

SUBJECT: Regulating manufactured housing

COMMITTEE: Licensing and Administrative Procedures — favorable, with amendment

VOTE: 7 ayes — Wilson, Kubiak, Goolsby, D. Jones, Pickett, Torres, Yarbrough
0 nays
2 absent — Haggerty, Hamric

WITNESSES: *(On original version):*
For — Cal Aaron; Hubert Emerick, RV and Motor Home Owners Association of the Valley; K. D. Pool, Crown Homes; Michael Alexander and Will Ehrle, Texas Manufactured Housing Association

Against — Jim Fitzpatrick, American Association of Retired Persons; Janee Briesemeister, Consumers Union; Steve Reinshuttle; Tom Mittlestadt; Barbara Mittlestadt; Richard Courtney; Jamie Dwyer; Kathy Simpson; Luther Edwards; Gregg Hensley; Josef Martin; Mike McIver; Suzi McIver; Laura Hensely; Andrew Scott; Chance Roden

On — Lee Stine, Mobile Insurance Co.; Ann Denman, Raymond Orozco and Herschal Blankenship, Texas Department of Housing and Community Affairs

BACKGROUND : The construction and installation of manufactured housing has been regulated in Texas since 1969. Until 1995, the industry was regulated by the Texas Department of Licensing and Regulation. In 1995, the Texas Department of Housing and Community Affairs (TDHCA) became responsible for such regulations.

It is estimated that nearly 750,000 families currently live in manufactured homes based on 1990 census information and new home sales since that census. Nearly 45,000 homes produced in Texas each year and over 18,000 people employed by the manufactured housing industry in Texas. It is estimated that 32 percent of all new homes sales and single family housing starts in Texas are manufactured homes.

Manufactured housing is constructed to a national building code adopted by the U.S. Department of Housing and Urban Development (HUD). On July 13, 1994, HUD adopted new regulations requiring additional construction standards for manufactured homes located in wind zones, a designation used for homes primarily along coastal areas. Wind Zone II homes must be built to withstand 39 pounds per square foot (psf) of horizontal wind load. Standard requirements for Wind Zone I allow homes built to withstand 15 psf. Wind Zone III, used almost exclusively in Florida and Hawaii, requires homes to withstand 47 psf of horizontal wind load.

DIGEST: HB 2703, as amended, would make substantial revisions to the Manufactured Housing Standards Act. It would change the designation of registration and registrant to license and license holder and make corrective changes to reflect this new designation throughout the act.

Inspection Requirements. HB 2703 would allow TDHCA to establish inspection programs where at least 25 percent of manufactured homes installed are inspected for compliance. (Current practice requires all homes to be inspected). The bill as amended would require TDHCA to place an inspection priority on multi-section homes and homes in Wind Zone II.

Wind Zone Restrictions. HB 2703 would designate 15 coastal counties as Wind Zone II. All other counties in the state would be Wind Zone I. The bill would require a home constructed after September 1, 1997, to meet HUD Wind Zone II requirements in order to be installed in any of the 15 Wind Zone II counties. A purchaser of a home constructed before September 1, 1997, would have to be given notice that the home did not meet new federal standards and could not be installed in Wind Zone II. Homes installed in Wind Zone II before the September 1, 1997 would be grandfathered.

Bond Requirements. The bond required to be posted by a retailer would be increased from \$30,000 to \$50,000.

License renewal requirements. Licenses for manufacturers could be renewed by filing an application for renewal before the expiration of the current license period. Renewals would last one year. Any additional

information required by TDHCA in renewing an application would have to be supplied within 21 days of the request by TDHCA.

Local government deviation from standards. In order to deviate from TDHCA standards on manufactured housing, local governmental units would be required to demonstrate that the deviation was needed for public health and safety.

Continuing education programs. The director of TDHCA would be required to issue a certificate to any person who complete a certification program or continuing education program.

Rule adoption requirements. HB 2703 would apply standard procedures for the adoption of proposed rules to TDHCA rules on manufactured housing. The provision would require public hearings, notice and publication in the Texas Register. The adoption of rules would have to follow the requirements of the Administrative Procedures Act, chapter 2001, Government Code.

Conversion to real estate. HB 2703 would provide for the cancellation of the manufacturer's certificate of origin once the home is permanently affixed to real estate. A certificate of attachment would also have to be filed in the deed records of the county. Such a certificate would allow the home to be considered real estate and not personal property.

Warranties. HB 2703 would allow combination warranties to apply to all parties to a transaction — the manufacturer, retailer and seller of real estate — without a separate warranty being executed by each party.

Effective date. HB 2703 would take effect September 1, 1997.

SUPPORTERS
SAY:

The changes proposed by HB 2703 to the regulation of manufactured housing represent compromises made between the industry and consumer groups. The changes would clarify the law relating to manufactured housing standards, establish new wind tolerance requirements, increase bonds for retailers, and promote better rule adoption procedures by TDHCA.

The completion of inspections on the installation of manufactured homes has been a significant shortcoming of TDHCA. The department collects an inspection fee for each home installed, but the fees collected do not cover the costs of hiring inspectors to examine the homes. Currently TDHCA is inspecting about 50 percent of homes installed. There is no requirement that TDHCA inspect every home, but because a fee is collected on every home, the department has been operating under that assumption. By moving the inspection requirement to 25 percent of all homes installed, TDHCA inspectors would have the opportunity to fully inspect a substantial number of homes and choose which installers or retailers to inspect while still inspecting a random sample of homes. There is also a requirement that multi-section homes and homes in Wind Zone II counties have an inspection priority. These homes represent the highest installation risk and should be given such a priority.

The wind tolerance requirements would allow Texas law to match federal law for such homes. The committee amendment clarifies exactly which homes would qualify for grandfathering and what the requirements would be for moving homes that do not meet such standards. These clarifications were requested by homeowner's groups in the affected counties to ensure that they had clear provisions to follow.

The bond requirement for retailers would protect the purchaser of a manufactured home. Retailer's bonds also cover the installation of the home. While the \$100,000 requirement in the original version of the bill would be onerous to many retailers, the \$50,000 bond requirement proposed by the committee amendment would be more reasonable.

Local government standards of proof for deviating from manufactured housing standards would require local governments to show some substantial reasons why standards should be increased or decreased. This provision represents a compromise between cities and the industry. Allowing cities to vary standards for any reason creates a burden on the industry who must make significant changes to homes installed based on where they are installed. On the other hand, limiting city authority to make changes would rob a local government of its zoning powers.

The rule adoption requirements imposed on TDHCA are no different from the procedures to be followed by any other regulatory agency. TDHCA has not been in full compliance with the Administrative Procedures Act; this provision would require full compliance.

OPPONENTS
SAY:

The installation of mobile homes is the most important part of the process. If the installation is not performed correctly, the home could become unsafe in normal weather conditions. Of the 22,000 installation inspections conducted by TDHCA in fiscal 1996, over 10 percent were found to have some construction or installation related violations. While most were minor violations, this is not an insignificant number. While the current funding of TDHCA does not allow the department to inspect 100 percent of the homes, reducing the inspection requirement to 25 percent would send a message to installers that they only have to ensure one out of every four homes they install are safe. The Legislature must make a determination of what is more important: the safety of the residents of these mobile homes or the financial burden of doubling the inspection staff for mobile homes.

The bond requirement increase would not directly address installers, the most significant cause of problems. Installers must currently post only a \$10,000 bond. While the retailer's bond also covers installation of the home, the installer's bond requirement should also be increased to provide homeowners with added protections.

NOTES:

The committee amendments would:

- require the local government to demonstrate public health and safety needs for the deviation from TDHCA standards;
- place a priority on inspecting multi-section homes and those located in Wind Zone II,
- increase the retailer's bond requirement to \$50,000 instead of \$100,000,
- remove a provision in the original version allowing sale of non-habitable homes "as is," and

- change the effective date of any Wind Zone II construction standards to the effective date of the bill rather than the date which the standards were adopted by HUD (July 13, 1994).