

STORAGE NAME: h0063s1.ca

DATE: April 6, 1999

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

BILL #: CS/HB 63 & 623

RELATING TO: Factory-built Housing Safety

SPONSOR(S): Committee on Community Affairs and Representatives Constantine, Posey, and others

COMPANION BILL(S): CS/SB 1026 (c)

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

- (1) COMMUNITY AFFAIRS (PRC) YEAS 6 NAYS 3
 - (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). DCA will organize the transferred responsibilities under a newly created Division of Factory-built Housing.

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 Department of Highway Safety and Motor Vehicles (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 (DCA). 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 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 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 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:

This bill transfers all responsibilities relating to the regulation and administration of mobile home manufacturers, dealers, and brokers from the Bureau of Mobile Home and Recreational Vehicle Construction within the DHSMV to the newly-created Division of Factory-built Housing (Division) within DCA. However, the mobile home dealers and manufacturers licensing program will remain in the DHSMV.

Various provisions of chapter 320, Florida Statutes, relating to the regulation and administration of mobile home manufacturers, dealers, and brokers are transferred to or duplicated, as they relate to mobile homes, in part IV of chapter 553, Florida Statutes. Related provisions in chapter 320, Florida Statutes, are amended to delete references to mobile homes. Various other provisions are amended to replace statutory references effectuated by this bill. (See SECTION-by-SECTION for details).

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?

Yes. The bill specifies that the DCA, **through the Division of Factory-built Housing**, is responsible for rule promulgation of the Florida Manufactured Building Act of 1979, as amended by this bill.

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

The DCA must establish a Division of Factory-built Housing to regulate the construction, sale, and installation of mobile homes. The DHSMV 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?
N/A
- b. Does the bill require or authorize an increase in any fees?
N/A
- c. Does the bill reduce total taxes, both rates and revenues?
N/A
- d. Does the bill reduce total fees, both rates and revenues?
N/A
- e. Does the bill authorize any fee or tax increase by any local government?
N/A

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, 161, 316, 319, 320, 553, and 627, Florida Statutes.

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Amending s. 20.18, Florida Statutes, 1998 Supplement; establishing the Division of Factory-built Housing (Division) in DCA; requiring that the Division will be responsible for ensuring that there is adequate affordable housing in this state, including through the use of factory-built homes and for the installation of mobile homes, park trailers, and manufactured buildings.

Section 2: Transferring personnel, property, functions, and the responsibility for administering part IV of chapter 553, Florida Statutes, from the Codes and Standards Section of the Division of Housing and Community Development at DCA to the proposed Division of Factory-built Housing.

Section 3: Providing for the transfer of all responsibilities relating to the regulation and administration of mobile homes from the Bureau of Mobile Home and Recreational Vehicle Construction at DHSMV to the newly created Division of Factory-built Housing within DCA.

Section 4: Providing for the transfer of that portion of the Mobile Home and Recreational Vehicle Protection Trust Fund created under s. 320.781, Florida Statutes, relating to mobile homes, to the Operating Trust Fund of the DCA to be administered and managed by the Division of Factory-built Housing of DCA; and providing for the transfer of that portion of the Highway Safety Operating Trust Fund, created under s. 318.39, Florida Statutes, relating to certain mobile home related fees and penalties, to the Operating Trust Fund of the DCA to be administered and managed by the Division of Factory-built Housing.

Section 5: Amending s. 320.781, Florida Statutes; renaming the Mobile Home and Recreational Vehicle Protection Trust Fund as the Recreational Vehicle Protection Trust Fund; and deleting relevant references to mobile homes, thereby reflecting the transfer of mobile home related funds and responsibilities to the Division of Factory-built Housing in DCA.

Section 6: Amending s. 553.36, Florida Statutes; defining "division" as the Division of Factory-built Housing in DCA; conforms part IV of chapter 553, Florida Statutes, to include mobile home regulations; and provides definitions for "mobile home," "manufactured home," and "trailer park," for part IV of chapter 533, Florida Statutes.

Section 7: Amending s. 553.38, Florida Statutes; specifying that DCA, through the Division of Factory-built Housing, is responsible for rule promulgation and enforcement of the Florida Manufactured Building Act of 1979.

Section 8: Creating s. 553.433, establishing a factory-built housing judgment liability program.

Section 9: Creating s. 553.434, providing definitions necessary in construing ss. 553.434-553.458, Florida Statutes

Section 10. Transferring and renumbering s. 320.823, Florida Statutes, as s. 553.436, Florida Statutes; requiring mobile homes manufactured or sold in this state to meet the Federal Mobile Home Construction and Safety Standards promulgated by HUD.

Section 11. Creating s. 553.4365; establishing uniform standards for park trailers; requiring, specifically, that park trailers exceeding 400 square feet must meet the Federal Manufactured Home Construction and Safety Standards; and requiring such park trailers to have a United States Department of Housing and Urban Development label.

Section 12. Creating 553.437; authorizing the Division to adopt rules necessary to effectively administer and enforce mobile home regulation.

Section 13. Creating s. 553.438; limiting the alteration or modification to mobile homes; rendering a mobile home warranty void under certain circumstances; authorizing the Division of Factory-built Housing to adopt rules and regulations pursuant to chapter 120, Florida Statutes, which define the alterations or modifications which must be made by qualified personnel; establishing criteria for becoming a qualified person to alter or modify a mobile home which includes requiring such persons to have either a local license or certification from the Division; and requiring the Division to determine which counties and localities have licensing competency requirements adequate to eliminate the certification requirement.

Section 14. Transferring and renumbering s. 320.8249, Florida Statutes, as s. 553.439, Florida Statutes; providing procedures for licensing mobile home installers; replacing references to DHSMV with references to the Division; providing that licensed mobile home dealers and manufacturers performing mobile home installation will no longer be exempt from requirements to obtain a license as a mobile home installer; replacing a statutory reference with the appropriate statutory reference effectuated by section 9 of this bill; and deleting obsolete language.

Section 15. Transferring and renumbering s. 320.8255, Florida Statutes, as s. 553.440, Florida Statutes; providing for mobile home inspections; replacing references to DHSMV with references to the Division of Factory-built Housing; replacing a statutory reference with the appropriate statutory reference effectuated by section 16 of this bill; and providing that fee proceeds are to be deposited in the Department of Community Affairs' Operating Trust Fund.

Section 16. Transferring and renumbering s. 320.827, Florida Statutes, as s. 553.441, Florida Statutes; providing for mobile home labels and certifications on new mobile homes; replacing references to DHSMV with references to the Division of Factory-built Housing; and deleting obsolete language.

Section 17. Transferring and renumbering s. 320.8285, Florida Statutes, as s. 553.442, Florida Statutes; providing for onsite inspections of mobile homes; specifying that counties and cities are not allowed to require used mobile or manufactured homes moved into their jurisdiction to be brought into

compliance with the current federal codes; replacing references to DHSMV are replaced with references to the Division of Factory-built Housing; and replacing a statutory reference with the appropriate statutory reference effectuated by section 10 of this bill.

Section 18. Transferring and renumbering s. 320.830, Florida Statutes, as s. 553.443, Florida Statutes; providing for reciprocity with other states; replacing references to DHSMV with references to the Division of Factory-built Housing

Section 19. Transferring and renumbering s. 320.831, Florida Statutes, as s. 553.444, Florida Statutes; providing penalties for noncompliance with construction and safety standards; replacing statutory references with appropriate statutory references effectuated by this bill.

Section 20. Transferring and renumbering s. 320.8325, Florida Statutes, as s. 553.445, Florida Statutes; addressing mobile home tie-downs and installation standards; replacing references to DHSMV with references to the Division of Factory-built Housing (Division); requiring uniform standards, as opposed to minimum standards, for the manufacture and installation of "manufactured housing installation systems," which specifically include buckles, straps, stabilizer plates, and piers as well as anchors, which is addressed in current law; authorizing only DCA to amend these uniform installation standards; providing that such systems must ensure that the house "remains secured to the ground when subjected to winds equal to or less than their HUD code design criteria....;" providing that Division rules must be "reasonably related" to the age and windzone of the house; providing that the Division is also charged with developing standards for installation and anchoring systems for park trailers; requiring that fees and civil penalties collected pursuant to s. 553.439, Florida Statutes, deposited in DCA's Operating Trust fund are to be used for testing of manufactured housing installation systems to ensure such housing meets the wind design criteria adopted by the Division.

Section 21. Creates s. 553.446; providing for the retention, destruction, and reproduction of records.

Section 22. Transferring and renumbering s. 320.8335, Florida Statutes, as s. 553.447, Florida Statutes, relating to disclosure of the manner used in determining the length of mobile homes.

Section 23. Creating s. 553.448, providing the intent of the Legislature and purpose of a mobile home inspection program.

Section 24. Creating s. 553.449; specifying mobile home manufacturer, dealer, and supplier's warranty responsibilities.

Section 25. Creating s. 553.450; providing procedures for presenting warranty claims.

Section 26. Creating s. 553.451; establishing requirements relating to warranty service; and replacing statutory references with appropriate statutory references effectuated by this bill.

Section 27. Creating s. 553.452; providing that a mobile home buyer may bring a civil suit for damages against a responsible party who fails to satisfactorily resolve a warranty claim.

Section 28. Creating s. 553.453; addressing cumulative remedies in suits brought by buyers of mobile homes.

Section 29. Creating s. 553.455, authorizing the Division of Factory-built Housing (Division) to inspect and subpoena licensee records relating to complaints against the mobile home dealer or manufacturer licensee; and replaces references to the DHSMV with references to the Division.

Section 30. Creating s. 553.456; providing for the revocation of a mobile home manufacturer, dealer, or installer's license.

Section 31. Creating s. 553.457; providing for the maintenance of records; replaces references to the DHSMV with references to the Division; and replaced statutory references with appropriate statutory references effectuated by this bill.

Section 32. Creating s. 553.458; providing for electronic or telephonic transactions; replacing references to the DHSMV with references to the Division.

Section 33. Amending s. 161.55, Florida Statutes; replacing a statutory reference effectuated by this bill.

Section 34. Amending s. 316.515, Florida Statutes; replacing a statutory reference effectuated by this bill.

Section 35. Amending s. 320.8232, Florida Statutes; revising uniform standards for used recreational vehicles and the repair and remodeling code for mobile homes; removing obsolete references to the mobile home repair and remodeling code.

Section 36. Amending s. 320.824, Florida Statutes, 1998 Supplement; revising mobile home changes and modifications standards; removing references to mobile homes and HUD building standards, resulting from the transfer of mobile home related responsibilities to the Division of Factory-built Housing in DCA.

Section 37. Amending s. 320.8245, Florida Statutes; limiting the alteration or modification of mobile homes or recreational vehicles, to include references to recreational vehicles and to remove references to mobile homes, reflecting the transfer of mobile home related responsibilities to the Division of Factory-built Housing in DCA.

Section 38. Amending s. 320.8256, Florida Statutes; providing for recreational vehicle inspections; and removing fee authorization to cover the cost of producing and issuing the mobile home seal.

Section 39. Amending s. 320.834, Florida Statutes; revises legislative purpose to remove references to mobile homes in conformity with the transfer of mobile home related responsibilities to the Division of Factory-built Housing in DCA.

Section 40. Amending s. 320.835, Florida Statutes; revising provisions relating to mobile home and recreational vehicle warranties to remove references to mobile homes in conformity to the transfer of mobile home related responsibilities to the Division of Factory-built Housing in DCA

Section 41. Amending s. 627.351, Florida Statutes, 1998 Supplement; revises windstorm insurance risk apportionment requirements; replacing a reference to the DHSMV with the Division of Factory-built Housing, and replacing a statutory reference relating to mobile home tie-down and installation standards.

Section 42. Amending s. 627.702, Florida Statutes; replacing a statutory reference to conform to the provisions of this bill.

Section 43. Provides that this bill will take effect July 31, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT: (See **FISCAL COMMENTS**)

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

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 during 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 total \$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 of Mobile Home and Recreational Vehicle Construction within DHSMV 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 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** as provided in this bill. The DCA asserts that a bureau is more prudent because:

- (1) The mobile home regulatory responsibilities are already organized as a bureau with the DHSMV. 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 of Housing and Community Affairs.
- (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:

On March 30, 1999, the House Committee on Community Affairs (committee) took up HB 63, by Representative Constantine and HB 623, by Representative Posey, simultaneously. A strike everything amendment to the bills by Representative Constantine was adopted. The committee accepted a motion to combine both bills and accepted a committee substitute.

In addition, a total of 14 amendments were offered to the strike everything amendment. Six of those amendments, numbered 1a-6a, collectively placed the mobile home dealers and manufacturers' licensure program back with the DHSMV. Seven of those amendments, numbered 7a-13a, were withdrawn. Collectively, these seven amendments effectively transferred the duties and responsibilities to a Bureau rather than a Division with DCA. The final amendment made part IV of chapter 553, Florida Statutes, apply to mobile homes.

The major differences between the bill, as introduced, and the strike everything amendment, as amended, 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) 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.
- (3) Provides that the effective date of the bill is July 31, 1999.

STORAGE NAME: h0063s1.ca

DATE: April 6, 1999

PAGE 11

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

Nayola R. Frazier

Joan Highsmith-Smith