

1 A bill to be entitled
2 An act relating to regulation of residential manufactured
3 buildings; providing for transfer of regulatory authority
4 from the Department of Community Affairs to the Department
5 of Highway Safety and Motor Vehicles; authorizing
6 interagency agreements to facilitate the transfer;
7 providing for transfer of certain rules from the
8 Department of Community Affairs and the Florida Building
9 Commission to the Department of Highway Safety and Motor
10 Vehicles; providing for the validity of judicial and
11 administrative actions; creating s. 320.870, F.S.;
12 providing a short title; creating s. 320.871, F.S.;
13 providing definitions; creating s. 320.872, F.S.;
14 establishing the Florida Building Code and the Florida
15 Fire Prevention and Lifesafety Codes as the minimum
16 uniform construction requirements governing the
17 manufacture, design, construction, erection, alteration,
18 modification, repair, and demolition of residential
19 manufactured buildings; creating s. 320.873, F.S.;
20 providing duties and responsibilities of the Department of
21 Highway Safety and Motor Vehicles; providing for rules,
22 inspections, and insignia; authorizing the department to
23 set certain fees; providing for the department to delegate
24 certain authority; creating s. 320.874, F.S.; providing
25 for manufacturer certification; creating s. 320.875, F.S.;
26 providing for recertification of residential manufactured
27 buildings prior to the relocation, modification, or change
28 of occupancy; creating s. 320.876, F.S.; providing for

29 application and scope of enforcement by the department;
 30 providing for local requirements and permits; creating s.
 31 320.877, F.S.; providing for injunctive relief to compel
 32 compliance; creating s. 320.878, F.S.; providing
 33 penalties; transferring and renumbering s. 320.865, F.S.,
 34 relating to maintenance of records; amending ss. 553.36
 35 and 553.38, F.S., relating to regulation of manufactured
 36 buildings; conforming provisions to changes made by the
 37 act; providing for conforming legislation; directing the
 38 Division of Statutory Revision to assist in preparation of
 39 the legislation; providing an effective date.

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

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43 Section 1. Department of Highway Safety and Motor
 44 Vehicles; transfers; operations.--

45 (1) All statutory powers, duties, and functions relating
 46 to the regulation of residential manufactured buildings,
 47 including, but not limited to, certification of manufacturers
 48 and recertification of residential manufactured buildings, of
 49 the Department of Community Affairs are transferred by a type
 50 two transfer, as defined in s. 20.06(2), Florida Statutes, to
 51 the Department of Highway Safety and Motor Vehicles.

52 (2) All existing statutory authority and responsibility of
 53 the Department of Community Affairs for the enforcement of laws
 54 relating to the regulation of residential manufactured
 55 buildings, including, but not limited to, enforcement of
 56 requirements under the Florida Building Code through plan review

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57 and inspection, are transferred by a type two transfer, as
58 defined in s. 20.06(2), Florida Statutes, to the Department of
59 Highway Safety and Motor Vehicles.

60 (3) All existing legal authorities and actions of the
61 Department of Community Affairs relating to the regulation of
62 residential manufactured buildings, including, but not limited
63 to, all pending and completed action on orders and rules, all
64 enforcement matters, and all delegations, interagency
65 agreements, and contracts with federal, state, regional, and
66 local governments and private entities, are transferred by a
67 type two transfer, as defined in s. 20.06(2), Florida Statutes,
68 to the Department of Highway Safety and Motor Vehicles.

69 (4) The Department of Community Affairs and the Department
70 of Highway Safety and Motor Vehicles are authorized to enter
71 into interagency agreements with each other concerning any
72 matter affected by this section in order to promote the
73 efficient and effective implementation of this section.

74 Section 2. Transfer of rules.--

75 (1) RULES OF THE DEPARTMENT OF COMMUNITY
76 AFFAIRS.--Effective July 1, 2006, the rules of the Department of
77 Community Affairs that relate to regulation of residential
78 manufactured buildings, including, but not limited to,
79 enforcement of requirements under the Florida Building Code,
80 certification of manufacturers, and recertification of
81 residential manufactured buildings, that were in effect on June
82 30, 2006, shall become rules of the Department of Highway Safety
83 and Motor Vehicles and shall remain in effect until specifically
84 amended or repealed in the manner provided by law.

85 (2) RULES OF THE FLORIDA BUILDING COMMISSION.--Effective
 86 July 1, 2006, the rules of the Florida Building Commission that
 87 relate to regulation of residential manufactured buildings,
 88 including, but not limited to, rules relating to standards for
 89 construction and inspection of residential manufactured
 90 buildings, insurance coverage requirements, and fees, that were
 91 in effect on June 30, 2006, shall become rules of the Department
 92 of Highway Safety and Motor Vehicles and shall remain in effect
 93 until specifically amended or repealed in the manner provided by
 94 law.

95 Section 3. Validity; judicial or administrative
 96 action.--This act shall not affect the validity of any judicial
 97 or administrative action involving regulation of residential
 98 manufactured buildings by the Department of Community Affairs
 99 pending on July 1, 2006, and the Department of Highway Safety
 100 and Motor Vehicles shall be substituted as a party in interest
 101 in any such action.

102 Section 4. Section 320.870, Florida Statutes, is created
 103 to read:

104 320.870 Short title.--Sections 320.870-320.878 may be
 105 cited as the "Florida Residential Manufactured Building Act."

106 Section 5. Section 320.871, Florida Statutes, is created
 107 to read:

108 320.871 Definitions.--As used in ss. 320.870-320.878, the
 109 term:

110 (1) "Approved" means conforming to the requirements of the
 111 Florida Building Code.

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112 (2) "Approved inspection agency" means an organization
113 determined by the department to be especially qualified by
114 reason of facilities, personnel, experience, and demonstrated
115 reliability to investigate, test, and evaluate manufactured
116 building units or systems or the component parts thereof,
117 together with plans, specifications, and quality control
118 procedures, to ensure that such units, systems, or component
119 parts are in full compliance with the Florida Building Code and
120 to label such units complying with those standards.

121 (3) "Approved inspector" means an employee of the
122 department determined by the department to be especially
123 qualified by reason of training, experience, and demonstrated
124 reliability to investigate, test, and evaluate residential
125 manufactured building units or systems or the component parts
126 thereof, together with plans, specifications, and quality
127 control procedures, to ensure that such units, systems, or
128 component parts are in full compliance with the Florida Building
129 Code and to label such units complying with those standards. A
130 department employee performing inspections pursuant to ss.
131 320.870-320.878 must meet the licensure requirements under part
132 XII of chapter 468.

133 (4) "Closed construction" means that condition when any
134 building, component, assembly, subassembly, or system is
135 manufactured in such a manner that all portions cannot be
136 readily inspected at the installation site without disassembly
137 or destruction thereof.

138 (5) "Component" means any assembly, subassembly, or
139 combination of parts for use as a part of a building, which may

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140 include structural, electrical, mechanical, and fire protection
141 systems and other systems affecting health and safety.
142 Components that incorporate elements of a building subject to
143 the product approval system adopted under s. 553.842 are subject
144 to approval in accordance with the product approval system upon
145 implementation thereof and are not subject to the rules adopted
146 under ss. 320.870-320.878. Components to which the rules adopted
147 under ss. 320.870-320.878 apply are limited to three-dimensional
148 systems for use as part of a building.

149 (6) "Department" means the Department of Highway Safety
150 and Motor Vehicles.

151 (7) "Insignia" means an approved device or seal issued by
152 the department to indicate compliance with the standards and
153 rules established pursuant to ss. 320.870-320.878.

154 (8) "Installation" means the assembly of a manufactured
155 building component or system on site and the process of affixing
156 a manufactured building component or system to land, a
157 foundation, or an existing building, and service connections
158 that are a part thereof.

159 (9) "Local government" means any municipality, county,
160 district, or combination thereof comprising a governmental unit.

161 (10) "Manufacture" means to make, fabricate, construct,
162 form, or assemble a product from raw, unfinished, semifinished,
163 or finished materials.

164 (11) "Mobile home" means any residential unit constructed
165 to standards promulgated by the United States Department of
166 Housing and Urban Development.

167 (12) "Module" means a separately transported three-
 168 dimensional component of a residential manufactured building
 169 that contains all or a portion of structural systems, electrical
 170 systems, plumbing systems, mechanical systems, fire systems, and
 171 thermal systems.

172 (13) "Open construction" means any building, building
 173 component, assembly, or system manufactured in such a manner
 174 that all portions can be readily inspected at the building site
 175 without disassembly or destruction thereof or damage thereto.

176 (14) "Residential manufactured building" means a closed
 177 structure, building assembly, or system of subassemblies, which
 178 may include structural, electrical, plumbing, heating,
 179 ventilating, or other service systems, manufactured in
 180 manufacturing facilities for installation or erection as a
 181 finished, single-family residential dwelling unit. Sections
 182 320.870-320.878 do not apply to manufactured homes or mobile
 183 homes as defined in s. 320.01, factory-built school shelters, or
 184 residential health facilities regulated under chapter 553.

185 (15) "Site" means the location on which a residential
 186 manufactured building is installed or is to be installed.

187 (16) "System" means structural, plumbing, mechanical,
 188 heating, electrical, or ventilating elements, materials, or
 189 components combined for use in a building.

190 Section 6. Section 320.872, Florida Statutes, is created
 191 to read:

192 320.872 Minimum construction requirements
 193 established.--The Florida Building Code and the Florida Fire
 194 Prevention and Lifesafety Codes shall be the minimum

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195 construction requirements governing the manufacture, design,
196 construction, erection, alteration, modification, repair, and
197 demolition of residential manufactured buildings. These minimum
198 requirements shall be uniform throughout the state and no entity
199 other than the department has authority to modify the
200 requirements.

201 Section 7. Section 320.873, Florida Statutes, is created
202 to read:

203 320.873 Duties and responsibilities of the department;
204 rules, inspections, and insignia.--

205 (1) The department has the authority and responsibility to
206 ensure compliance with the provisions of ss. 320.870-320.878 and
207 requirements of the Florida Building Code adopted under part I
208 of chapter 553 for the construction or modification of
209 residential manufactured buildings and building modules. The
210 department is authorized to adopt rules pursuant to ss.
211 120.536(1) and 120.54 necessary to carry out the provisions of
212 ss. 320.870-320.878 and shall adopt by rule requirements to
213 address:

214 (a) Submission to and approval by the department of
215 manufacturers' drawings and specifications, including any
216 amendments.

217 (b) Submission to and approval by the department of
218 manufacturers' internal quality control procedures and manuals,
219 including any amendments.

220 (c) Procedures and qualifications for approval of third-
221 party plan review and inspection entities and of those who
222 perform inspections and plan reviews.

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223 (d) Investigation of consumer complaints of noncompliance
224 of residential manufactured buildings with the Florida Building
225 Code and the Florida Fire Prevention Code.

226 (e) Issuance, cancellation, and revocation of any insignia
227 issued by the department and procedures for auditing them and
228 accounting for their disposition.

229 (f) Monitoring the manufacturers', inspection entities',
230 and plan review entities' compliance with ss. 320.870-320.878
231 and the Florida Building Code. Monitoring may include, but is
232 not limited to, performing audits of plans, inspections of
233 manufacturing facilities and observation of the manufacturing
234 and inspection process, and onsite inspections of buildings.

235 (2) No residential manufactured building, except as
236 provided in subsection (11), may be installed in this state
237 unless it is approved by and bears the insignia of approval of
238 the department. Approvals issued by the department under this
239 section shall be deemed to comply with the requirements of ss.
240 320.870-320.878.

241 (3) All residential manufactured buildings issued and
242 bearing insignia of approval pursuant to subsection (2) shall be
243 deemed to comply with the Florida Building Code and are exempt
244 from local amendments enacted by any local government.

245 (4) No residential manufactured building bearing
246 department insignia of approval pursuant to subsection (2) shall
247 be in any way modified prior to installation, except in
248 conformance with the Florida Building Code.

249 (5) Residential manufactured buildings issued and bearing
250 insignia of approval pursuant to ss. 320.870-320.878 upon

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251 manufacture or first sale shall not require additional approval
252 or insignia by a local government in whose jurisdiction they are
253 subsequently sold or installed. Buildings or structures that
254 meet the definition of "open construction" are subject to
255 permitting by the local jurisdiction and are not required to
256 bear insignia.

257 (6) If the department determines that the standards for
258 construction and inspection of residential manufactured
259 buildings prescribed by statute or rule of another state are at
260 least equal to standards in the Florida Building Code and that
261 such standards are actually enforced by such other state, it may
262 provide by rule that a residential manufactured building that
263 has been inspected and approved by such other state shall be
264 deemed to have been approved by the department and shall
265 authorize the affixing of the appropriate insignia of approval.

266 (7) The department shall, by rule, establish a schedule of
267 fees to pay the cost incurred by the department for the work
268 related to administration and enforcement of ss. 320.870-
269 320.878.

270 (8) The department may delegate its enforcement authority
271 to a state department having building construction
272 responsibilities or to a local government. The department may
273 delegate its plan review and inspection authority to a state
274 department having building construction responsibilities, to a
275 local government, to an approved inspection agency, to an
276 approved plan review agency, or to an agency of another state.

277 (9) If the department delegates its inspection authority
278 to third-party approved inspection agencies, manufacturers must

279 have one, and only one, inspection agency responsible for
 280 inspection of a residential manufactured building, module, or
 281 component at all times.

282 (10) If the department delegates its inspection authority
 283 to third-party approved plan review agencies, manufacturers must
 284 have one, and only one, plan review agency responsible for
 285 review of plans of a residential manufactured building, module,
 286 or component at all times.

287 (11) Custom or one-of-a-kind prototype residential
 288 manufactured buildings shall not be required to have state
 289 approval but must comply with all local requirements of the
 290 governmental agency having jurisdiction at the installation
 291 site.

292 Section 8. Section 320.874, Florida Statutes, is created
 293 to read:

294 320.874 Manufacturer certification.--

295 (1) Before manufacturing residential buildings to be
 296 located within this state or selling residential manufactured
 297 buildings within this state, whichever occurs later, a
 298 manufacturer must be certified by the department. The department
 299 shall certify a manufacturer upon receipt from the manufacturer
 300 and approval and verification by the department of the
 301 following:

302 (a) The manufacturer's internal quality control procedures
 303 and manuals, including any amendments.

304 (b) Evidence that the manufacturer has product liability
 305 insurance for the safety and welfare of the public in amounts
 306 determined by rule of the department.

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307 (c) Payment of the fee established by the department under
308 s. 320.873(7).

309 (2) The department may revoke any certification upon the
310 failure of the manufacturer to comply with the Florida Building
311 Code or other requirements of ss. 320.870-320.878.

312 (3) Certification of manufacturers under this section
313 shall be for a period of 3 years, subject to renewal by the
314 manufacturer. Upon application for renewal, the manufacturer
315 must submit the information described in subsection (1) or a
316 sworn statement that there has been no change in the status or
317 content of that information since the manufacturer's last
318 submittal. Fees for renewal of manufacturers' certification
319 shall be established by the department by rule.

320 Section 9. Section 320.875, Florida Statutes, is created
321 to read:

322 320.875 Recertification of residential manufactured
323 buildings.--Prior to the relocation, modification, or change of
324 occupancy of a residential manufactured building within the
325 state, the manufacturer, dealer, or owner thereof may apply to
326 the department for recertification of that residential
327 manufactured building. The department shall, by rule, provide
328 what information the applicant must submit for recertification
329 and for plan review and inspection of such residential
330 manufactured building and shall establish fees for
331 recertification. Upon a determination by the department that the
332 residential manufactured building complies with the applicable
333 building codes, the department shall issue a recertification
334 insignia. A residential manufactured building that bears

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335 recertification insignia is considered to comply with all
336 applicable codes and does not require any additional approval by
337 an enforcement jurisdiction in which the building is sold or
338 installed. As an alternative to recertification by the
339 department, the manufacturer, dealer, or owner of a residential
340 manufactured building may seek appropriate permitting and a
341 certificate of occupancy from the local jurisdiction in
342 accordance with procedures generally applicable under the
343 Florida Building Code.

344 Section 10. Section 320.876, Florida Statutes, is created
345 to read:

346 320.876 Application and scope.--The department shall
347 enforce every provision of ss. 320.870-320.878 and rules adopted
348 under ss. 320.870-320.878 and the provisions of the Florida
349 Building Code governing residential manufactured buildings,
350 except that local land use and zoning requirements, fire zones,
351 building setback requirements, side and rear yard requirements,
352 site development requirements, property line requirements,
353 subdivision control, and onsite installation requirements, as
354 well as the review and regulation of architectural and aesthetic
355 requirements, are specifically and entirely reserved to local
356 authorities. Such local requirements and rules that may be
357 enacted by local authorities must be reasonable and uniformly
358 applied and enforced without any distinction as to whether a
359 building is a conventionally constructed or residential
360 manufactured building. A local government shall require permit
361 fees only for those inspections actually performed by the local
362 government for the installation of a factory-built structure.

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363 Such fees shall be equal to the amount charged for similar
 364 inspections on conventionally built housing.

365 Section 11. Section 320.877, Florida Statutes, is created
 366 to read:

367 320.877 Injunctive relief.--The department may seek
 368 injunctive or other relief from the circuit court of appropriate
 369 jurisdiction to compel compliance with the requirements of ss.
 370 320.870-320.878 or with the Florida Building Code, or to enjoin
 371 the sale, delivery, or installation of a residential
 372 manufactured building, upon an affidavit specifying the manner
 373 in which the building does not conform to the Florida Building
 374 Code or other requirements of ss. 320.870-320.878. Noncompliance
 375 with the Florida Building Code or ss. 320.870-320.878 shall be
 376 considered prima facie evidence of irreparable damage in any
 377 cause of action brought under the authority of ss. 320.870-
 378 320.878.

379 Section 12. Section 320.878, Florida Statutes, is created
 380 to read:

381 320.878 Penalties.--Any person who violates any of the
 382 provisions of ss. 320.870-320.877 commits a misdemeanor of the
 383 second degree, punishable as provided in s. 775.082 or s.
 384 775.083.

385 Section 13. Section 320.865, Florida Statutes, is
 386 transferred and renumbered as section 320.93, Florida Statutes.

387 Section 14. Subsection (12) of section 553.36, Florida
 388 Statutes, is amended to read:

389 553.36 Definitions.--The definitions contained in this
 390 section govern the construction of this part unless the context
 391 otherwise requires.

392 (12) "Manufactured building" means a closed structure,
 393 building assembly, or system of subassemblies, which may include
 394 structural, electrical, plumbing, heating, ventilating, or other
 395 service systems manufactured in manufacturing facilities for
 396 installation or erection as a finished building or as part of a
 397 finished building, which shall include, but not be limited to,
 398 residential, commercial, institutional, storage, and industrial
 399 structures. The term includes buildings not intended for human
 400 habitation such as lawn storage buildings and storage sheds
 401 manufactured and assembled offsite by a manufacturer certified
 402 in conformance with this part. This part does not apply to
 403 manufactured homes or mobile homes as defined in chapter 320
 404 and, except as to applicability of Florida Building Code minimum
 405 construction standards, does not apply to single-family
 406 residential manufactured buildings as defined in chapter 320.

407 Section 15. Section 553.38, Florida Statutes, is amended
 408 to read:

409 553.38 Application and scope.--Except as provided in
 410 chapter 320, the department shall enforce every provision of the
 411 Florida Building Code adopted pursuant hereto, except that local
 412 land use and zoning requirements, fire zones, building setback
 413 requirements, side and rear yard requirements, site development
 414 requirements, property line requirements, subdivision control,
 415 and onsite installation requirements, as well as the review and
 416 regulation of architectural and aesthetic requirements, are

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417 specifically and entirely reserved to local authorities. Such
418 local requirements and rules which may be enacted by local
419 authorities must be reasonable and uniformly applied and
420 enforced without any distinction as to whether a building is a
421 conventionally constructed or manufactured building. A local
422 government shall require permit fees only for those inspections
423 actually performed by the local government for the installation
424 of a factory-built structure. Such fees shall be equal to the
425 amount charged for similar inspections on conventionally built
426 housing.

427 Section 16. Conforming legislation.--The Legislature
428 recognizes that there is a need to conform the Florida Statutes
429 to the policy decisions reflected in this act and that there is
430 a need to resolve apparent conflicts between any other
431 legislation that has been or may be enacted during 2006 and the
432 transfer of responsibilities to the Department of Highway Safety
433 and Motor Vehicles by this act. Therefore, in the interim
434 between this act becoming a law and the 2007 Regular Session of
435 the Legislature or an earlier special session addressing this
436 issue, the Division of Statutory Revision shall, upon request,
437 provide the relevant substantive committees of the Senate and
438 the House of Representatives with assistance to enable such
439 committees to prepare draft legislation to conform the Florida
440 Statutes and any legislation enacted during 2006 to the
441 provisions of this act.

442 Section 17. This act shall take effect July 1, 2006.