

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1414

SPONSOR: Regulated Industries Committee and Senator Diaz de la Portilla

SUBJECT: Mobile and Manufactured Homes

DATE: January 26, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable</u>
2.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
3.	_____	_____	<u>CP</u>	_____
4.	_____	_____	<u>ATD</u>	_____
5.	_____	_____	<u>AP</u>	_____
6.	_____	_____	_____	_____

I. Summary:

This bill contains a number of changes to provisions of law relating to the regulation of mobile and manufactured homes.

The bill amends s. 319.261, F.S., to no longer allow the manufacturer's certificate of origin to be used to retire the title to a mobile home. Section 320.822, F.S., is amended to clarify the definition of "setup" to include "installation" which conforms to the correct terminology used in the industry. In addition, installing foundation products, components and systems are included in the definition.

The bill amends s. 320.823, F.S., to provide that each new mobile or manufactured home manufactured or sold in this state must meet the manufactured home construction and safety regulations promulgated by the U.S. Department of Housing and Urban Development (HUD), pursuant to the Manufactured Housing Improvement Act.

The bill amends s. 320.8249, F.S., to prohibit a licensed mobile home installer from violating other state laws or rules relating to installing, repairing, or dealing in mobile homes. Also, the section provides additional prohibited actions in which the Department of Highway Safety and Motor Vehicles (DHSMV or department) at its discretion may impose disciplinary penalties, including a fine not to exceed \$1,000 per violation involving a single installation and not to exceed \$5,000 for a violation involving the complete setup. Section 320.8249, F.S., is further amended to prohibit a local government from requiring a mobile home installer to obtain additional bonding or insurance. In addition, a new subsection (14) is created to provide licensed mobile home installers to maintain a location log for each installation decal for two years. However, this requirement will not take effect until DHSMV develops an acceptable format for the log and provides a sample to each licensed installer.

The bill creates s. 320.8251, F.S., to require manufacturers of mobile home installation products or systems to obtain a certificate of approval by DHSMV. The manufacturer must submit to DHSMV a report certifying that the mobile home installation component, product or system meets the established mobile home installation standards based on a report from a state licensed professional engineer. Also, the section provides that the certification is subject to suspension or revocation, and that obtaining a certification fraudulently or by misrepresentation will subject the responsible party to a fine.

The bill amends s. 320.8285, F.S., to provide that each county or municipality is responsible for the onsite inspection of each mobile home installation located within its respective jurisdiction. Also, the onsite inspection must ensure compliance with DHSMV's uniform installation standards. In addition, local governments are authorized to issue permits for the installation of mobile homes to a licensed mobile home installer or to a licensed mobile home dealer or manufactured home owner if a licensed installer will be performing the actual work.

The bill amends s. 320.8325, F.S., to require uniform standards for the installation of mobile homes, manufactured homes, and park trailers; and uniform standards for the manufacture of components, products, or systems used in the installation of the above. Also, the section is amended to provide that mobile homes, manufactured homes, and park trailers must be installed on a permanent foundation that resists wind, flood, flotation, overturning, sliding and lateral movement of the home or park trailer. In addition, the owner of the mobile home, manufactured home, or park trailer is responsible for the installation in accordance with DHSMV rules. Finally, obsolete language is deleted and replaced, and the term "manufactured homes" is included to conform the provision to the terminology used in the industry.

The bill amends s. 320.834, F.S., to provide that mobile homes are an affordable housing resource and s. 320.835, F.S., is amended to require that mobile home installers must warrant that setup operations performed on the mobile home were performed in compliance with DHSMV rules. In addition, s. 320.835, F.S., is amended to provide that DHSMV may adopt rules under ch. 120, F.S., to resolve disputes that may arise among mobile home manufacturers, dealers, installers, and suppliers.

This bill would take effect upon becoming law.

This bill substantially amends the following sections of the Florida Statutes: 319.261, 320.822, 320.823, 320.8249, 320.8285, 320.8325, 320.834 and 320.835.

This bill creates section 320.8251, Florida Statutes.

II. Present Situation:

Federal Regulation.

The National Manufactured Housing Construction and Safety Standards Act of 1974 (act) established federal construction and safety standards for manufactured homes.¹ The 2000 amendments to this act provided that this title may be cited as the “Manufactured Housing Improvement Act.”² The Department of Housing and Urban Development (HUD) was directed to develop a federal standard building code for mobile homes. The intent of the program is to reduce personal injuries, deaths, property damage, insurance costs, and to improve the quality and durability of manufactured homes. These standards supersede any state standards regarding mobile home construction or safety. Thus, federal regulations preempt any state regulations to the extent that the local or state regulations concern matters governed by the federal act and the corresponding rules promulgated by HUD.³

State Enforcement.

With the approval of the secretary of HUD, states may assume responsibility for enforcement of the federal standards established under the act. Florida entered into two contracts with HUD in 1976 to carry out the enforcement of the federal program. The Bureau of Mobile Home and Recreational Vehicle Construction (bureau) within DHSMV has since administered the contracts. The bureau includes the Bureau Chief’s Office (in-plant inspection and consumer complaint programs), Engineering, Seals, Labels, and Installer Licensing sections. The bureau is the “State Administrative Agency” (SAA) for monitoring all manufactured housing produced or installed in Florida. The bureau inspects manufacturer facilities and dealer lots for compliance with the federal code; investigates and resolves consumer complaints against manufacturers and dealers; monitors retail lots; approves alterations made by retailers; and monitors the installation of mobile homes. The state’s responsibilities for the installation program include regulating the installation of mobile homes by testing and licensing mobile home installers, testing and approving anchoring and tie-down products for use in Florida, and inspecting the actual installation of mobile homes. In addition, the bureau conducts training for city and county building officials on how to inspect for proper installation, and consults with these officials on a regular basis regarding installation issues.

Florida is one of 38 states approved by the secretary of HUD to perform these functions. Ten of those 38 states also perform as an in-plant primary inspection agency (IPIA) under a second contract. Florida is one of these states. According to the IPIA contract, DHSMV must certify that a manufacturer is following approved quality control procedures and must provide on-going in-plant inspection of the manufacturing process to assure conformance with the federal code standards. If the manufacturer complies, a federal certification label is then issued and affixed to each newly completed mobile home manufactured in Florida.

¹ 42 U.S.C. 5401. et seq.

² Pub.L. 106-569, Title VI, § 601(a), Dec. 27, 2000, 114 Stat. 2997

³ 42 U.S.C. 5422.

According to DHSMV, Florida is one of the top three states receiving the largest number of manufactured homes. Florida is ranked in the top eight in the nation in the production of mobile homes. During FY 2002-03, the program registered 21,144 new mobile homes and inspected 13,904 mobile homes in 15 manufacturing plants. The program issued 3,027 manufacturer non-compliance notices. As of June 30, 2003, Florida licensed 493 manufactured home installers.

Florida's Statutory Scheme.

Section 319.261, F.S., was created during the 2003 Regular Session to provide a mechanism by which the owner of a mobile home which is permanently affixed to real property owned by that same person may permanently retire the title to the mobile home. According to the Florida Manufactured Housing Association (FMHA), the primary purpose of this section is to clarify the valid ownership and security interests in mobile homes and other manufactured housing so mortgages on these properties will be eligible to be purchased by Fannie Mae and Freddie Mac.

Subsection (2) provides that the DHSMV is authorized to retire the title to the mobile home if the owner records the following documents with the clerk of court in the county in which the real property is located:

- The original title to the mobile home, or for a new home the manufacturers' certificate of origin, which includes a description of the mobile home, including model year, make, width, length, vehicle identification number, and a statement by any recorded lienholder on the title that the security interest in the home has been released, or that such security interest will be released upon retirement of the title;
- The legal description of the real property, and in the case of a leasehold interest, a copy of the lease agreement; and
- A sworn statement by the owner 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.

Subsection (3) specifies that the clerk of court is responsible for recording the documents and providing to the owner of the real property a copy of the recorded title or manufacturers' certificate of origin and a copy of all the documents recorded. Subsection (4) specifies that the owner or lien-holder must then submit these documents with the appropriate application to DHSMV in order to retire the title.

Section 320.822, F.S., provides definitions for chapter 320, F.S., relating to motor vehicle licenses for mobile homes and recreational vehicles. Currently, the definition for "setup" is outdated and is not the current terminology used in the industry.

Section 320.823, F.S., requires mobile homes manufactured or sold in this state to meet the Federal Mobile Home Construction and Safety Standards promulgated by HUD.

Section 320.8249, F.S., provides prohibited actions relating to licensed mobile home installers and applicable penalties. Such offenses include:

1. Obtaining a mobile home installer's license by fraud or misrepresentation.

2. Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of mobile home installation or the ability to practice.
3. Violating any lawful order of DHSMV.
4. Committing fraud or deceit in the practice of contracting.
5. Committing incompetence or misconduct in the practice of contracting.
6. Committing gross negligence, repeated negligence, or negligence resulting in a significant danger to life or property.
7. Committing violations of the installation standards for mobile homes or manufactured homes contained in rules 15C-1.0102 – 15C-1.0104, F.A.C.

A violation of any specified offense is subject to any of the following disciplinary penalties: license revocation; license suspension, a fine not to exceed \$1,000 per violation, a requirement to take and pass, or retake and pass a DHSMV-approved examination, probation; probation subject to such restriction of practice as DHSMV chooses to impose, notice of noncompliance, or refusal of a licensure application.

In addition, subsection (12) provides that a county, municipality, or other unit of local government may not require additional licensing of a duly licensed installer. However, a county, municipality, or other unit of local government may require an installer to obtain a local occupation license.

Section 320.8285, F.S., provides for onsite inspections of mobile homes. Each county or municipality is required to prepare and adopt a plan providing for an onsite inspection of mobile homes within such entity. If a county or municipality does not prepare or adopt a plan providing for onsite inspections, the department must prepare a minimum inspection plan for that county. Building inspectors must determine compliance with state and local building codes before a mobile home is certified for occupancy.

Section 320.8325, F.S., addresses mobile home tie-downs and installation standards. Currently, the department must adopt rules governing the devices used to install mobile homes, but does not specify the type of foundation to which mobile homes or park trailer must be installed. In addition, most of the laws governing mobile homes use the term “mobile home” which is not the current terminology used in the industry.

Section 320.834, F.S., expresses the legislative intent that the mobile home inspection program is meant to ensure the safety and welfare of residents of mobile homes through an inspection program conducted by DHSMV. Further, the section provides that mobile homes are a primary housing resource for many residents and satisfy a large segment of statewide housing needs.

Section 320.835, F.S., specifies mobile home manufacturer, dealer and supplier warranty responsibilities. In particular, it provides that each manufacture, dealer and supplier of mobile

homes or recreational vehicles must warrant each new mobile home or recreational vehicle sold in Florida, and the setup of each mobile home for at least 12 months.

Hurricane Loss Mitigation Program

Enacted in 1999, s. 215.559, F.S., creates the Hurricane Loss Mitigation Program. It requires that \$10 million must be appropriated annually from the Florida Hurricane Catastrophe Fund, s. 215.555, F.S., to the Department of Community Affairs for specified purposes. Section 215.559(2), F.S., requires that \$7 million must be used for programs to improve the wind resistance of residences and mobile homes and \$3 million must be used to retrofit existing facilities used as public hurricane shelters. Section 215.559, F.S., further directs that 40 percent of the \$7 million (\$2.8 million) must be used to inspect and improve tiedowns for mobile homes and that 10 percent (\$700,000) must be allocated to the State University System dedicated to hurricane research. Subsection (8) of s. 215.559, F.S., provides that this section is repealed effective June 30, 2006.

III. Effect of Proposed Changes:

The following discussion represents a section-by-section analysis of the bill:

Section 1. Section 319.261, F.S., is amended to no longer allow the manufacturer's certificate of origin to be used to retire the title to a mobile home.

Section 2. Section 320.822, F.S., is amended to clarify that the definition of "setup" includes "installation," which conforms the provision to current terminology used in the industry. In addition, the installation of foundation products, components, and systems are included in the definition.

Section 3. Section 320.823, F.S., is amended to clarify the requirement that each single-family mobile home manufactured or sold in this state must meet the Manufactured Home Construction and Safety Standards promulgated by HUD, pursuant to the Manufactured Housing Improvement Act. The bill provides that this requirement applies to new single-family or duplex mobile or manufactured homes. According to DHSMV, this provision would codify current practices.

Section 4. Section 320.8249, F.S., is amended to prohibit a licensed mobile home installer from violating other state laws or rules relating to installing, repairing, or dealing in mobile homes. Also, s. 320.8249(10)(c), F.S., is amended to provide that for violation of s. 320.8249(7) or (9), F.S., DHSMV may, at its discretion, impose a fine not to exceed \$1,000 per violation involving a single installation and not to exceed \$5,000 for a violation involving the complete setup.

Further, subsection (12) of s. 320.8249, F.S., is amended to include bonding or insurance as matters that a local government is prohibited from requiring of a mobile home installer. In addition, a new subsection (14) is created to provide that licensed mobile home installers must maintain a location log for each installation decal for two years. However, this requirement will not take effect until DHSMV develops an acceptable format for the log and provides a sample of the acceptable format to each licensed installer.

Section 5. Section 320.8251, F.S., is created to require manufacturers of mobile home installation products or systems to obtain a certificate of approval from DHSMV. The manufacturer must submit to DHSMV a report certifying that the mobile home installation component, product or system meets the established mobile home installation standards based on a report from a state licensed professional engineer. Upon review, DHSMV is authorized to approve or deny the certification. The section also provides that the certification is subject to suspension or revocation and obtaining such certification fraudulently or by misrepresentation will subject the responsible party to a fine.

In addition, the section provides that products, components, or systems currently used in the installation or mobile homes need not be certified until July 1, 2009.

Section 6. Section 320.8285, F.S., is amended to provide that each county or municipality is responsible for the onsite inspection of each mobile home installation located within its respective jurisdiction. The onsite inspection must ensure compliance with DHSMV's uniform installation standards, and each mobile home is to be issued a certificate of occupancy if the mobile home is found in compliance with DHSMV's standards after an inspection. In addition, local governments are authorized to issue permits for installation of mobile homes to a licensed mobile home installer or to a licensed mobile home dealer or manufactured home owner if the dealer or owner provides a licensed installer will be performing the actual work

The bill deletes the provisions in ss. 320.8285(1) and (3), F.S., relating to standards in local building codes, ordinances, and regulations, which is obsolete in the context of the federal preemption for these standards. The bill also deletes the provision in s. 320.8285(1), F.S., relating to the DHSMV's authority to adopt rules for counties and municipalities that do not prepare and adopt a plan for onsite inspection of mobile homes.

Section 7 - Section 320.8325, F.S., is amended to require uniform standards for the installation of mobile homes, manufactured homes, and park trailers and for the manufacture of components, products, or systems used in the installation of the above. This section is also amended to provide mobile homes, manufactured homes and park trailers must be installed on a permanent foundation that resists wind, flood, flotation, overturning, sliding and lateral movement of the home or park trailer. In addition, the owner of the mobile home, manufactured home or park trailer is responsible for the installation in accordance with DHSMV rules. The bill also includes the term "manufactured homes" to conform the provision with the current terminology used in the industry.

The bill also deletes the provisions of ss. 320.8325(1) and (2), F.S., relating to specific standards for mobile home safety and installation.

Section 8 - Section 320.834, F.S., is amended to describe mobile homes as an affordable housing resource.

Section 9 - Section 320.835(1), F.S., is amended to include installers in the requirement that each mobile home manufacturer, dealer and supplier must to warrant that the setup operations performed on the mobile home are performed in compliance with DHSMV rules. The bill expands the requirement under current law that the warranty must be for a period of at least 12

months to include the condition that the warranty is measured from the date of receipt of a certificate of occupancy from an installer, or from the date of sale of a recreational vehicle.

The bill provides in s. 320.835(5), F.S., that DHSMV may adopt rules under ch. 120, F.S., to resolve disputes that may arise among mobile home manufacturers, dealers, installers, and suppliers. The rules must comply with the dispute resolution process set forth in the Federal Manufactured Housing Improvement Act.

Section 10 – This bill amends s. 218.559(8), F.S., to extend the repeal date of this section to June 30, 2011.

Section 11 - This bill would take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

A licensed mobile home installer who violates the prohibited actions in s. 320.8249(7) or (9), F.S., may be subject to disciplinary penalties including a fine not to exceed \$1,000 per violation involving a single installation and not to exceed \$5,000 for a violation involving the complete setup.

This bill would provide some additional protection to consumers who purchase mobile or manufactured homes.

C. Government Sector Impact:

This bill proposes a \$5,000 cap on fines arising from mobile home installation violations by licensed installers; however, the impact to the DHSMV is indeterminate.

The \$10 million dollar annual appropriation from the Florida Hurricane Catastrophe Fund scheduled for repeal on June 30, 2006, would continue until June 30, 2011.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
