

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 443 w/CS Mobile and Manufactured Home Installation
SPONSOR(S): Russell
TIED BILLS: **IDEN./SIM. BILLS:** SB 1414

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation	20 Y, 0 N w/CS	Garner	Miller
2) Finance & Tax			
3) Appropriations			
4)			
5)			

SUMMARY ANALYSIS

HB 443 w/CS amends procedures for the retirement and recording of title to a mobile home that is attached to real property by eliminating the manufacturer's certificate of origin as a document to be used for that purpose. In addition, the bill updates Florida's mobile or manufactured home installation program to comply with recently adopted standards of the United States Department of Housing and Urban Development.

Pursuant to the federal Manufactured Housing Improvement Act of 2000 (the Act), the United States Department of Housing and Urban Development (HUD) adopted Model Manufactured Home Installation Standards, and new Manufactured Home Construction and Safety Standards, based in large part on current approved manufactured home designs and the designs and instructions for the installation of manufactured homes provided by manufacturers. Pursuant to the Act, states are required to implement an installation program by 2006 that equals or exceeds the protection provided by HUD's model manufactured home installation standards or the HUD approved designs and instructions provided by manufacturers. In addition, the state installation programs must regulate the training and licensing of manufactured home installers, and provide for the inspection of the installation of manufactured homes.

HB 443 w/CS is expected to have a minimal, indeterminate negative fiscal impact on state and local governments.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0443a.tr.doc
DATE: March 10, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

Reduce Government?

HB 443 w/CS requires expanded regulation of mobile home installation, sales, and manufacturing. However, these additional and revised regulations are required by federal law.

B. EFFECT OF PROPOSED CHANGES:

Manufacturer's Certificate of Origin

Because a mobile home isn't originally part of the real property where it is installed, it is generally issued a certificate of title evidencing ownership by the ultimate purchaser. When the mobile home is installed, and thereby attached to real property, title is no longer necessary because the mobile home is no longer personal property resting on the real property, but is merged into the realty. Current law allows an owner to retire title to the mobile home when it is attached to the realty. This process allows for mobile home ownership to be recorded with the real property deed.

When an owner applies for a certificate of title with the tax collector, he or she is required to pay sales taxes on the transaction. However, The law also allows a purchaser to retire title and record ownership of a newly purchased mobile home with the real property deed by presenting a manufacturer's certificate of origin (MCO). An MCO is an ownership document issued by the manufacturer that covers the mobile home after it leaves the factory until it is sold to an ultimate purchaser. In such cases, because ownership is recorded without a title certificate ever having been issued, sales taxes are paid to the dealer who forwards the tax payment to the state. Use of the MCO as satisfactory documentation for recording ownership with a deed when a mobile home is attached to real property provides an opportunity to an unscrupulous dealer or to parties in a casual sale to engage in sales tax fraud.

This process was created during the 2003 Legislative Session to provide a mechanism by which the owner of a mobile home permanently affixed to real property owned by that same person could permanently retire the title to the mobile home. According to the Florida Manufactured Housing Association (FMHA), the primary purpose of the legislation was to clarify the valid ownership and security interests in mobile homes and other manufactured housing so mortgages on these properties would be eligible to be purchased by Fannie Mae and Freddie Mac.

HB 443 w/CS eliminates the MCO as acceptable ownership documentation for the purpose of retiring title, and for the purpose of recording ownership with the deed. The bill requires a mobile home purchaser to first be issued a title certificate before title can be retired and ownership can be recorded with the deed. The bill also clarifies the time period in which a person may file title insurance certification when removing a mobile home from real property after previously retiring the title.

Implementation of the federal Manufactured Housing Improvement Act of 2000

Pursuant to the federal Manufactured Housing Improvement Act of 2000 (the Act), the United States Department of Housing and Urban Development (HUD) adopted Model Manufactured Home Installation Standards and the Manufactured Home Construction and Safety Standards based in large part on current approved manufactured home designs and the designs and instructions for the installation of manufactured homes provided by manufacturers. Pursuant to the Act, states are required to implement an installation program by 2006 that equals or exceeds the protection provided by HUD's model manufactured home installation standards or the HUD approved designs and instructions provided by manufacturers. In addition, the state installation programs must regulate the training and licensing of manufactured home installers, and provide for the inspection of the installation of manufactured homes.

HB 443 w/CS updates Florida's mobile or manufactured home installation program to comply with these HUD standards. The bill:

- Amends definitions to provide for the use of the term "installation" rather than the term "setup." Setup refers to the operations performed onsite which render a mobile home or park trailer fit for habitation. The bill includes among those operations listed, the acts of installing foundation products, components, and systems, which replace the outdated act of "tying down" a mobile home or park trailer. This change recognizes the requirements of the Model Manufactured Home Installation Standards, which are based on current practice and procedure in the industry;
- Requires mobile homes manufactured or sold in Florida to meet the federal Manufactured Home Construction and Safety Standards adopted by HUD, pursuant to the Manufactured Housing Improvement Act of 2000. According to DHSMV, the changes codify current industry practices and federal standards;
- Revises prohibited acts and penalties relating to licensed mobile home installers, and provides that DHSMV may, at its discretion, impose disciplinary penalties including fines not to exceed \$1,000 involving a single installation and no more than \$5,000 for the entire mobile home setup. Under current law, DHSMV may impose no more than \$1,000 per installation procedure violation, and there is no cap per setup. The bill also prohibits a local government from requiring a mobile home installer to obtain additional bonding or insurance. Installers are also required to maintain a location log for 2 years for each installation. The log records information about decals which current law requires installers to purchase and affix to the mobile home prior to installation.
- Requires 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 of the report, DHSMV is authorized to approve or deny the certification. The certification is subject to suspension or revocation. Obtaining a certification by fraud or misrepresentation may subject a manufacturer or other responsible party to a fine. Manufacturers have until July 1, 2009 to obtain certification for products or systems.
- Assigns responsibility to counties or municipalities for onsite inspection of each mobile home installation located within county or municipal jurisdiction. Currently, local governments are required to 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 currently must ensure compliance with state and local building codes to certify a mobile home

for occupancy. Under the bill, onsite inspections conducted by local inspectors must ensure compliance with DHSMV's uniform installation standards, and each mobile home in compliance must be issued a certificate of occupancy. In addition, a local government is authorized to issue a permit for installation of a mobile home to a licensed mobile home installer, or to a licensed dealer or owner if the dealer or owner demonstrates that a licensed installer will perform the actual installation.

- Provides for the adoption of 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 each of them, conforming to the new federal standards. Currently, the law provides minimum statutory standards and tie-down requirements for the setup of mobile homes and park trailers. Also, the bill provides that mobile homes, manufactured homes and park trailers must be installed on a permanent foundation that resists wind, flood, flotation, overturns, 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.
- Amends current law to signify the Legislature's intent that mobile homes are not merely a primary housing source that satisfies a large segment of housing needs, but rather, they are a primary *affordable* housing source that serves that purpose.
- Requires a mobile home installer to warrant that setup operations performed on a mobile home comply with DHSMV rules. The warranty must be for a period of at least 12 months, measured from the date of receipt of a certificate of occupancy. In addition, the bill authorizes DHSMV to adopt rules under Chapter 120, F.S., to resolve disputes arising 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 of 2000.

C. SECTION DIRECTORY:

Section 1. Amends s. 319.261, F.S., eliminating the manufacturer's certificate of origin as a document acceptable for the purpose of retiring title to a mobile home affixed to real property, and clarifying the time period in which a person may file title insurance certification when removing a mobile home from real property after previously retiring the title.

Section 2. Amends s. 320.822, F.S., amending the definition of the term "setup" in relation to the installation of mobile homes and park trailers.

Section 3. Amends s. 320.823, F.S., requiring mobile homes manufactured or sold in Florida to meet the federal Manufactured Home Construction and Safety Standards adopted by HUD, pursuant to the Manufactured Housing Improvement Act of 2000.

Section 4. Amends s. 320.8249, F.S., revising prohibited acts of licensed mobile home installers, providing new penalties, prohibiting local governments from imposing additional bonding or insurance requirements on installers, and requiring maintenance of decal location logs by installers.

Section 5. Creates s. 320.8251, F.S., requiring the certification of mobile home installation components, products, or systems with DHSMV.

Section 6. Amends s. 320.8285, F.S., providing procedures for onsite inspection of mobile home installations by municipalities and counties.

Section 7. Amends s. 320.8325, F.S., providing for adoption of new uniform standards for mobile home installation and establishing performance requirements for mobile home foundations.

Section 8. Amends s. 320.834, F.S., signifying the Legislature's intent that mobile homes are a primary source of affordable housing.

Section 9. Amends s. 320.835, F.S., providing new warranty requirements for mobile home manufacturers, dealers, installers and suppliers, and authorizing DHSMV to adopt rules regarding resolution of disputes among them.

Section 10. Provides that this act shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS section, below.

2. Expenditures:

See FISCAL COMMENTS section, below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS section, below.

2. Expenditures:

See FISCAL COMMENTS section below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

According to DHSMV and proponents of the bill, the changes in the bill reflect current industry practices. Therefore, the bill is expected to have a minimal economic impact on mobile home installers, except that a licensed mobile home installer who violates the prohibited actions 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.

D. FISCAL COMMENTS:

DHSMV reports no increase in its costs to operate the mobile home program under the revised regulations.

According to DHSMV, the bill may have a minimal, indeterminate fiscal impact from a proposed \$5,000 cap on fines arising from mobile home installation violations by licensed installers. Mobile home violations are historically low and the department believes any fiscal impact would be minimal.

To the extent that local governments are already required to adopt inspection plans and to engage in code inspections, the requirement that local governments be responsible for installation inspections is not expected to have a significant negative fiscal impact on local governments.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

HB 443 w/CS authorizes DHSMV to adopt rules to resolve disputes arising among mobile home manufacturers, dealers, installers, and suppliers. These rules must comply with the dispute resolution process set forth in the Federal Manufactured Housing Improvement Act of 2000. The bill provides sufficient rulemaking authority to DHSMV to promulgate these rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 9, 2004, the Committee on Transportation adopted one amendment that clarifies the time period in which a person may file title insurance certification when removing a mobile home from real property after previously retiring the title. The bill was then reported favorably as amended with a committee substitute.