

By the Committee on Community Affairs and Representatives
Constantine, Posey, C. Green, Gay, Fasano, Jones, Kelly,
Detert, Russell, Putnam, Byrd, Brown, Brummer, Farkas,
Morrone, Bainter, Murman, Fiorentino, Ball, Jacobs, Kosmas and
Spratt

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.
30 553.433, 553.434, 553.4365, 553.437, 553.438,
31 553.446, 553.448, 553.449, 553.450, 553.451,

1 553.452, 553.453, 553.455, 553.456, 553.457,
2 553.458, F.S.; recreating certain provisions
3 under chapter 320, F.S., within part IV of
4 chapter 553, F.S., to conform; transferring and
5 renumbering ss. 320.823, 320.8335, F.S., to
6 conform; transferring, renumbering, and
7 amending ss. 320.8255, 320.827, 320.8285,
8 320.830, 320.831, 320.8325, F.S., to conform;
9 requiring the division to adopt rules on
10 manufactured housing installation systems;
11 requiring the development of certain standards
12 for park trailers; renumbering and amending s.
13 320.8249, F.S., to conform; amending ss.
14 161.55, 316.515, 319.001, 320.131, 320.27,
15 320.8232, 320.824, 320.8245, 320.8256, 320.834,
16 320.835, 627.351, 627.702, F.S., to conform;
17 providing an effective date.

18

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

20

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

24

25 20.18 Department of Community Affairs.--There is
26 created a Department of Community Affairs.

27

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

30

(d) Division of Factory-built Housing.

31

(7) The Department of Community Affairs shall be the
agency responsible for ensuring that there is adequate
affordable housing in this state, including through the use of

1 factory-built homes. The department shall also be the agency
2 responsible for the installation of mobile homes, park
3 trailers, and manufactured buildings to such an extent that
4 residents of this state are as safe as possible with respect
5 to destructive weather.

6 Section 2. The powers, duties, responsibilities,
7 functions, records, personnel, property, and unexpended
8 balances of appropriations, allocations, or other funds within
9 the Department of Community Affairs relating to
10 administration, implementation, and enforcement of part IV of
11 chapter 553, Florida Statutes, are hereby transferred to the
12 Division of Factory-built Housing of the department.

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

27 (2) The Department of Community Affairs and the
28 Department of Highway Safety and Motor Vehicles shall have the
29 authority to enter into interagency agreements with each other
30 concerning any matter affected by the transfer of the Bureau
31 of Mobile Home and Recreational Vehicle Construction to the

1 Department of Community Affairs to promote the efficient and
2 effective operation of both departments.

3 Section 4. (1) The portion of the Mobile Home and
4 Recreational Vehicle Protection Trust Fund created under s.
5 320.781, Florida Statutes, relating to mobile homes is
6 transferred to the Operating Trust Fund of the Department of
7 Community Affairs to be administered and managed by the
8 Division of Factory-built Housing of the Department of
9 Community Affairs pursuant to s. 553.433, Florida Statutes.

10 (2) That portion of the Highway Safety Operating Trust
11 Fund, created under s. 318.39, Florida Statutes, and into
12 which fees and penalties relating to mobile home regulation,
13 manufacture, licensure, and installation are deposited, is
14 transferred to the Operating Trust Fund of the Department of
15 Community Affairs to be administered and managed by the
16 Division of Factory-built Housing for the purposes of part IV
17 of chapter 553, Florida Statutes.

18 Section 5. Section 320.781, Florida Statutes, is
19 amended to read:

20 320.781 ~~Mobile Home and~~ Recreational Vehicle
21 Protection Trust Fund.--

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

28 (2) Beginning October 1, 1990, the department shall
29 charge and collect an additional fee of \$1 for each ~~new mobile~~
30 ~~home and~~ new recreational vehicle title transaction for which
31 it charges a fee. This additional fee shall be deposited into

1 the trust fund. The Department of Highway Safety and Motor
2 Vehicles shall charge a fee of \$40 per annual dealer and
3 manufacturer license and license renewal, which shall be
4 deposited into the trust fund. The sums deposited in the trust
5 fund shall be used exclusively for carrying out the purposes
6 of this section. These sums may be invested and reinvested by
7 the Treasurer under the same limitations as apply to
8 investment of other state funds, with all interest from these
9 investments deposited to the credit of the trust fund.

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

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

29 (5) Subject to the limitations and requirements of
30 this section, the trust fund shall be used by the department
31 to compensate persons who have unsatisfied judgments, or in

1 certain limited circumstances unsatisfied claims, against a
2 ~~mobile home or~~ recreational vehicle dealer or broker in one of
3 the following situations:

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

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

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

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

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

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- 1 1.a. That the judgment against the ~~mobile home or~~
2 recreational vehicle dealer or broker and its surety has been
3 entered; or
- 4 b. That the judgment against the ~~mobile home or~~
5 recreational vehicle dealer or broker contains a specific
6 finding that the surety has no liability, that execution has
7 been returned unsatisfied, and that a judgment lien has been
8 perfected;
- 9 2. The amount of actual damages broken down by
10 category as awarded by the court or jury in the cause which
11 resulted in the unsatisfied judgment, and the amount of
12 attorney's fees set forth in the unsatisfied judgment;
- 13 3. The amount of payment or other consideration
14 received, if any, from the ~~mobile home or~~ recreational vehicle
15 dealer or broker or its surety;
- 16 4. The amount that may be realized, if any, from the
17 sale of real or personal property or other assets of the
18 judgment debtor liable to be sold or applied in satisfaction
19 of the judgment and the balance remaining due on the judgment
20 after application of the amount which has been realized and a
21 certification that the claimant has made a good faith effort
22 to collect the judgment; and
- 23 5. Such other information as the department requires.
- 24 (b) If the claimant has alleged a claim as set forth
25 in paragraph (5)(c) and for the reasons set forth therein has
26 not been able to secure a judgment, the verified claim must
27 contain the following:
- 28 1. A true copy of the pleadings in the lawsuit which
29 was stayed or discharged by the bankruptcy court and the order
30 of the bankruptcy court staying those proceedings;
- 31

1 2. Allegations of the acts or omissions by the ~~mobile~~
2 ~~home or~~ recreational vehicle dealer or broker setting forth
3 the specific acts or omissions complained of which resulted in
4 actual damage to the person, along with the actual dollar
5 amount necessary to reimburse or compensate the person for
6 costs or expenses resulting from the acts or omissions of
7 which the person complained;

8 3. True copies of all purchase agreements, notices,
9 service or repair orders or papers or documents of any kind
10 whatsoever which the person received in connection with the
11 purchase, exchange, or lease-purchase of the ~~mobile home or~~
12 recreational vehicle from which the person's cause of action
13 arises; and

14 4. Such other information as the department requires.

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

17 (7) Within 90 days after receipt of the application
18 and verified claim, the department shall issue its
19 determination on the claim. Such determination shall not be
20 subject to the provisions of chapter 120, but shall be
21 reviewable only by writ of certiorari in the circuit court in
22 the county in which the claimant resides in the manner and
23 within the time provided by the Florida Rules of Appellate
24 Procedure. The claim must be paid within 45 days after the
25 determination, or, if judicial review is sought, within 45
26 days after the review becomes final. A person may not be paid
27 an amount from the fund in excess of \$25,000 per ~~mobile home~~
28 ~~or~~ recreational vehicle. Prior to payment, the person must
29 execute an assignment to the department of all the person's
30 rights and title to, and interest in, the unsatisfied judgment
31

1 and judgment lien or the claim against the dealer or broker
2 and its surety.

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

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

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

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

1 Section 6. Section 553.36, Florida Statutes, is
2 amended to read:

3 553.36 Definitions.--The definitions contained in this
4 section govern the construction of this part unless the
5 context otherwise requires.

6 (1) "Approved" means conforming to the requirements of
7 the Department of Community Affairs.

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

18 (3) "Closed construction" means that condition when
19 any building, component, assembly, subassembly, or system is
20 manufactured in such a manner that all portions cannot be
21 readily inspected at the installation site without disassembly
22 or destruction thereof.

23 (4) "Open construction" means any building, building
24 component, assembly, or system manufactured in such a manner
25 that all portions can be readily inspected at the building
26 site without disassembly thereof, damage thereto, or
27 destruction thereof.

28 (5) "Component" means any assembly, subassembly, or
29 combination of parts for use as a part of a building, which
30 may include structural, electrical, mechanical, and fire
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1 protection systems and other systems affecting health and
2 safety.

3 (6) "Department" means the Department of Community
4 Affairs.

5 (7) "Division" means the Division of Factory-built
6 Housing of the department.

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

10 (9)~~(8)~~ "Install" means the assembly of a manufactured
11 building component or system on site and the process of
12 affixing a manufactured building component or system to land,
13 a foundation, or an existing building, and service connections
14 which are a part thereof.

15 (10)~~(9)~~ "Local government" means any municipality,
16 county, district, or combination thereof comprising a
17 governmental unit.

18 (11)~~(10)~~ "Manufacture" means the process of making,
19 fabricating, constructing, forming, or assembling a product
20 from raw, unfinished, semifinished, or finished materials.

21 (12)~~(11)~~ "Manufactured building" means a closed
22 structure, building assembly, or system of subassemblies,
23 which may include structural, electrical, plumbing, heating,
24 ventilating, or other service systems manufactured in
25 manufacturing facilities for installation or erection, with or
26 without other specified components, as a finished building or
27 as part of a finished building, which shall include, but not
28 be limited to, residential, commercial, institutional,
29 storage, and industrial structures. ~~This part does not apply~~
30 ~~to mobile homes.~~ Manufactured building may also mean, at the
31 option of the manufacturer, any building of open construction

1 made or assembled in manufacturing facilities away from the
2 building site for installation, or assembly and installation,
3 on the building site.

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

22 (b) "Manufactured home" means a structure,
23 transportable in one or more sections, which, in the traveling
24 mode, is 8 body feet or more in width or 40 body feet or more
25 in length or, when erected on site, is 320 or more square
26 feet, and which is built on a permanent chassis and designed
27 to be used as a dwelling with or without a permanent
28 foundation when connected to the required utilities, and
29 includes the plumbing, heating, air-conditioning, and
30 electrical systems contained therein. Calculations used to
31 determine the number of square feet in a structure will be

1 based on the structure's exterior dimensions, measured at the
2 largest horizontal projections when erected on site. These
3 dimensions will include all expandable rooms, cabinets, and
4 other projections containing interior space, but do not
5 include bay windows. This term includes all structures that
6 meet these requirements, except for the size requirements and
7 with respect to which the manufacturer voluntarily files a
8 certification pursuant to s. 3282.13 and complies with the
9 standards set forth in Part 3280. Nothing in this subsection
10 should be interpreted to mean that a "manufactured home"
11 necessarily meets the requirements of HUD's Minimum Property
12 Standards (HUD Handbook 4900.1) or that it is automatically
13 eligible for financing under 12 U.S.C. s. 1709(b).

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

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

1 (15)~~(13)~~ "Site" is the location on which a
2 manufactured building is installed or is to be installed.

3 (16)~~(14)~~ "System" means structural, plumbing,
4 mechanical, heating, electrical, or ventilating elements,
5 materials, or components combined for use in a building.

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

8 553.38 Application and scope.--

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

16 (2) The division ~~department~~ shall enforce every
17 provision of this part and the rules adopted pursuant hereto,
18 except that local land use and zoning requirements, fire
19 zones, building setback requirements, side and rear yard
20 requirements, site development requirements, property line
21 requirements, subdivision control, and onsite installation
22 requirements, as well as the review and regulation of
23 architectural and aesthetic requirements, are specifically and
24 entirely reserved to local authorities. Such local
25 requirements and rules which may be enacted by local
26 authorities must be reasonable and uniformly applied and
27 enforced without any distinction as to whether a building is a
28 conventionally constructed or manufactured building. A local
29 government shall require permit fees only for those
30 inspections actually performed by the local government for the
31 installation of a factory-built structure. Such fees shall be

1 equal to the amount charged for similar inspections on
2 conventionally built housing.

3 Section 8. Section 553.433, Florida Statutes, is
4 created to read:

5 553.433 Factory-built housing judgment liability.--

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

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

23 (3) Moneys deposited into the department's operating
24 trust fund under this section shall be used to satisfy any
25 judgment by any person, as provided by this section, against a
26 mobile home dealer or broker for damages, restitution, or
27 expenses, including reasonable attorney's fees, resulting from
28 a cause of action directly related to the conditions of any
29 written contract made by him or her in connection with the
30 sale, exchange, or improvement of any mobile home, or for any
31 violation of this part.

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

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

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

25 (b) The claimant has obtained a judgment against the
26 surety of the mobile home dealer or broker that is
27 unsatisfied.

28 (c) The claimant has alleged a claim against the
29 mobile home dealer or broker in a lawsuit which has been
30 stayed or discharged as a result of the filing for
31 reorganization or discharge in bankruptcy by the dealer or

1 broker, and judgment against the surety is not possible
2 because of the bankruptcy or liquidation of the surety, or
3 because the surety has been found by a court of competent
4 jurisdiction not to be liable due to prior payment of valid
5 claims against the bond in an amount equal to or greater than
6 the face amount of the applicable bond.

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

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

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

16 b. That the judgment against the mobile home dealer or
17 broker contains a specific finding that the surety has no
18 liability, that execution has been returned unsatisfied, and
19 that a judgment lien has been perfected;

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

24 3. The amount of payment or other consideration
25 received, if any, from the mobile home dealer or broker or its
26 surety;

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

1 certification that the claimant has made a good faith effort
2 to collect the judgment; and
3 5. Such other information as the division requires.
4 (b) If the claimant has alleged a claim as set forth
5 in paragraph (5)(c) and for the reasons set forth therein has
6 not been able to secure a judgment, the verified claim must
7 contain the following:
8 1. A true copy of the pleadings in the lawsuit which
9 was stayed or discharged by the bankruptcy court and the order
10 of the bankruptcy court staying those proceedings;
11 2. Allegations of the acts or omissions by the mobile
12 home dealer or broker setting forth the specific acts or
13 omissions complained of which resulted in actual damage to the
14 person, along with the actual dollar amount necessary to
15 reimburse or compensate the person for costs or expenses
16 resulting from the acts or omissions of which the person
17 complained;
18 3. True copies of all purchase agreements, notices,
19 service or repair orders, or papers or documents of any kind
20 whatsoever which the person received in connection with the
21 purchase, exchange, or lease-purchase of the mobile home from
22 which the person's cause of action arises; and
23 4. Such other information as the division requires.
24 (c) The division may require such proof as it deems
25 necessary to document the matters set forth in the claim.
26 (7) Within 90 days after receipt of the application
27 and verified claim, the division shall issue its determination
28 on the claim. Such determination shall not be subject to the
29 provisions of chapter 120, but shall be reviewable only by
30 writ of certiorari in the circuit court in the county in which
31 the claimant resides in the manner and within the time

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

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

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

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

1 available pursuant this section, the division shall pay the
2 claimant whose unpaid claim is the earliest by time and date
3 of determination.

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

10 Section 9. Section 553.434, Florida Statutes, is
11 created to read:

12 553.434 Definitions.--In construing ss.
13 553.434-553.458, unless the context otherwise requires, the
14 following words or phrases have the following meanings:

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

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

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

22 (b) The Uniform Standards Code approved by the
23 American National Standards Institute, ANSI A-119.2 for
24 recreational vehicles and ANSI A-119.5 for park trailers or
25 the United States Department of Housing and Urban Development
26 standard for park trailers certified as meeting that standard;
27 or

28 (c) The Mobile Home Repair and Remodeling Code and
29 Used Recreational Vehicle Code.

30 (3) "Construction" means the minimum requirements for
31 materials, products, equipment, and workmanship needed to

1 assure that the mobile home will provide structural strength
2 and rigidity; protection against corrosion, decay, and other
3 similar destructive forces; resistance to the elements; and
4 durability and economy of maintenance.

5 (4) "Division" means the Division of Factory-built
6 Housing.

7 (5) "Institute" means the American National Standards
8 Institute.

9 (6) "Length," for purposes of transportation only,
10 means the distance from the extreme front of the mobile home,
11 to the extreme rear, including the drawbar and coupling
12 mechanism, but not including expandable features that do not
13 project from the body during transportation.

14 (7) "Length of a mobile home" means the distance from
15 the exterior of the front wall (nearest to the drawbar and
16 coupling mechanism) to the exterior of the rear wall (at the
17 opposite end of the home) where such walls enclose living or
18 other interior space and such distance includes expandable
19 rooms but not bay windows, porches, drawbars, couplings,
20 hitches, wall and roof extensions, or other attachments.

21 (8) "Mobile home dealer" means any person engaged in
22 the business of buying, selling, or dealing in mobile homes or
23 offering or displaying mobile homes for sale. Any person who
24 buys, sells, or deals in one or more mobile homes in any
25 12-month period or who offers or displays for sale one or more
26 mobile homes in any 12-month period shall be prima facie
27 presumed to be engaged in the business of a mobile home
28 dealer. The terms "selling" and "sale" include lease-purchase
29 transactions. The term "mobile home dealer" does not include
30 a bank, credit union, or finance company that acquires mobile
31 homes as an incident to its regular business, does not include

1 a mobile home rental or leasing company that sells mobile
2 homes to mobile home dealers licensed under s. 320.77, and
3 does not include persons who are selling their own mobile
4 homes.

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

8 (10) "Responsible party" means a manufacturer, dealer,
9 or supplier.

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

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

20 (13) "Substantial defect" means:

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

24 (b) Any structural element, utility system, or
25 component of the mobile home, which fails to comply with the
26 code.

27 (14) "Supplier" means the original producer of
28 completed components, including refrigerators, stoves, hot
29 water heaters, dishwashers, cabinets, air conditioners,
30 heating units, and similar components, which are furnished to
31

1 a manufacturer or dealer for installation in the mobile home
2 prior to sale to a buyer.

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

9 (16) "Body size" of a park trailer means the distance
10 from the exterior side or end to the opposite exterior side or
11 end of the body. Such distance includes expandable rooms, bay
12 windows, wall and roof extensions, or other extrusions in the
13 travel mode, except park trailers constructed to ANSI A-119.5
14 shall not exceed 400 square feet. Park trailers constructed to
15 the United States Department of Housing and Urban Development
16 standard shall not exceed 500 square feet. All square footage
17 measurements are of the exterior when in setup mode and do not
18 include bay windows.

19 Section 10. Section 320.823, Florida Statutes, is
20 transferred and renumbered as section 553.436, Florida
21 Statutes.

22 Section 11. Section 553.4365, Florida Statutes, is
23 created to read:

24 553.4365 Establishment of uniform standards for park
25 trailers.--Park trailers exceeding 400 square feet shall meet
26 the Federal Manufactured Home Construction and Safety
27 Standards and shall have a United States Department of Housing
28 and Urban Development label.

29 Section 12. Section 553.437, Florida Statutes, is
30 created to read:

31

1 553.437 Rules and regulations, changes and
2 modifications of standards.--

3 (1) The division may adopt such rules as it deems
4 necessary or proper for the effective administration and
5 enforcement of ss. 553.431-553.458 and may adopt any changes
6 in, or additions to, the standards adopted in s. 553.436 or s.
7 553.4365, which are approved and officially published by the
8 institute or adopted by the Department of Housing and Urban
9 Development subsequent to the effective date of this act.

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

15 Section 13. Section 553.438, Florida Statutes, is
16 created to read:

17 553.438 Limitation of alteration or modification to
18 mobile homes.--

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

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

29 (a) An alteration or modification performed by a
30 mobile home dealer or his or her agent or employee shall place
31 warranty responsibility for the altered or modified item upon

1 the dealer. If the manufacturer fulfills, or is required to
2 fulfill, the warranty on the altered or modified item, he or
3 she shall be entitled to recover damages in the amount of his
4 or her costs and attorneys' fees from the dealer.

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

14 (3) AUTHORITY OF THE DIVISION.--The division is
15 authorized to adopt rules and regulations pursuant to chapter
16 120 which define the alterations or modifications which must
17 be made by qualified personnel. The division may regulate
18 only those alterations and modifications which substantially
19 impair the structural integrity or safety of the mobile home.

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

21 (a) In order to be designated as a person qualified to
22 alter or modify a mobile home, a person must comply with local
23 or county licensing or competency requirements in skills
24 relevant to performing alterations or modifications on mobile
25 homes.

26 (b) When no local or county licensing or competency
27 requirements exist, the division may certify persons to
28 perform mobile home alterations or modifications. The
29 division shall by rule or regulation determine what skills and
30 competency requirements are requisite to the issuance of a
31 certification. A fee sufficient to cover the costs of issuing

1 certifications may be charged by the division. The
2 certification shall be valid for a period which terminates
3 when the county or other local governmental unit enacts
4 relevant competency or licensing requirements. The
5 certification shall be valid only in counties or localities
6 without licensing or competency requirements.
7 (c) The division shall determine which counties and
8 localities have licensing or competency requirements adequate
9 to eliminate the requirement of certification. This
10 determination shall be based on a review of the relevant
11 county or local standards for adequacy in regulating persons
12 who perform alterations or modifications to mobile homes. The
13 division shall find local or county standards adequate when
14 minimal licensing or competency standards are provided.
15 Section 14. Section 320.8249, Florida Statutes, is
16 transferred and renumbered as section 553.439, Florida
17 Statutes, and is amended to read:
18 553.439 ~~320.8249~~ Mobile home installers license.--
19 (1) Any person who engages in mobile home installation
20 shall obtain a mobile home installers license from the
21 division ~~Bureau of Mobile Home and Recreational Vehicle~~
22 ~~Construction of the Department of Highway Safety and Motor~~
23 ~~Vehicles~~ pursuant to this section. Said license shall be
24 renewed annually, and each licensee shall pay a fee of \$150.
25 (2) The division ~~Department of Highway Safety and~~
26 ~~Motor Vehicles~~ shall issue a license as a mobile home
27 installer to any person who applies to the division
28 ~~department~~, pays the appropriate application fee, not to
29 exceed \$100, as set by division ~~department~~ rule, and complies
30 with subsection (3).
31

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

22 ~~(4) Notwithstanding the provisions of subsection (3),~~
23 ~~any person who can show that he or she had been engaged in the~~
24 ~~business of mobile home installation on October 1, 1996, shall~~
25 ~~be exempted until October 1, 1997, from the requirement for~~
26 ~~completing training and for passing an examination in order to~~
27 ~~be licensed by the department as a mobile home installer and~~
28 ~~shall be licensed upon application, provided he or she has~~
29 ~~complied with all requirements of subsection (3), other than~~
30 ~~the training and examination requirements. No person shall be~~
31 ~~licensed or remain licensed as a mobile home installer~~

1 ~~subsequent to October 1, 1997, who has not taken and passed~~
2 ~~the department-approved mobile home installer examination.~~
3 (4)~~(5)~~ A direct employee of a licensed mobile home
4 installer working under the supervision of the licensee and
5 within the job scope of the licensee is not required to be
6 licensed as a mobile home installer. The licensed mobile home
7 installer is responsible for supervising all such employees
8 and for the proper and competent performance of all employees
9 working under his or her supervision.

10 (5)~~(6)~~ "Installation," as used herein, is synonymous
11 with "setup" as defined in s. 553.434 ~~320.822(14)~~.

12 (6)~~(7)~~ No person shall:

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

15 (b) Falsely impersonate a licensed mobile home
16 installer;

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

19 (d) Knowingly give false or forged evidence to the
20 division ~~department~~;

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

23 (f) Engage in the business or act in the capacity of a
24 licensed mobile home installer or advertise himself or herself
25 or a business organization as available to engage in the
26 business or act in the capacity of a mobile home installer
27 without being duly licensed.

28 (7)~~(8)~~ Any unlicensed person who violates any of the
29 provisions of subsection(6)~~(7)~~ is guilty of a misdemeanor of
30 the first degree, punishable as provided in s. 775.082 or s.
31 775.083.

1 (8)~~(9)~~ No licensed person nor licensed applicant
2 shall:
3 (a) Obtain a mobile home installers license by fraud
4 or misrepresentation.
5 (b) Be convicted or found guilty of, or enter a plea
6 of nolo contendere to, regardless of adjudication, a crime in
7 any jurisdiction which directly relates to the practice of
8 mobile home installation or the ability to practice.
9 (c) Violate any lawful order of the division
10 ~~department~~.
11 (d) Commit fraud or deceit in the practice of
12 contracting.
13 (e) Commit incompetence or misconduct in the practice
14 of contracting.
15 (f) Commit gross negligence, repeated negligence, or
16 negligence resulting in a significant danger to life or
17 property.
18 (g) Commit violations of the installation standards
19 for mobile homes or manufactured homes contained in rules
20 15C-1.0102 to 15C-1.0104, Florida Administrative Code.
21 (9)~~(10)~~ Any licensed person or license applicant who
22 violates any provision of subsection(8)~~(9)~~ may have any of
23 the following disciplinary penalties imposed by the division
24 ~~department~~:
25 (a) License revocation;
26 (b) License suspension;
27 (c) A fine not to exceed \$1,000 per violation;
28 (d) A requirement to take and pass, or retake and
29 pass, the division-approved ~~department-approved~~ examination;
30 (e) Probation;
31

1 (f) Probation subject to such restriction of practice
2 as the division ~~department~~ chooses to impose;
3 (g) A notice of noncompliance; or
4 (h) Refusal of licensure application.
5 ~~(11) Licensed mobile home dealers and licensed mobile~~
6 ~~home manufacturers are exempt from requirements to obtain a~~
7 ~~license as a mobile home installer and may perform mobile home~~
8 ~~installation. Any licensed dealer or licensed manufacturer~~
9 ~~who does not subcontract with a licensed installer and who~~
10 ~~performs his or her own installations, either himself or~~
11 ~~herself or through direct employees, shall have at least one~~
12 ~~employee who has completed an 8-hour installation training~~
13 ~~course, as approved by the department. Licensed mobile home~~
14 ~~dealers and mobile home manufacturers are subject to~~
15 ~~discipline against their license for violation of subsection~~
16 ~~(9).~~
17 (10)~~(12)~~ The regulation of manufactured home
18 installers or mobile home installers is preempted to the
19 state, and no person may perform mobile home installation
20 unless licensed pursuant to this section, regardless of
21 whether that person holds a local license.
22 (11)~~(13)~~ No county, municipality, or other unit of
23 local government may require additional licensing of a duly
24 licensed installer who performs setup operations as defined in
25 s. 553.434 ~~320.822~~. However, a county, municipality, or other
26 unit of local government may require an installer to obtain a
27 local occupational license, which license shall not require
28 for its issuance any conditions other than those required by
29 this act and payment of the appropriate occupational license
30 fee.
31

1 (12)~~(14)~~ All installers, dealers, and manufacturers
2 shall purchase installation decals from the division
3 ~~Department of Highway Safety and Motor Vehicles~~ for a fee not
4 to exceed \$10 per decal. An installation decal shall be
5 affixed to the manufactured home or mobile home prior to
6 installation. This decal shall denote the date of
7 installation, the name of the installer, and the number of the
8 installer's license or the dealer or manufacturer license
9 number. Such decal shall be positioned immediately next to
10 the HUD decal.

11 (13)~~(15)~~ In performing the installation, installers
12 shall not perform plumbing or electrical activities prohibited
13 by division ~~department~~ rules related to setup operations
14 pursuant to s. 320.822.

15 (14)~~(16)~~ Funds received by the division ~~department~~
16 pursuant to this section shall be deposited in the
17 department's ~~Highway Safety~~ Operating Trust Fund.

18 ~~(17) There are hereby appropriated five positions and~~
19 ~~\$219,295 from the Highway Safety Operating Trust Fund in the~~
20 ~~Department of Highway Safety and Motor Vehicles to implement~~
21 ~~the provisions of this section.~~

22 Section 15. Section 320.8255, Florida Statutes, is
23 transferred and renumbered as section 553.440, Florida
24 Statutes, and is amended to read:

25 553.440 ~~320.8255~~ Mobile home inspection.--

26 (1) In order to ensure the highest degree of quality
27 control in the construction of new mobile homes, each new
28 mobile home sold in the state shall be inspected by the
29 division ~~department~~ pursuant to procedures developed by the
30 division ~~department~~ which assure compliance with code
31 provisions. The division ~~department~~ may adopt reasonable

1 rules and regulations pursuant to chapter 120 for the
2 implementation and enforcement of this inspection.

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

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

13 (4) The division ~~department~~ shall determine fees for
14 special inspections and for the seal authorized under s.
15 320.827 which are sufficient to cover the cost of inspection
16 and administration under this section. Fees collected shall
17 be deposited into the Department's Operating Trust ~~General~~
18 ~~Revenue~~ Fund.

19 Section 16. Section 320.827, Florida Statutes, is
20 transferred and renumbered as section 553.441, Florida
21 Statutes, and is amended to read:

22 553.441 ~~320.827~~ Label; procedures for issuance;
23 certification; requirements.--No dealer shall sell or offer
24 for sale in this state any new mobile home ~~manufactured after~~
25 ~~January 1, 1968~~, unless the mobile home bears a label and the
26 certification by the manufacturer that the mobile home to
27 which the label is attached meets or exceeds the appropriate
28 code. Any mobile home bearing the insignia of approval
29 pursuant to this section shall be deemed to comply with the
30 requirements of all local government ordinances or rules which
31 govern construction, and no mobile home bearing the division

1 ~~department~~ insignia of approval shall be in any way modified
2 except in compliance with this chapter. Labels may be issued
3 by the division ~~department~~ when applied for with an affidavit
4 certifying that the ~~dealer or~~ manufacturer applying will not
5 attach a label to any new mobile home that does not meet or
6 exceed the appropriate code. No mobile home may be
7 manufactured in this state unless it bears a label and
8 certification that the mobile home meets or exceeds the code.
9 The label for each mobile home shall be displayed in a manner
10 to be prescribed by the division ~~department~~.

11 Section 17. Section 320.8285, Florida Statutes, is
12 transferred and renumbered as section 553.442, Florida
13 Statutes, and is amended to read:

14 553.442 ~~320.8285~~ Onsite inspection.--

15 (1) Each county or municipality in this state shall
16 prepare and adopt a plan providing for an onsite inspection of
17 each mobile home located within such entity. The onsite
18 inspection shall ensure compliance with state and local
19 building codes, ordinances, and regulations regarding such
20 functions as blocking and leveling, tie-downs, utility
21 connections, conversions of appliances, and external
22 improvements on the mobile home. If a mobile home is
23 manufactured in conformity with the code, as established in s.
24 553.436 ~~320.823~~, a county may not require modification of the
25 mobile home in order to comply with local tie-down
26 regulations.

27 (2) When a county or municipality has not prepared and
28 adopted a plan providing for onsite inspection, the division
29 ~~department~~ shall prepare a minimum onsite inspection plan for
30 such county. The division ~~department~~ may adopt ~~promulgate~~

31

1 reasonable rules and regulations pursuant to chapter 120 in
2 preparing and enforcing such a minimum onsite inspection plan.
3 (3) Each county or municipality may designate the
4 persons who are to perform the onsite inspection. If a county
5 or municipality does not so designate, the division ~~department~~
6 shall designate the persons who are to perform the onsite
7 inspection. No person shall be designated to perform onsite
8 inspections unless such person is competent in the areas of
9 mobile home blocking and leveling, tie-downs, utility
10 connections, conversions of appliances, and external
11 improvements. Pursuant to the onsite inspection, each mobile
12 home shall be issued a certificate of occupancy if the mobile
13 home complies with state and local building codes, ordinances,
14 and regulations regarding such functions as blocking and
15 leveling, tie-downs, utility connections, conversion of
16 appliances, and external improvements to the mobile home.
17 (4) Fees for onsite inspections and certificates of
18 occupancy of mobile homes shall be reasonable for the services
19 performed. A guideline for fee schedules shall be issued by
20 the division ~~department~~.
21 (5) The division ~~Department of Highway Safety and~~
22 ~~Motor Vehicles~~ shall enforce every provision of this section
23 and the regulations adopted pursuant hereto, except that local
24 land use and zoning requirements, fire zones, building setback
25 and side and rear yard requirements, site development and
26 property line requirements, subdivision control, and onsite
27 installation requirements, as well as review and regulation of
28 architectural and aesthetic requirements, are hereby
29 specifically and entirely reserved to local jurisdictions.
30 However, any architectural or aesthetic requirement imposed on
31 the mobile home structure itself may pertain only to roofing

1 and siding materials. Such local requirements and regulations
2 and others for manufactured homes must be reasonable,
3 uniformly applied, and enforced without distinctions as to
4 whether such housing is manufactured, located in a mobile home
5 park or a mobile home subdivision, or built in a conventional
6 manner. No local jurisdiction shall prohibit siting or
7 resiting of used mobile homes based solely on the date the
8 unit was manufactured. Mobile homes or manufactured homes
9 moved into or within a county or municipality shall not be
10 required to be brought into compliance with the current
11 standards set forth in the Federal Manufactured Home
12 Construction and Safety Standards Act.

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

15 Section 18. Section 320.830, Florida Statutes, is
16 transferred and renumbered as section 553.443, Florida
17 Statutes, and is amended to read:

18 553.443 ~~320.830~~ Reciprocity.--If any other state has
19 codes for mobile homes at least equal to those established by
20 this part ~~chapter~~, the division ~~department~~, upon determining
21 that such standards are being enforced by an independent
22 inspection agency, shall place the other state on a
23 reciprocity list, which list shall be available to any
24 interested person. Any mobile home that bears a seal of any
25 state which has been placed on the reciprocity list may not be
26 required to bear the seal of this state. A mobile home that
27 does not bear the label herein provided shall not be permitted
28 to be manufactured or offered for sale by a manufacturer or
29 dealer anywhere within the geographical limits of this state
30 unless the mobile home is designated for delivery into another
31

1 state that has not adopted a code entitling the state to be
2 placed on the reciprocity list.

3 Section 19. Section 320.831, Florida Statutes, is
4 transferred and renumbered as section 553.444, Florida
5 Statutes, and is amended to read:

6 553.444 ~~320.831~~ Penalties.--

7 (1) Whoever violates any provision of the National
8 Mobile Home Construction and Safety Standards Act of 1974, 42
9 U.S.C. ss. 5401 et seq., or any rules, regulations, or final
10 order issued thereunder shall be liable for a civil penalty
11 not to exceed \$1,000 for each such violation. Each violation
12 of a provision of the act or any rule, regulation, or order
13 issued thereunder shall constitute a separate violation with
14 respect to each mobile home or with respect to each failure or
15 refusal to allow or perform an act required thereby, except
16 that the maximum civil penalty may not exceed \$1 million for
17 any related series of violations occurring within 1 year from
18 the date of the first violation.

19 (2) Any individual, or a director, officer, or agent
20 of a corporation, who knowingly and willfully violates the
21 provisions of s. 610 of the National Mobile Home Construction
22 and Safety Standards Act of 1974 in a manner which threatens
23 the health or safety of any purchaser is guilty of a
24 misdemeanor of the first degree, punishable as provided in s.
25 775.082 or s. 775.083.

26 (3) Any manufacturer, dealer, or inspector who
27 violates or fails to comply with any of the provisions of ss.
28 553.434-553.456 ~~320.822-320.862~~ or any of the rules adopted by
29 the department is guilty of a misdemeanor of the first degree,
30 punishable as provided in s. 775.082 or s. 775.083, provided
31 such violation is not also a violation of the National Mobile

1 Home Construction and Safety Standards Act of 1974 or any
2 rule, regulation, or final order issued thereunder.

3 Section 20. Section 320.8325, Florida Statutes, is
4 transferred and renumbered as section 553.445, Florida
5 Statutes, and is amended to read:

6 553.445 ~~320.8325~~ Mobile homes and park trailers;
7 tie-down requirements; uniform ~~minimum~~ installation standards;
8 injunctions; penalty.--

9 (1) The owner of a mobile home or park trailer shall
10 secure the mobile home or park trailer to the ground by the
11 use of anchors and tie-downs so as to resist wind overturning
12 and sliding. However, nothing herein shall be construed as
13 requiring that anchors and tie-downs be installed to secure
14 mobile homes or park trailers which are permanently attached
15 to a permanent structure. A permanent structure shall have a
16 foundation and such other structural elements as are required
17 pursuant to rules and regulations promulgated by the division
18 ~~department~~ which assure the rigidity and stability of the
19 mobile home or park trailer.

20 (a) A mobile home or park trailer manufactured in
21 accordance with the code standards and labeled "hurricane and
22 windstorm resistive" shall be anchored to each anchor point
23 provided on the mobile home or park trailer. A mobile home or
24 park trailer which does not meet these standards must be
25 anchored with anchor points spaced as required by the division
26 ~~department~~ starting at each end of the mobile home or park
27 trailer.

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

30 1. A mobile home or park trailer having built-in,
31 over-the-roof ties shall be secured by the tie-down points,

1 provided such built-in ties and points meet the standards
2 adopted ~~promulgated~~ by the division ~~department~~.

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

7 (2) The division ~~department~~ shall adopt ~~promulgate~~
8 rules ~~and regulations~~ setting forth uniform ~~minimum~~ standards
9 for the manufacture and ~~or~~ installation of manufactured
10 housing installation systems, composed of anchors, buckles,
11 straps, stabilizer plates, and piers or other requirements
12 mandated by a manufacturer's installation manual ~~anchors,~~
13 ~~tie-downs, over-the-roof ties, or other reliable methods of~~
14 ~~securing mobile homes or park trailers when over-the-roof ties~~
15 ~~are not suitable due to factors such as unreasonable cost,~~
16 ~~design of the mobile home or park trailer, or potential damage~~
17 ~~to the mobile home or park trailer. No entity, other than the~~
18 ~~department, shall have authority to amend these uniform~~
19 ~~standards. Such~~ systems ~~devices~~ required under this section,
20 when properly installed, shall ensure that a manufactured home
21 remains secured to the ground when subjected to winds equal to
22 or less than their HUD code design criteria and shall ~~cause~~
23 ~~the mobile home or park trailer to resist wind overturning and~~
24 ~~sliding. In promulgating Such rules shall be reasonably~~
25 ~~related to the~~ and regulations, the department may make such
26 ~~discriminations regarding mobile home or park trailer tie-down~~
27 ~~requirements as are reasonable when factors such as age and~~
28 ~~windzone of the manufactured housing, location, and~~
29 ~~practicality of tying down a mobile home or park trailer are~~
30 ~~considered. The division shall also develop standards for~~
31 installation and anchoring systems for park trailers. Fees

1 and civil penalties collected by the division pursuant to s.
2 553.439 shall be deposited into the department's Operating
3 Trust Fund for the use by the division for the testing of
4 manufactured housing installation systems and their individual
5 components to insure that such products being delivered to
6 consumers in this state meet the wind design criteria adopted
7 by the division.

8 (3)(a) Persons licensed in this state to engage in the
9 business of insuring mobile homes or park trailers that are
10 subject to the provisions of this section against damage from
11 windstorm shall issue such insurance only if the mobile home
12 or park trailer has been anchored and tied down in accordance
13 with the provisions of this section.

14 (b) In the event that a mobile home or park trailer is
15 insured against damage caused by windstorm and subsequently
16 sustains windstorm damage of a nature that indicates that the
17 mobile home or park trailer was not anchored or tied down in
18 the manner required by this section, the person issuing the
19 policy shall not be relieved from meeting the obligations
20 specified in the insurance policy with respect to such damage
21 on the basis that the mobile home or park trailer was not
22 properly anchored or tied down.

23 (4) Whenever a person who engages in the business of
24 installing anchors, tie-downs, or over-the-roof ties or who
25 engages in the business of manufacturing, distributing, or
26 dealing in such devices for use in this state does so in a
27 manner that is not in accordance with the minimum standards
28 set forth by the division ~~department~~, a person aggrieved
29 thereby may bring an action in the appropriate court for
30 actual damages. In addition, the court may provide appropriate
31 equitable relief, including the enjoining of a violator from

1 engaging in the business or from engaging in further
2 violations. Whenever it is established to the satisfaction of
3 the court that a willful violation has occurred, the court
4 shall award punitive damages to the aggrieved party. The
5 losing party may be liable for court costs and reasonable
6 attorney's fees incurred by the prevailing party.

7 (5) In addition to other penalties provided in this
8 section, the division ~~department~~ or the state attorneys and
9 their assistants are authorized to apply to the circuit courts
10 within their respective jurisdictions, and such courts shall
11 have jurisdiction, upon hearing and for cause shown, to grant
12 temporary or permanent injunctions restraining any persons
13 engaging in the business of manufacturing, distributing, or
14 dealing in anchors, tie-downs, or over-the-roof ties from
15 manufacturing or selling such devices in a manner not in
16 accordance with the minimum standards set forth by the
17 division ~~department~~ or restraining any persons in the business
18 of installing anchors, tie-downs, or over-the-roof ties from
19 utilizing devices that do not meet the minimum standards set
20 forth by the division ~~department~~ or from installing such
21 devices in a manner not in accordance with the minimum
22 standards set forth by the division ~~department~~, whether or not
23 there exists an adequate remedy at law, and such injunctions
24 shall issue without bond.

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

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

1 Section 21. Section 553.446, Florida Statutes, is
2 created to read:

3 553.446 Retention, destruction, and reproduction of
4 records.--Records and documents of the division, created in
5 compliance with and in the implementation of this part, shall
6 be retained by the division as specified in record retention
7 schedules established under the general provisions of chapter
8 119. Further, the division is hereby authorized:

9 (1) To destroy, or otherwise dispose of, those records
10 and documents, in conformity with the approved retention
11 schedules.

12 (2) To photograph, microphotograph, or reproduce on
13 film, as authorized and directed by the approved retention
14 schedules, whereby each page will be exposed in exact
15 conformity with the original records and documents retained in
16 compliance with the provisions of this section. Photographs
17 or microphotographs in the form of film or print of any
18 records, made in compliance with the provisions of this
19 section, shall have the same force and effect as the originals
20 thereof would have and shall be treated as originals for the
21 purpose of their admissibility in evidence. Duly certified or
22 authenticated reproductions of such photographs or
23 microphotographs shall be admitted in evidence equally with
24 the original photographs or microphotographs.

25 Section 22. Section 320.8335, Florida Statutes, is
26 transferred and renumbered as section 553.447, Florida
27 Statutes.

28 Section 23. Section 553.448, Florida Statutes, is
29 created to read:

30 553.448 Purpose.--It is the intent of the Legislature
31 to ensure the safety and welfare of residents of mobile homes

1 and park trailers through an inspection program conducted by
2 the division. Mobile homes are a primary housing resource of
3 many of the residents of the state and satisfy a large segment
4 of statewide affordable housing needs. It is the further
5 intent of the Legislature that the division, mobile home
6 dealers, and mobile home manufacturers continue to work
7 together to meet the applicable code requirements for mobile
8 homes and that such dealers and manufacturers share the
9 responsibilities of warranting mobile homes in accordance with
10 applicable codes and resolving legitimate consumer complaints
11 in a timely, efficient manner.

12 Section 24. Section 553.449, Florida Statutes, is
13 created to read:

14 553.449 Mobile home warranties.--Each manufacturer,
15 dealer, and supplier of mobile homes shall warrant each new
16 mobile home sold in this state and the setup of each such
17 mobile home, in accordance with the warranty requirements
18 prescribed by this section, for a period of at least 12
19 months, measured from the date of delivery of the mobile home
20 to the buyer. The warranty requirements of each manufacturer,
21 dealer, and supplier of mobile homes are as follows:

22 (1) The manufacturer warrants:

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

28 (b) That 100-ampere electrical service exists in the
29 mobile home.

30 (2) The dealer warrants:

31

1 (a) That any modifications or alterations made to the
2 mobile home by the dealer or authorized by the dealer shall be
3 free from substantial defect. Alterations or modifications
4 made by a dealer shall relieve the manufacturer of warranty
5 responsibility only as to the item altered or modified.

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

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

11
12 When the setup of a mobile home is performed by a person who
13 is not an employee or agent of the mobile home manufacturer or
14 dealer and is not compensated or authorized by, or connected
15 with, such manufacturer or dealer, then the warranty
16 responsibility of the manufacturer or dealer as to setup shall
17 be limited to transporting the mobile home to the occupancy
18 site free from substantial defect.

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

24 Section 25. Section 553.450, Florida Statutes, is
25 created to read:

26 553.450 Presenting warranty claim.--The claim in
27 writing, stating the substance of the warranty defect, may be
28 presented to the manufacturer, dealer, or supplier. When the
29 person notified is not the responsible party he or she shall
30 inform the claimant and shall notify the responsible party of
31 the warranty claim immediately.

1 Section 26. Section 553.451, Florida Statutes, is
2 created to read:

3 553.451 Warranty service.--

4 (1) When a service agreement exists between
5 manufacturers, dealers, and suppliers to provide warranty
6 service, the agreement may specify which party is to remedy
7 warranty defects. However, when a warranty defect is not
8 properly remedied, the responsible party as determined
9 pursuant to s. 553.449 shall be responsible for providing
10 warranty service.

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

14 (3) The defect shall be remedied within 30 days of
15 receipt of the written notification of the warranty claim
16 unless the claim is unreasonable or bona fide reasons exist
17 for not remedying the defect. When sufficient reasons exist
18 for not remedying the defect or the claim is unreasonable, the
19 responsible party shall respond to the claimant in writing
20 with its reasons for not promptly remedying the defect and
21 what further action is contemplated by the responsible party.

22 (4) When the person remedying the defect is not the
23 responsible party as designated by s. 553.449 he or she shall
24 be entitled to reasonable compensation paid to him or her by
25 the responsible party. Conduct which coerces or requires a
26 nonresponsible party to perform warranty service is a
27 violation of this section.

28 (5) Warranty service shall be performed at the site at
29 which the mobile home is initially delivered to the buyer,
30 except for components which can be removed for service without
31 substantial expense or inconvenience to the buyer.

1 Section 27. Section 553.452, Florida Statutes, is
2 created to read:

3 553.452 Civil action.--Notwithstanding the existence
4 of other remedies, a buyer may bring a civil suit for damages
5 against a responsible party who fails to satisfactorily
6 resolve a warranty claim. Damages shall be the actual costs
7 of remedying the defect. Court costs and reasonable attorney
8 fees may be awarded to the prevailing party. When the court
9 finds that failure to honor warranty claims is a consistent
10 pattern of conduct of the responsible party, or that the
11 defect is so severe as to significantly impair the safety of
12 the mobile home, it may assess punitive damages against the
13 responsible party.

14 Section 28. Section 553.453, Florida Statutes, is
15 created to read:

16 553.453 Cumulative remedies.--The warranty provided
17 for in this act shall be in addition to, and not in derogation
18 of, any other rights and privileges which the buyer may have
19 under any other law or instrument. The manufacturer, dealer
20 or supplier shall not require the buyer to waive his or her
21 rights under this act or any other rights under law. Any such
22 waiver shall be deemed contrary to public policy and
23 unenforceable and void.

24 Section 29. Section 553.455, Florida Statutes, is
25 created to read:

26 553.455 Inspection of records; production of evidence;
27 subpoena power.--

28 (1) The division may inspect the pertinent books,
29 records, letters, and contracts of any licensee, whether
30 dealer or manufacturer, relating to any written complaint made
31 to it against such licensee.

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

6 Section 30. Section 553.456, Florida Statutes, is
7 created to read:

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

22 Section 31. Section 553.457, Florida Statutes, is
23 created to read:

24 553.457 Maintenance of records by the division.--The
25 division shall maintain uniform records of all complaints
26 filed against licensees licensed under the provisions of s.
27 320.77 any other provision of this part to the contrary
28 notwithstanding. The records shall contain all enforcement
29 actions taken against licensees and against unlicensed persons
30 acting in a capacity which would require them to be licensed
31 under those sections. The permanent file of each licensee and

1 unlicensed person shall contain a record of any complaints
2 filed against him or her and a record of any enforcement
3 actions taken against him or her. All complaints and
4 satisfactions thereof and enforcement actions on each licensee
5 and unlicensed person shall be entered into the central
6 database in such a manner that rapid retrieval will be
7 facilitated. The complainant and the referring agency, if
8 there is one, shall be advised of the disposition by the
9 division of the complaint within 10 days after such action.

10 Section 32. Section 553.458, Florida Statutes, is
11 created to read:

12 553.458 Transactions by electronic or telephonic
13 means.--The division is authorized to accept any application
14 provided for under this chapter by electronic or telephonic
15 means.

16 Section 33. Paragraph (b) of subsection (1) of section
17 161.55, Florida Statutes, is amended to read:

18 161.55 Requirements for activities or construction
19 within the coastal building zone.--The following requirements
20 shall apply beginning March 1, 1986, to construction within
21 the coastal building zone and shall be minimum standards for
22 construction in this area:

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

24 (b) Mobile homes shall conform to the Federal Mobile
25 Home Construction and Safety Standards or the Uniform
26 Standards Code ANSI book A-119.1, pursuant to s. 553.436
27 ~~320.823~~, and to the requirements of paragraph (c).

28 Section 34. Subsection (14) of section 316.515,
29 Florida Statutes, is amended to read.

30 316.515 Maximum width, height, length.--

31

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

9 Section 35. Section 320.8232, Florida Statutes, is
10 amended to read:

11 320.8232 Establishment of uniform standards for used
12 recreational vehicles ~~and repair and remodeling code for~~
13 ~~mobile homes.--~~

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

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

31

1 Section 36. Section 320.824, Florida Statutes, 1998
2 Supplement, is amended to read:

3 320.824 Changes and modifications of standards.--
4 ~~(1) The department may adopt by rule changes in, or~~
5 additions to, the standards adopted in s. 320.823 or s.
6 320.8231, which are approved and officially published by the
7 institute ~~or promulgated by the Department of Housing and~~
8 ~~Urban Development subsequent to the effective date of this~~
9 ~~act.~~

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

15 Section 37. Section 320.8245, Florida Statutes, is
16 amended to read:

17 320.8245 Limitation of alteration or modification to
18 ~~mobile homes or recreational vehicles.--~~

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

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

29 (a) An alteration or modification performed by a
30 ~~mobile home or~~ recreational vehicle dealer or his or her agent
31 or employee shall place warranty responsibility for the

1 altered or modified item upon the dealer. If the manufacturer
2 fulfills, or is required to fulfill, the warranty on the
3 altered or modified item, he or she shall be entitled to
4 recover damages in the amount of his or her costs and
5 attorneys' fees from the dealer.

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

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

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

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

29 (b) When no local or county licensing or competency
30 requirements exist, the department may certify persons to
31 perform recreational vehicle ~~mobile home~~ alterations or

1 modifications. The department shall by rule or regulation
2 determine what skills and competency requirements are
3 requisite to the issuance of a certification. A fee
4 sufficient to cover the costs of issuing certifications may be
5 charged by the department. The certification shall be valid
6 for a period which terminates when the county or other local
7 governmental unit enacts relevant competency or licensing
8 requirements. The certification shall be valid only in
9 counties or localities without licensing or competency
10 requirements.

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

20 Section 38. Section 320.8256, Florida Statutes, is
21 amended to read:

22 320.8256 Recreational vehicle inspection.--

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

29 ~~(2) The department shall determine a fee for the seal~~
30 ~~authorized under s. 320.827 which is sufficient to cover the~~

31

1 ~~cost of producing and issuing the seal. Fees collected shall~~
2 ~~be deposited into the General Revenue Fund.~~

3 Section 39. Section 320.834, Florida Statutes, is
4 amended to read:

5 320.834 Purpose.--~~It is the intent of the Legislature~~
6 ~~to ensure the safety and welfare of residents of mobile homes~~
7 ~~through an inspection program conducted by the Department of~~
8 ~~Highway Safety and Motor Vehicles. Mobile homes are a primary~~
9 ~~housing resource of many of the residents of the state and~~
10 ~~satisfy a large segment of statewide housing needs.~~It is the
11 ~~further~~ intent of the Legislature that the department,
12 recreational vehicle mobile home dealers, and recreational
13 vehicle mobile home manufacturers continue to work together to
14 meet the applicable code requirements for recreational
15 vehicles mobile homes and that such dealers and manufacturers
16 share the responsibilities of warranting recreational vehicles
17 ~~mobile homes~~ in accordance with applicable codes and resolving
18 legitimate consumer complaints in a timely, efficient manner.

19 Section 40. Section 320.835, Florida Statutes, is
20 amended to read:

21 320.835 ~~Mobile home and~~ Recreational vehicle
22 warranties.--Each manufacturer, dealer, and supplier of ~~mobile~~
23 ~~homes or~~ recreational vehicles shall warrant each new ~~mobile~~
24 ~~home or~~ recreational vehicle sold in this state ~~and the setup~~
25 ~~of each such mobile home~~, in accordance with the warranty
26 requirements prescribed by this section, for a period of at
27 least 12 months, measured from ~~the date of delivery of the~~
28 ~~mobile home to the buyer or~~ the date of sale of the
29 recreational vehicle. The warranty requirements of each
30 manufacturer, dealer, and supplier of ~~mobile homes or~~
31 recreational vehicles are as follows:

1 (1) The manufacturer warrants:
2 ~~(a) For a mobile home or recreational vehicle, that~~
3 all structural elements; plumbing systems; heating, cooling,
4 and fuel-burning systems; electrical systems; fire prevention
5 systems; and any other components or conditions included by
6 the manufacturer are free from substantial defect.
7 ~~(b) That 100-ampere electrical service exists in the~~
8 ~~mobile home.~~
9 (2) The dealer warrants:
10 ~~(a) That any modifications or alterations made to the~~
11 ~~mobile home or recreational vehicle by the dealer or~~
12 authorized by the dealer shall be free from substantial
13 defect. Alterations or modifications made by a dealer shall
14 relieve the manufacturer of warranty responsibility only as to
15 the item altered or modified.
16 ~~(b) That setup operations performed on the mobile home~~
17 ~~are performed in compliance with s. 320.8325.~~
18 ~~(c) That substantial defects do not occur to the~~
19 ~~mobile home during setup or by transporting it to the~~
20 ~~occupancy site.~~
21
22 ~~When the setup of a mobile home is performed by a person who~~
23 ~~is not an employee or agent of the mobile home manufacturer or~~
24 ~~dealer and is not compensated or authorized by, or connected~~
25 ~~with, such manufacturer or dealer, then the warranty~~
26 ~~responsibility of the manufacturer or dealer as to setup shall~~
27 ~~be limited to transporting the mobile home to the occupancy~~
28 ~~site free from substantial defect.~~
29 (3) The supplier warrants that any warranties
30 generally offered in the ordinary sale of his or her product
31 to consumers shall be extended to buyers of ~~mobile homes and~~

1 recreational vehicles. When no warranty is extended by
2 suppliers, the manufacturer shall assume warranty
3 responsibility for that component.

4 Section 41. Paragraph (b) of subsection (2) of section
5 627.351, Florida Statutes, 1998 Supplement, is amended to
6 read:

7 627.351 Insurance risk apportionment plans.--
8 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--
9 (b) The department shall require all insurers holding
10 a certificate of authority to transact property insurance on a
11 direct basis in this state, other than joint underwriting
12 associations and other entities formed pursuant to this
13 section, to provide windstorm coverage to applicants from
14 areas determined to be eligible pursuant to paragraph (c) who
15 in good faith are entitled to, but are unable to procure, such
16 coverage through ordinary means; or it shall adopt a
17 reasonable plan or plans for the equitable apportionment or
18 sharing among such insurers of windstorm coverage, which may
19 include formation of an association for this purpose. As used
20 in this subsection, the term "property insurance" means
21 insurance on real or personal property, as defined in s.
22 624.604, including insurance for fire, industrial fire, allied
23 lines, farmowners multiperil, homeowners' multiperil,
24 commercial multiperil, and mobile homes, and including
25 liability coverages on all such insurance, but excluding
26 inland marine as defined in s. 624.607(3) and excluding
27 vehicle insurance as defined in s. 624.605(1)(a) other than
28 insurance on mobile homes used as permanent dwellings. The
29 department shall adopt rules that provide a formula for the
30 recovery and repayment of any deferred assessments.
31

1 1. For the purpose of this section, properties
2 eligible for such windstorm coverage are defined as dwellings,
3 buildings, and other structures, including mobile homes which
4 are used as dwellings and which are tied down in compliance
5 with mobile home tie-down requirements prescribed by the
6 Division of Factory-built Housing of the Department of
7 Community Affairs ~~Highway Safety and Motor Vehicles~~ pursuant
8 to s. 553.445 ~~320.8325~~, and the contents of all such
9 properties. An applicant or policyholder is eligible for
10 coverage only if an offer of coverage cannot be obtained by or
11 for the applicant or policyholder from an admitted insurer at
12 approved rates.

13 2.a.(I) All insurers required to be members of such
14 association shall participate in its writings, expenses, and
15 losses. Surplus of the association shall be retained for the
16 payment of claims and shall not be distributed to the member
17 insurers. Such participation by member insurers shall be in
18 the proportion that the net direct premiums of each member
19 insurer written for property insurance in this state during
20 the preceding calendar year bear to the aggregate net direct
21 premiums for property insurance of all member insurers, as
22 reduced by any credits for voluntary writings, in this state
23 during the preceding calendar year. For the purposes of this
24 subsection, the term "net direct premiums" means direct
25 written premiums for property insurance, reduced by premium
26 for liability coverage and for the following if included in
27 allied lines: rain and hail on growing crops; livestock;
28 association direct premiums booked; National Flood Insurance
29 Program direct premiums; and similar deductions specifically
30 authorized by the plan of operation and approved by the
31 department. A member's participation shall begin on the first

1 day of the calendar year following the year in which it is
2 issued a certificate of authority to transact property
3 insurance in the state and shall terminate 1 year after the
4 end of the calendar year during which it no longer holds a
5 certificate of authority to transact property insurance in the
6 state. The commissioner, after review of annual statements,
7 other reports, and any other statistics that the commissioner
8 deems necessary, shall certify to the association the
9 aggregate direct premiums written for property insurance in
10 this state by all member insurers.

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

23 (III) The plan of operation shall provide a formula
24 whereby a company voluntarily providing windstorm coverage in
25 affected areas will be relieved wholly or partially from
26 apportionment of a regular assessment pursuant to
27 sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II).

28 (IV) A company which is a member of a group of
29 companies under common management may elect to have its
30 credits applied on a group basis, and any company or group may
31

1 elect to have its credits applied to any other company or
2 group.

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

6 (VI) The plan of operation may also provide for the
7 award of credits, for a period not to exceed 3 years, from a
8 regular assessment pursuant to sub-sub-subparagraph d.(I) or
9 sub-sub-subparagraph d.(II) as an incentive for taking
10 policies out of the Residential Property and Casualty Joint
11 Underwriting Association. In order to qualify for the
12 exemption under this sub-sub-subparagraph, the take-out plan
13 must provide that at least 40 percent of the policies removed
14 from the Residential Property and Casualty Joint Underwriting
15 Association cover risks located in Dade, Broward, and Palm
16 Beach Counties or at least 30 percent of the policies so
17 removed cover risks located in Dade, Broward, and Palm Beach
18 Counties and an additional 50 percent of the policies so
19 removed cover risks located in other coastal counties, and
20 must also provide that no more than 15 percent of the policies
21 so removed may exclude windstorm coverage. With the approval
22 of the department, the association may waive these geographic
23 criteria for a take-out plan that removes at least the lesser
24 of 100,000 Residential Property and Casualty Joint
25 Underwriting Association policies or 15 percent of the total
26 number of Residential Property and Casualty Joint Underwriting
27 Association policies, provided the governing board of the
28 Residential Property and Casualty Joint Underwriting
29 Association certifies that the take-out plan will materially
30 reduce the Residential Property and Casualty Joint
31 Underwriting Association's 100-year probable maximum loss from

1 hurricanes. With the approval of the department, the board
2 may extend such credits for an additional year if the insurer
3 guarantees an additional year of renewability for all policies
4 removed from the Residential Property and Casualty Joint
5 Underwriting Association, or for 2 additional years if the
6 insurer guarantees 2 additional years of renewability for all
7 policies removed from the Residential Property and Casualty
8 Joint Underwriting Association.

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

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

23 d.(I) When the deficit incurred in a particular
24 calendar year is 10 percent or less of the aggregate statewide
25 direct written premium for property insurance for the prior
26 calendar year for all member insurers, the association shall
27 levy an assessment on member insurers in an amount equal to
28 the deficit.

29 (II) When the deficit incurred in a particular
30 calendar year exceeds 10 percent of the aggregate statewide
31 direct written premium for property insurance for the prior

1 calendar year for all member insurers, the association shall
2 levy an assessment on member insurers in an amount equal to
3 the greater of 10 percent of the deficit or 10 percent of the
4 aggregate statewide direct written premium for property
5 insurance for the prior calendar year for member insurers. Any
6 remaining deficit shall be recovered through emergency
7 assessments under sub-sub-subparagraph (III).

8 (III) Upon a determination by the board of directors
9 that a deficit exceeds the amount that will be recovered
10 through regular assessments on member insurers, pursuant to
11 sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the
12 board shall levy, after verification by the department,
13 emergency assessments to be collected by member insurers and
14 by underwriting associations created pursuant to this section
15 which write property insurance, upon issuance or renewal of
16 property insurance policies other than National Flood
17 Insurance policies in the year or years following levy of the
18 regular assessments. The amount of the emergency assessment
19 collected in a particular year shall be a uniform percentage
20 of that year's direct written premium for property insurance
21 for all member insurers and underwriting associations,
22 excluding National Flood Insurance policy premiums, as
23 annually determined by the board and verified by the
24 department. The department shall verify the arithmetic
25 calculations involved in the board's determination within 30
26 days after receipt of the information on which the
27 determination was based. Notwithstanding any other provision
28 of law, each member insurer and each underwriting association
29 created pursuant to this section shall collect emergency
30 assessments from its policyholders without such obligation
31 being affected by any credit, limitation, exemption, or

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

30 (IV) Each member insurer's share of the total regular
31 assessments under sub-sub-subparagraph (I) or

1 sub-sub-subparagraph (II) shall be in the proportion that the
2 insurer's net direct premium for property insurance in this
3 state, for the year preceding the assessment bears to the
4 aggregate statewide net direct premium for property insurance
5 of all member insurers, as reduced by any credits for
6 voluntary writings for that year.

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

23 e. The governing body of any unit of local government,
24 any residents of which are insured under the plan, may issue
25 bonds as defined in s. 125.013 or s. 166.101 to fund an
26 assistance program, in conjunction with the association, for
27 the purpose of defraying deficits of the association. In order
28 to avoid needless and indiscriminate proliferation,
29 duplication, and fragmentation of such assistance programs,
30 any unit of local government, any residents of which are
31 insured by the association, may provide for the payment of

1 losses, regardless of whether or not the losses occurred
2 within or outside of the territorial jurisdiction of the local
3 government. Revenue bonds may not be issued until validated
4 pursuant to chapter 75, unless a state of emergency is
5 declared by executive order or proclamation of the Governor
6 pursuant to s. 252.36 making such findings as are necessary to
7 determine that it is in the best interests of, and necessary
8 for, the protection of the public health, safety, and general
9 welfare of residents of this state and the protection and
10 preservation of the economic stability of insurers operating
11 in this state, and declaring it an essential public purpose to
12 permit certain municipalities or counties to issue bonds as
13 will provide relief to claimants and policyholders of the
14 association and insurers responsible for apportionment of plan
15 losses. Any such unit of local government may enter into such
16 contracts with the association and with any other entity
17 created pursuant to this subsection as are necessary to carry
18 out this paragraph. Any bonds issued under this
19 sub-subparagraph shall be payable from and secured by moneys
20 received by the association from assessments under this
21 subparagraph, and assigned and pledged to or on behalf of the
22 unit of local government for the benefit of the holders of
23 such bonds. The funds, credit, property, and taxing power of
24 the state or of the unit of local government shall not be
25 pledged for the payment of such bonds. If any of the bonds
26 remain unsold 60 days after issuance, the department shall
27 require all insurers subject to assessment to purchase the
28 bonds, which shall be treated as admitted assets; each insurer
29 shall be required to purchase that percentage of the unsold
30 portion of the bond issue that equals the insurer's relative
31 share of assessment liability under this subsection. An

1 insurer shall not be required to purchase the bonds to the
2 extent that the department determines that the purchase would
3 endanger or impair the solvency of the insurer. The authority
4 granted by this sub-subparagraph is additional to any bonding
5 authority granted by subparagraph 6.

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

29 4. The plan shall provide for the deferment, in whole
30 or in part, of a regular assessment of a member insurer under
31 sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II),

1 but not for an emergency assessment collected from
2 policyholders under sub-sub-subparagraph 2.d.(III), if, in the
3 opinion of the commissioner, payment of such regular
4 assessment would endanger or impair the solvency of the member
5 insurer. In the event a regular assessment against a member
6 insurer is deferred in whole or in part, the amount by which
7 such assessment is deferred may be assessed against the other
8 member insurers in a manner consistent with the basis for
9 assessments set forth in sub-sub-subparagraph 2.d.(I) or
10 sub-sub-subparagraph 2.d.(II).

11 5.a. The plan of operation may include deductibles and
12 rules for classification of risks and rate modifications
13 consistent with the objective of providing and maintaining
14 funds sufficient to pay catastrophe losses.

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

29 c. The association shall provide for windstorm
30 coverage on residential properties in limits up to \$10 million
31 for commercial lines residential risks and up to \$1 million

1 for personal lines residential risks. If coverage with the
2 association is sought for a residential risk valued in excess
3 of these limits, coverage shall be available to the risk up to
4 the replacement cost or actual cash value of the property, at
5 the option of the insured, if coverage for the risk cannot be
6 located in the authorized market. The association must accept
7 a commercial lines residential risk with limits above \$10
8 million or a personal lines residential risk with limits above
9 \$1 million if coverage is not available in the authorized
10 market. The association may write coverage above the limits
11 specified in this subparagraph with or without facultative or
12 other reinsurance coverage, as the association determines
13 appropriate.

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

20 (I) Whether the likelihood of a loss for the
21 individual risk is substantially higher than for other risks
22 of the same class; and

23 (II) Whether the uncertainty associated with the
24 individual risk is such that an appropriate premium cannot be
25 determined.

26
27 The acceptance or rejection of a risk by the association
28 pursuant to such criteria and procedures must be construed as
29 the private placement of insurance, and the provisions of
30 chapter 120 do not apply.

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1 e. The policies issued by the association must provide
2 that if the association obtains an offer from an authorized
3 insurer to cover the risk at its approved rates under either a
4 standard policy including wind coverage or, if consistent with
5 the insurer's underwriting rules as filed with the department,
6 a basic policy including wind coverage, the risk is no longer
7 eligible for coverage through the association. Upon
8 termination of eligibility, the association shall provide
9 written notice to the policyholder and agent of record stating
10 that the association policy must be canceled as of 60 days
11 after the date of the notice because of the offer of coverage
12 from an authorized insurer. Other provisions of the insurance
13 code relating to cancellation and notice of cancellation do
14 not apply to actions under this sub-subparagraph.

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

23 6.a. The plan of operation may authorize the formation
24 of a private nonprofit corporation, a private nonprofit
25 unincorporated association, a partnership, a trust, a limited
26 liability company, or a nonprofit mutual company which may be
27 empowered, among other things, to borrow money by issuing
28 bonds or by incurring other indebtedness and to accumulate
29 reserves or funds to be used for the payment of insured
30 catastrophe losses. The plan may authorize all actions

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1 necessary to facilitate the issuance of bonds, including the
2 pledging of assessments or other revenues.

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

1 under the plan. The assets and obligations of the plan in
2 effect immediately prior to the effective date of chapter
3 76-96 shall be construed to be the assets and obligations of
4 the successor plan created herein.

5 c. In recognition of s. 10, Art. I of the State
6 Constitution, prohibiting the impairment of obligations of
7 contracts, it is the intent of the Legislature that no action
8 be taken whose purpose is to impair any bond indenture or
9 financing agreement or any revenue source committed by
10 contract to such bond or other indebtedness issued or incurred
11 by the association or any other entity created under this
12 subsection.

13 7. On such coverage, an agent's remuneration shall be
14 that amount of money payable to the agent by the terms of his
15 or her contract with the company with which the business is
16 placed. However, no commission will be paid on that portion of
17 the premium which is in excess of the standard premium of that
18 company.

19 8. Subject to approval by the department, the
20 association may establish different eligibility requirements
21 and operational procedures for any line or type of coverage
22 for any specified eligible area or portion of an eligible area
23 if the board determines that such changes to the eligibility
24 requirements and operational procedures are justified due to
25 the voluntary market being sufficiently stable and competitive
26 in such area or for such line or type of coverage and that
27 consumers who, in good faith, are unable to obtain insurance
28 through the voluntary market through ordinary methods would
29 continue to have access to coverage from the association. When
30 coverage is sought in connection with a real property
31 transfer, such requirements and procedures shall not provide

1 for an effective date of coverage later than the date of the
2 closing of the transfer as established by the transferor, the
3 transferee, and, if applicable, the lender.

4 9. Notwithstanding any other provision of law:

5 a. The pledge or sale of, the lien upon, and the
6 security interest in any rights, revenues, or other assets of
7 the association created or purported to be created pursuant to
8 any financing documents to secure any bonds or other
9 indebtedness of the association shall be and remain valid and
10 enforceable, notwithstanding the commencement of and during
11 the continuation of, and after, any rehabilitation,
12 insolvency, liquidation, bankruptcy, receivership,
13 conservatorship, reorganization, or similar proceeding against
14 the association under the laws of this state or any other
15 applicable laws.

16 b. No such proceeding shall relieve the association of
17 its obligation, or otherwise affect its ability to perform its
18 obligation, to continue to collect, or levy and collect,
19 assessments, market equalization or other surcharges,
20 projected recoveries from the Florida Hurricane Catastrophe
21 Fund, reinsurance recoverables, or any other rights, revenues,
22 or other assets of the association pledged.

23 c. Each such pledge or sale of, lien upon, and
24 security interest in, including the priority of such pledge,
25 lien, or security interest, any such assessments, emergency
26 assessments, market equalization or renewal surcharges,
27 projected recoveries from the Florida Hurricane Catastrophe
28 Fund, reinsurance recoverables, or other rights, revenues, or
29 other assets which are collected, or levied and collected,
30 after the commencement of and during the pendency of or after
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1 any such proceeding shall continue unaffected by such
2 proceeding.

3 d. As used in this subsection, the term "financing
4 documents" means any agreement, instrument, or other document
5 now existing or hereafter created evidencing any bonds or
6 other indebtedness of the association or pursuant to which any
7 such bonds or other indebtedness has been or may be issued and
8 pursuant to which any rights, revenues, or other assets of the
9 association are pledged or sold to secure the repayment of
10 such bonds or indebtedness, together with the payment of
11 interest on such bonds or such indebtedness, or the payment of
12 any other obligation of the association related to such bonds
13 or indebtedness.

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

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

10 Section 42. Subsections (1) and (5) of section
11 626.702, Florida Statutes, are amended to read:

12 627.702 Valued policy law.--

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

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

3 Section 43. This act shall take effect July 31, 1999.
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