HB 0443

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## A bill to be entitled

An act relating to mobile and manufactured homes; amending 2 s. 319.261, F.S.; deleting a requirement that the 3 4 manufacturer's certificate of origin be recorded with the clerk of court in order for the Department of Highway 5 Safety and Motor Vehicles to retire the title to a mobile б home; amending s. 320.822, F.S.; defining the term 7 "installation"; amending s. 320.823, F.S.; requiring that 8 mobile and manufactured homes sold in this state be 9 constructed to meet certain standards; amending s. 10 11 320.8249, F.S.; revising penalties imposed against mobile home installers who engage in certain prohibited 12 activities; prohibiting a local government from requiring 13 an installer to obtain an additional bond or insurance; 14 requiring installers to maintain a location log; creating 15 s. 320.8251, F.S.; requiring a person or entity that 16 manufactures mobile home installation components, 17 products, or systems to obtain a certificate of approval 18 from the Department of Highway Safety and Motor Vehicles; 19 providing requirements for certification; authorizing the 20 department to suspend or revoke the certification under 21 certain circumstances; providing that products, 22 components, or systems currently used in the installation 23 of mobile homes need not be certified until a certain 24 date; amending s. 320.8285, F.S.; requiring each county or 25 26 municipality to be responsible for the onsite inspection of mobile home installation within its jurisdiction; 27 revising competency requirements for performing onsite 2.8 inspections; providing requirements for a county or 29 municipality in issuing a permit for the installation of a 30

Page 1 of 16

HB 0443

51

2004 31 mobile home and issuing a certificate of occupancy; amending s. 320.8325, F.S.; deleting provisions requiring 32 the use of tie-downs and anchors; revising requirements of 33 34 the department with respect to rules setting forth standards for the installation of mobile homes, 35 manufactured homes, and park trailers; providing that 36 owners are responsible for installation pursuant to 37 department rules; amending s. 320.834, F.S.; providing 38 legislative intent that mobile homes be an affordable 39 housing resource in this state; amending s. 320.835, F.S.; 40 41 requiring installers to warrant the installation of a new mobile home from the date of receipt of a certificate of 42 occupancy for a certain period; authorizing the department 43 to adopt rules to resolve disputes between mobile home 44 manufacturers, dealers, installers, or suppliers; 45 providing an effective date. 46 47 Be It Enacted by the Legislature of the State of Florida: 48 49 Section 1. Subsections (2) and (3) of section 319.261, 50 Florida Statutes, are amended to read:

319.261 Real property transactions; retiring title to 52 mobile home. --53

(2) The title to the mobile home may be retired by the 54 department if the owner of the real property records the 55 following documents in the official records of the clerk of 56 court in the county in which the real property is located: 57 (a) The original title to the mobile home, or for a new 58 home the manufacturers' certificate of origin, which document 59 shall include a description of the mobile home, including model 60 Page 2 of 16

HB 0443

961 year, make, width, length, and vehicle identification number, 962 and a statement by any recorded lienholder on the title that the 963 security interest in the home has been released, or that such 964 security interest will be released upon retirement of the title 965 as set forth in this section.

(b) The legal description of the real property, and in the
case of a leasehold interest, a copy of the lease agreement.

(c) A sworn statement by the owner of the real property,
as shown on the real property deed or lease, that he or she is
the owner of the mobile home and that the home is permanently
affixed to the real property in accordance with state law.

(3) The clerk of court, upon receipt of the documents set forth in subsection (2), shall record said documents against the real property and provide a copy of the recorded title <del>or</del> <del>manufacturers' certificate of origin</del> to the owner of the real property with a copy of all the documents recorded pursuant to subsection (2).

Section 2. Subsection (14) of section 320.822, Florida
Statutes, is amended to read:

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

"Setup" or "installation" means the operations (14)83 performed at the occupancy site which render a mobile home or 84 park trailer fit for habitation. Such operations include, but 85 are not limited to, transporting;  $\tau$  positioning;  $\tau$  blocking;  $\tau$ 86 leveling, supporting, installing foundation products, 87 88 components, and systems; tying down, connecting utility systems;  $\tau$  making minor adjustments;  $\tau$  or assembling multiple or 89 expandable units. 90

Page 3 of 16

HB 0443 91 Section 3. Section 320.823, Florida Statutes, is amended 92 to read:

Establishment of uniform mobile home standards.--320.823 93 Each new single-family or duplex mobile or manufactured home 94 manufactured in this state or manufactured outside this state 95 but sold or offered for sale in this state must be constructed 96 to shall meet the Manufactured Federal Mobile Home Construction 97 and Safety Standards, promulgated by the Department of Housing 98 and Urban Development, pursuant to the Manufactured Housing 99 Improvement Act. Each duplex mobile home manufactured in this 100 101 state or manufactured outside this state but sold or offered for sale in this state shall be constructed to meet the Federal 102 Mobile Home Construction and Safety Standards. Construction 103 requirements shall include a 1-hour-fire-rated wall separating 104 the two units. Such standards must shall include, but need not 105 be limited to, standards for body and frame construction and the 106 installation of plumbing, HVAC heating, and electrical systems. 107

Section 4. Subsections (1), (9), (10), and (12) of section 320.8249, Florida Statutes, are amended, present subsections (14), (15), and (16) are renumbered as subsections (15), (16), and (17), respectively, and a new subsection (14) is added to said section, to read:

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320.8249 Mobile home installers license.--

(1) Any person who <u>installs a</u> engages in mobile home installation shall obtain a mobile home installers license from the Bureau of Mobile Home and Recreational Vehicle Construction of the Department of Highway Safety and Motor Vehicles pursuant to this section. Said license shall be renewed annually, and each licensee shall pay a fee of \$150.

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(9) <u>A</u> <del>No</del> licensed person <u>or</u> <del>nor</del> licensed applicant <u>may not</u>

Page 4 of 16

HB 0443 2004 shall: 121 Obtain a mobile home installers license by fraud or (a) 122 misrepresentation. 123 Be convicted or found guilty of, or enter a plea of 124 (b) nolo contendere to, regardless of adjudication, a crime in any 125 jurisdiction which directly relates to the practice of mobile 126 home installation or the ability to practice. 127 (c) Violate any law or rule relating to installing, 128 repairing, or dealing in mobile homes or any lawful order of the 129 department. 130 131 (d) Commit fraud or deceit in the practice of contracting. (e) Commit incompetence or misconduct in the practice of 132 contracting. 133 (f) Commit gross negligence, repeated negligence, or 134 negligence resulting in a significant danger to life or 135 property. 136 Commit violations of the installation standards for 137 (q)mobile homes or manufactured homes contained in rules 15C-1.0102 138 to 15C-1.0104, Florida Administrative Code. 139 Any licensed person or license applicant who violates (10)140 subsection(7) or any provision of subsection (9) may have any of 141 the following disciplinary penalties imposed by the department, 142 at its discretion: 143 License revocation; (a) 144 (b) License suspension; 145 146 (C) A fine not to exceed \$1,000 per violation involving a single installation and not to exceed \$5,000 for a violation 147 involving the total setup; 148 A requirement to take and pass, or retake and pass, 149 (d) the department-approved examination; 150 Page 5 of 16

HB 0443 2004 Probation; 151 (e) Probation subject to such restriction of practice as (f) 152 the department chooses to impose; 153 A notice of noncompliance; or 154 (q) (h) Refusal of licensure application. 155 (12)A No county, municipality, or other unit of local 156 government may not require additional licensing, bonding, or 157 insurance of a duly licensed installer who performs setup 158 operations as defined in s. 320.822. However, a county, 159 municipality, or other unit of local government may require an 160 installer to obtain a local occupational license, which license 161 shall not require for its issuance any conditions other than 162 163 those required by this chapter act and payment of the appropriate occupational license fee. 164 (14) Each installer shall maintain a location log for each 165 decal for 2 years. This requirement shall not take effect until 166 the department develops an acceptable format for the log and 167 provides a sample of the acceptable format to each licensed 168 installer. 169 Section 5. Section 320.8251, Florida Statutes, is created 170 to read: 171 320.8251 Mobile home installation products; product 172 approval.--173 (1) Each person or entity that engages in the manufacture 174 of mobile home installation components, products, or systems 175 must obtain a certification from the department which affirms 176 that such component, product, or system is approved for use in 177 the installation of mobile homes in this state. 178 179 The department shall certify for use in this state any (2) mobile home installation component, product, or system for which 180 Page 6 of 16

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HB 0443 2004 a person or entity applies to the department and which complies 181 with subsection (3). 182 (3) In order to obtain the certification set forth in this 183 section, a manufacturer must submit to the department a report 184 certifying that the mobile home installation component, product, 185 186 or system meets the mobile home installation standards set forth in this section and in department rules. The report must be 187 signed and sealed by a professional engineer registered in this 188 state. In accordance with chapter 120, the department shall 189 review the report and approve or deny the certification of the 190 installation component, product, or system for use in the 191 installation of mobile homes in this state. 192 (4) The certification set forth in this subsection is 193 194 subject to suspension or revocation, and the person or entity 195 that obtained the certification is subject to a fine set by department rules upon a finding by the department that the 196 person or entity has obtained the certification by 197 misrepresentation or fraud or that the product, component, or 198 system does not meet the mobile home installation standards set 199 forth in this chapter or in department rules. 200 (5) Any product, component, or system subject to this 201 section which is currently being used in the installation of 202 mobile homes in this state is not required to be certified in 203 accordance with this section until July 1, 2009. 204 Section 6. Section 320.8285, Florida Statutes, is amended 205 to read: 206 320.8285 Onsite inspection .--207 Each county or municipality in this state shall be 208 (1)209 responsible for the prepare and adopt a plan providing for an onsite inspection of each mobile home installation located 210 Page 7 of 16

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HB 0443 2004 within the jurisdiction of such entity. The onsite inspection 211 shall ensure compliance with the department's uniform 212 installation standards set forth in this chapter and in 213 department rules. state and local building codes, ordinances, 214 and regulations regarding such functions as blocking and 215 leveling, tie-downs, utility connections, conversions of 216 appliances, and external improvements on the mobile home. If a 217 mobile home is manufactured in conformity with the code, as 218 established in s. 320.823, a county may not require modification 219 of the mobile home in order to comply with local tie-down 220 221 regulations. (2) When a county or municipality has not prepared and 222

adopted a plan providing for onsite inspection, the department shall prepare a minimum onsite inspection plan for such county. The department may promulgate reasonable rules and regulations pursuant to chapter 120 in preparing and enforcing such a minimum onsite inspection plan.

(2) Each county or municipality may designate the 228 persons who are to perform the onsite inspection. If a county or 229 municipality does not so designate, the department shall 230 designate the persons who are to perform the onsite inspection. 231 A No person may not shall be designated to perform onsite 232 inspections unless that such person is competent in the area 233 areas of mobile home installation. blocking and leveling, tie-234 downs, utility connections, conversions of appliances, and 235 external improvements. Pursuant to the onsite inspection, each 236 mobile home shall be issued a certificate of occupancy if the 237 mobile home complies with state and local building codes, 238 239 ordinances, and regulations regarding such functions as blocking and leveling, tie-downs, utility connections, conversion of 240

Page 8 of 16

HB 0443 2004 241 appliances, and external improvements to the mobile home. The county or municipality issuing a permit for the 242 (3) installation of a mobile home shall issue such permit only to a 243 licensed mobile home installer or to a licensed mobile home 244 dealer or manufactured home owner if the dealer or owner 245 demonstrates on the face of the application that a licensed 246 installer will be performing the actual work. In the case of 247 issuance to an owner, the permit must reflect the name and the 248 license number of the licensed installer performing the work. 249 (4) Pursuant to the onsite inspection, each mobile home 250 shall be issued a certificate of occupancy if the mobile home 251 complies with department rules regarding the installation of 252 253 mobile homes.

254 <u>(5)(4)</u> Fees for onsite inspections and certificates of 255 occupancy of mobile homes shall be reasonable for the services 256 performed. A guideline for fee schedules shall be issued by the 257 department.

(6) (5) The Department of Highway Safety and Motor Vehicles 258 shall enforce every provision of this section and the rules 259 regulations adopted pursuant hereto, except that local land use 260 and zoning requirements, fire zones, building setback and side 261 and rear yard requirements, site development and property line 262 requirements, subdivision control, and onsite installation 263 inspection requirements, as well as review and regulation of 264 architectural and aesthetic requirements, are hereby 265 specifically and entirely reserved to local jurisdictions. 266 However, any architectural or aesthetic requirement imposed on 267 the mobile home structure itself may pertain only to roofing and 268 siding materials. Such local requirements and regulations and 269 others for manufactured homes must be reasonable, uniformly 270

Page 9 of 16

FLORIDA HOUSE	OF REPR	ESENTATIVES
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HB 0443 2004 applied, and enforced without distinctions as to whether such 271 housing is manufactured, located in a mobile home park or a 272 mobile home subdivision, or built in a conventional manner. No 273 local jurisdiction shall prohibit siting or resiting of used 274 mobile homes based solely on the date the unit was manufactured. 275 (7) (7) (6) Park trailers are subject to inspection in the same 276 manner as are mobile homes pursuant to this section. 277 Section 7. Section 320.8325, Florida Statutes, is amended 278 to read: 279

320.8325 Mobile homes, manufactured homes, and park
 trailers; <u>uniform</u> tie-down requirements; minimum installation
 standards; injunctions; penalty.--

283 (1) The owner of a mobile home or park trailer shall secure the mobile home or park trailer to the ground by the use 284 of anchors and tie-downs so as to resist wind overturning and 285 sliding. However, nothing herein shall be construed as requiring 286 that anchors and tie-downs be installed to secure mobile homes 287 or park trailers which are permanently attached to a permanent 288 structure. A permanent structure shall have a foundation and 289 such other structural elements as are required pursuant to rules 290 and regulations promulgated by the department which assure the 291 rigidity and stability of the mobile home or park trailer. 292

(a) A mobile home or park trailer manufactured in 293 accordance with the code standards and labeled "hurricane and 294 windstorm resistive" shall be anchored to each anchor point 295 provided on the mobile home or park trailer. A mobile home or 296 park trailer which does not meet these standards must be 297 anchored with anchor points spaced as required by the department 298 299 starting at each end of the mobile home or park trailer. (b) In addition, each mobile home or park trailer shall be 300

Page 10 of 16

	HB 0443 2004
301	tied down by one of the following means:
302	1. A mobile home or park trailer having built-in, over-
303	the-roof ties shall be secured by the tie-down points, provided
304	such built-in ties and points meet the standards promulgated by
305	the department.
306	2. A mobile home or park trailer not having built-in,
307	over-the-roof ties and tie-down points which meet department
308	standards shall be secured in accordance with standards
309	promulgated by the department.
310	<u>(1)</u> The department shall <u>adopt</u> <del>promulgate</del> rules <del>and</del>
311	regulations setting forth uniform standards for the installation
312	of mobile homes, manufactured homes, and park trailers and for
313	the manufacture of components, products, or systems used in the
314	installation of mobile homes, manufactured homes, and park
315	trailers. The rules shall ensure that the home or park trailer
316	is installed on a permanent foundation that resists wind, flood,
317	flotation, overturning, sliding, and lateral movement of the
318	home or park trailer. manufacture or installation of anchors,
319	tie-downs, over-the-roof ties, or other reliable methods of
320	securing mobile homes or park trailers when over-the-roof ties
321	are not suitable due to factors such as unreasonable cost,
322	design of the mobile home or park trailer, or potential damage
323	to the mobile home or park trailer. No entity, other than the
324	department, has authority to amend these uniform standards. The
325	owner of the mobile home, manufactured home, or park trailer
326	shall be responsible for the installation in accordance with
327	department rules. Such devices required under this section, when
328	properly installed, shall cause the mobile home or park trailer
329	to resist wind overturning and sliding. In promulgating such
330	rules and regulations, the department may make such
I	Page 11 of 16

HB 04432004331discriminations regarding mobile home or park trailer tie-down332requirements as are reasonable when factors such as age,333location, and practicality of tying down a mobile home or park334trailer are considered.

(2)(3)(a) Persons licensed in this state to engage in the 335 business of insuring mobile homes, manufactured homes, or park 336 trailers that are subject to the provisions of this section 337 against damage from windstorm shall issue such insurance only if 338 the mobile home, manufactured home, or park trailer has been 339 installed anchored and tied down in accordance with the 340 341 requirements provisions of this chapter and department rules section. 342

(b) If In the event that a mobile home, manufactured home, 343 or park trailer is insured against damage caused by windstorm 344 and subsequently sustains windstorm damage of a nature that 345 indicates that the mobile home, manufactured home, or park 346 trailer was not installed anchored or tied down in the manner 347 required by this chapter and department rules section, the 348 person issuing the policy shall not be relieved from meeting the 349 obligations specified in the insurance policy with respect to 350 such damage on the basis that the mobile home or park trailer 351 was not properly installed anchored or tied down. 352

(3) (4) Whenever a person or entity that who engages in the 353 business of manufactured housing installation or installing 354 anchors, tie-downs, or over-the-roof ties or who engages in the 355 business of manufacturing components, products, or systems, 356 distributing, or dealing in such devices for use in this state 357 and does so in a manner that is not in accordance with the 358 uniform minimum standards set forth by the department, a person 359 or entity aggrieved thereby may bring an action in the 360

Page 12 of 16

HB 0443 appropriate court for actual damages. In addition, the court may 361 provide appropriate equitable relief, including the enjoining of 362 a violator from engaging in the business or from engaging in 363 further violations. Whenever it is established to the 364 satisfaction of the court that a willful violation has occurred, 365 the court shall award punitive damages to the aggrieved party. 366 The losing party may be liable for court costs and reasonable 367 attorney's fees incurred by the prevailing party. 368

(4) (4) (5) In addition to other penalties provided in this 369 section, the department or the state attorneys and their 370 371 assistants are authorized to apply to the circuit courts within their respective jurisdictions, and such courts shall have 372 jurisdiction, upon hearing and for cause shown, to grant 373 temporary or permanent injunctions restraining any person or 374 entity persons engaging in the business of manufactured housing 375 installation or the manufacturing of components, products, or 376 systems manufacturing, distributing, or dealing in anchors, tie-377 downs, or over-the-roof ties from installing homes or 378 manufacturing or selling such components, products, or systems 379 devices in a manner not in accordance with the uniform minimum 380 standards set forth by the department or restraining any persons 381 in the business of installing such components, products, or 382 systems anchors, tie-downs, or over-the-roof ties from using 383 utilizing devices that do not meet the uniform minimum standards 384 set forth by the department or from installing such components, 385 products, or systems devices in a manner not in accordance with 386 the uniform minimum standards set forth by the department, 387 whether or not there exists an adequate remedy at law, and such 388 injunctions shall issue without bond. 389

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(5) (6) This section only applies only to a mobile home,

Page 13 of 16

CODING: Words stricken are deletions; words underlined are additions.

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FLORIDA HOUSE OF REPRESEN	ΤΑΤΙΥΕS
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HB 0443

391 <u>manufactured home</u>, or park trailer that is being used as a 392 dwelling place and that is located on a particular location for 393 a period of time exceeding 14 days, for a mobile <u>or manufactured</u> 394 home, or 45 days, for a park trailer.

395 (6)(7) For the purposes of this section, the definitions 396 set forth in s. 320.822 apply.

397 Section 8. Section 320.834, Florida Statutes, is amended 398 to read:

320.834 Purpose. -- It is the intent of the Legislature to 399 ensure the safety and welfare of residents of mobile homes 400 401 through an inspection program conducted by the Department of Highway Safety and Motor Vehicles. Mobile homes are a primary 402 403 affordable housing resource of many of the residents of the state and satisfy a large segment of statewide housing needs. It 404 is the further intent of the Legislature that the department, 405 mobile home dealers, and mobile home manufacturers continue to 406 work together to meet the applicable code requirements for 407 mobile homes and that such dealers and manufacturers share the 408 responsibilities of warranting mobile homes in accordance with 409 applicable codes and resolving legitimate consumer complaints in 410 a timely, efficient manner. 411

412 Section 9. Section 320.835, Florida Statutes, is amended 413 to read:

414 320.835 Mobile home and recreational vehicle warranties.--415 Each manufacturer, dealer, <u>installer</u>, and supplier of mobile 416 homes or recreational vehicles shall warrant each new mobile 417 home or recreational vehicle sold in this state and the setup of 418 each such mobile home, in accordance with the warranty 419 requirements prescribed by this section, for a period of at 420 least 12 months, measured from the date of delivery of the

Page 14 of 16

HB 0443

421 mobile home to the buyer or the date of sale of the recreational 422 vehicle <u>in the case of a manufacturer or dealer</u>, or from the 423 <u>date of receipt of a certificate of occupancy in the case of an</u> 424 <u>installer</u>. The warranty requirements of each manufacturer, 425 dealer, <u>installer</u>, and supplier of mobile homes or recreational 426 vehicles are as follows:

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(1) The manufacturer warrants:

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

(b) That 100-ampere electrical service exists in themobile home.

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(2) The dealer warrants:

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

(b) That setup operations performed on the mobile home areperformed in compliance with s. 320.8325.

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

When the setup of a mobile home is performed by a person who is not an employee or agent of the mobile home manufacturer or dealer and is not compensated or authorized by, or connected with, such manufacturer or dealer, then the warranty

Page 15 of 16

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HB 0443 2004 responsibility of the manufacturer or dealer as to setup shall 451 be limited to transporting the mobile home to the occupancy site 452 free from substantial defect. 453 The installer warrants that the setup operations 454 (3) performed on the mobile home are performed in compliance with s. 455 320.8325 and department rules governing the installation. 456 (4) (4) (3) The supplier warrants that any warranties generally 457 offered in the ordinary sale of his or her product to consumers 458 shall be extended to buyers of mobile homes and recreational 459 vehicles. When no warranty is extended by suppliers, the 460 461 manufacturer shall assume warranty responsibility for that 462 component. (5) The department may adopt rules under chapter 120 to 463 resolve disputes that may arise among the mobile home 464 manufacturer, dealer, installer, or supplier. Those rules must 465 comply with the dispute resolution process as set forth in the 466 federal Manufactured Housing Improvement Act. 467 Section 10. This act shall take effect upon becoming a 468 law. 469