutes; corrects cross-references.

Section 13: Amends s. 627.702, Florida Statutes; corrects cross-references.

Section 14: Provides that this act takes effect July 1, 1999, except as otherwise provided in the bill.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS: (See FISCAL COMMENTS)

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

The DHSMV estimates that the program will generate \$1,899,670 in revenue for the 1998/99 fiscal year. Mobile Home Seal fees account for \$875,000 and Dealer License fees account for \$180,000, both of which are deposited in the General Revenue fund. Revenues deposited in the Highway Safety Operating Trust Fund totals \$735,320. The DHSMV also estimates that \$109,350 will be collected for additional dealer license and title fees for deposit in the Mobile Home and Recreational Vehicle Protection Trust Fund. Of this amount, \$92,948 relates to mobile home transactions and \$16,402 relates to recreational vehicle transactions. Program expenditures are estimated to be \$1,565,185. The Bureau currently has 39 established positions.

The DHSMV reports that this bill will have a positive revenue impact on the DHSMV as total program costs are funded from the Highway Safety Operating Trust Fund while program revenues generate only \$735,320. The transfer of this program results in approximately \$875,000 being available in Highway Safety Operating Trust Fund for use by other DHSMV programs.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

The Florida Affordable Housing Study Commission (commission) expresses concern about the mission statement in the bill that requires the DCA to be the agency responsible for ensuring that there is adequate affordable housing in this state through the use of manufactured homes defined in s. 553.36(12), Florida Statutes. The commission believes the language is exclusionary as to other existing state affordable housing programs other than mobile homes.

This bill keeps the mobile home and manufacturer dealers' licensure program within the Department of Highway Safety and Motor Vehicle (DHSMV). However, DHSMV currently opposes any attempt to transfer the mobile home and manufacturer dealers' **licensure program** to the Department of Community Affairs. According to DHSMV, a vast majority of complaints are against mobile home dealers and mostly involve title and other sale problems. The titling and registration responsibilities remain with the DHSMV within the Bureau of Title and Registration . Also, resolution of such complaints come from the Bureau of Title and Registration after intensive and time consuming investigation. Further, these responsibilities are not part of the current Bureau of Mobile Home and Recreational Vehicle Construction which is being transferred to DCA. It is for these reasons, that the DHSMV believes it is more labor and cost efficient for the bureau to continue administering the licensure program.

The DCA supports a **bureau** under its Division of Housing and Community Development to administer the mobile home regulatory responsibilities. The DCA opposes reorganizing to accommodate the transfer under a separate **division**. The DCA asserts that a bureau is more prudent because:

- (1) The mobile home regulatory responsibilities are already organized as a bureau with the DHSVM. There appears to be a cost associated with converting a bureau into a division;
- (2) The DCA's Division of Housing and Community Development already experiences great visibility as a successful program. As such, the current visibility enjoyed by the Bureau of

Mobile Homes and Recreational Vehicle Construction will not be lost in the transfer. In fact, the DCA suggests that the current mobile home regulatory program's visibility will be enhanced under the Division; and

- (3) The existing building code section of DCA oversees about two-thirds of the building inspections in Florida while the mobile home inspection program comprises only one third of building inspections in the state. As such, it does not appear logical, prudent or fiscally sound to have the latter a division while the former remains a section.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The sponsor will offer a strike-everything-after-the-enacting-clause amendment. The amendment does the following:

- ✎ Establishes a new **Division** of Factory-built Housing within the DCA.
- ✎ Clarifies the mission statement for the DCA.
- ✎ Authorizes the Division of Factory-built Housing to regulate mobile homes, manufactured housing, and park trailers under part IV of chapter 553, Florida Statutes.
- ✎ Transfers the Bureau of Mobile Home and Recreational Vehicle Construction of the Department of Highway Safety and Motor Vehicles to the Division of Factory-built Housing . The recreational component remains at the Department of Highway and Motor Vehicles.
- ✎ Transfers portion of the Mobile Home and Recreational Vehicle Protection Trust Fund (Protection Trust Fund) to DCA's Operating Trust Fund.
- ✎ Transfers certain portion of the Highway Safety Operating Trust fund to DCA's Operating Trust Fund.
- ✎ Allows the Division to manage and administer the Protection and Operating Trust Funds.
- ✎ Provides conforming changes to existing law reflecting the regulatory transfer by removing reference to "mobile home" in provisions under the Department of Highway Safety and Motor Vehicles.
- ✎ Brings the Factory-Built Housing chapter provisions (part IV, chapter 553, Florida Statutes), under the authority of the Division.
- ✎ Establishes requirements and license tax for nonresident mobile home dealer's license.
- ✎ Defines "division", "mobile home", "manufactured home", and "park trailer" under part IV, chapter 553, Florida Statutes; deletes existing definition of mobile home under the same part.
- ✎ Establishes requirements for nonresident dealers in secondhand mobile homes.
- ✎ Transfers license requirement provisions for mobile home dealers from s. 320.77, Florida Statutes, (the Department of Highway Safety and Motor Vehicles) to s. 553.432, Florida Statutes, (the Department of Community Affairs).
- ✎ Deletes the provision allowing a licensed dealer to transact business in recreational vehicles with a motor vehicle auction.
- ✎ Requires all fees related to the regulation of mobile homes and manufactured homes to be deposited into the Department of Community Affairs' Operating Trust Fund.
- ✎ Deletes the provision requiring any person who buys, sells, or deals in both mobile homes and recreational vehicles to provide the same surety bond required of dealers who buy, sell, or deal in mobile homes only.
- ✎ Establishes the Factory-built housing judgment liability program.

- ☞ Allows mobile homes or manufactured homes moved into or within a county or city to be non-compliant with current Federal Manufactured Home Construction and Safety standards.
- ☞ Provides definitions needed to construe newly created ss. 553.434-553.458, Florida Statutes. These sections specifically relate to:
 - (1) Mobile home manufacturer's license
 - (2) Uniform standards for park trailers
 - (3) Guidelines for changes/modifications of uniform standards
 - (4) Limitation of alteration or modification to mobile homes
 - (5) Mobile home installers license
 - (6) Mobile home inspection, including onsite inspection
 - (7) Mobile home label and certification requirements
 - (8) Reciprocity of other states' mobile home codes
 - (9) Penalties for violating mobile home national standards
 - (10) Penalties for violating established mobile home state laws
 - (11) Tie-down requirements for mobile homes and park trailers
 - (12) Record keeping requirements and maintenance by Division
 - (13) Mobile home warranties, claims, and service
 - (14) Civil action, cumulative remedies, and liquidated damages
 - (15) Inspection of dealer or manufacturer records by Division
 - (16) Electronic applications
- ☞ Confirms provisions relating to construction within the coastal building zone to the provisions of this bill.
- ☞ Removes "mobile home" and "park trailer" definitions from chapter 320, Florida Statutes, Motor Vehicle Licenses.
- ☞ Confirms provisions relating to: (1) motor vehicle dealers in s. 320.27, Florida Statutes, (2) nonresident dealers in secondhand motor vehicles in s. 320.28, Florida Statutes, and (3) nonresident motor vehicles in s. 320.71, Florida Statutes, to the provisions of this bill.
- ☞ Confirms definitions regarding regulation of motor vehicles in s 320.822, Florida Statutes, to the provisions of this bill and removes the following definitions from the same: (1) "length if a mobile home", (2) "mobile home dealer", (3) "mobile home manufacturer", (4) "setup", and (5) "width of a mobile home."
- ☞ Confirms ss.320.8225, 320.8232, 320.824, 320.8245, 320.8256, 320.834, 320.835, 320.865, Florida Statutes, relating to mobile home and recreational vehicles to the provisions of this bill.
- ☞ Confirms ss. 325.202, 325.203, and 325.213, Florida Statutes, relating to vehicle safety equipment and inspections to the provisions of this bill.
- ☞ Confirms s. 627.351, Florida Statutes, relating to insurance rates and contracts to the provisions of this bill.
- ☞ Provides that provisions of bill are effective July 31, 1999.

There are six amendments to the strike everything amendment. Collectively, all six amendments place the mobile home and manufacturer dealers' licensure program back with the DHSMV.

The major differences between HB 63, as introduced, and the proposed strike everything amendment follows:

- (1) Requires the DCA to create a division, rather than bureau, to administer the regulatory responsibilities relating to the construction, sale, and installation of mobile homes;
- (2) Transfers the mobile home and manufacturer dealers' licensure program to DCA;
- (3) Establishes requirements and license tax for nonresident mobile home dealer's license;

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- (4) Establishes requirements for nonresident dealers in secondhand mobile homes;
- (5) Provides that the appropriate local government may charge one building permit or other applicable fee for the entire mobile home park where wind resistance evaluations are being performed;
- (6) Allows mobile homes or manufactured homes moved into or within a county or city to be non-compliant with current Federal Manufactured Home Construction and Safety Standards.
- (7) Provides that the effective date of the bill is July 31, 1999.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

Nayola R. Frazier

Joan Highsmith-Smith