

SUBJECT: Regulating manufactured housing.

COMMITTEE: Urban Affairs — committee substitute recommended

VOTE: 7 ayes — Carter, Bailey, Burnam, Clark, Ehrhardt, Hill, Najera

0 nays

2 absent — Edwards, Hodge

WITNESSES: *(On original version):*

For — Will Ehrle, Texas Manufactured Housing Association; Sam Russell, Texas Manufactured Housing Association; Bill Stinson, Texas Association of Realtors

Against — Herschal Blankenship, Installation Inspection Services, Inc. and self

On — Janee Briesemeister, Consumers Union; Bobbie Hill, Texas Department of Housing and Community Affairs

BACKGROUND: The construction and installation of manufactured housing has been regulated in Texas since 1969. In 1974, The U.S. Department of Housing and Urban Development (HUD) was designated as the federal government agency to oversee the federal Manufactured Housing Program. Until 1995, the Texas Department of Licensing and Regulation was the designated state administrative agency that administered the HUD program in Texas. In 1995, the Texas Department of Housing and Community Affairs (TDHCA) became responsible for such regulations.

In 1997, the Legislature enacted HB 2703 by Stiles, which substantially revised the Texas Manufactured Housing Standards Act. The legislation made changes to inspection requirements, wind zone restrictions, bond requirements for retailers, licence renewal requirements, requirements for a local government to deviate from the standards, continuing education programs, conversion to real estate, and warranties.

DIGEST: CSHB 1193 would revise the Texas Manufactured Housing Standards Act (Article 5221f, VACS).

Warranties. CSHB 1193 would require retailers to give consumers a copy or general description of the manufacturer's new home construction warranty and the retailer's installation warranty before the customer signed a contract to buy the home, rather than after the customer signs the contract. The retailer would have to deliver the actual warranty documents to the customer when the home was installed.

Salvaged manufactured homes. CSHB 1193 would change the definition of "salvaged" to describe a manufactured home that had been scrapped, dismantled, or destroyed, in addition to current law that defines a salvaged home as one for which an insurance company has paid the full insured value. The bill also would require retailers to surrender the title to TDHCA and remove the HUD standards label from a new manufactured home if it was salvaged.

Replacing the current prohibition against sale to a consumer of any salvaged manufactured home, CSHB 1193 would prohibit a person from selling, conveying, or otherwise transferring to a consumer in Texas only a manufactured home for which a salvage title had been issued under Section 8 of the Texas Manufactured Housing Standards Act.

Real Estate Brokers. CSHB 1193 would exempt a person with a real estate license from the current prohibition barring anyone who does not have a manufactured retailer's licence from selling more than one manufactured home designated as personal property per year.

Unavailable title for abandoned home. CSHB 1193 would allow a person to apply to TDHCA for a replacement to the original title to a manufactured home if the home was abandoned or if the previous owner, lienholder, or both, lost the title. Applicants would have to present evidence that they had made efforts to locate the previous owner or lienholder, or both, and had been unsuccessful. Applicants also would have to sign an affidavit stating that they were entitled to have the original title to the manufactured home.

Warehouseman. CSHB 1193 would include a licenced retailer of manufactured homes in the definition of a “warehouseman,” as defined in Section 7.102 of the Business and Commerce Code, which would allow retailers to store manufactured homes and charge a fee to do so. All regulations relating to the storage of goods for hire outlined in the Business and Commerce Code would apply to any retailer acting as a warehouseman.

False information. CSHB 1193 would prohibit a retailer or a salesperson from submitting false information relating to the purchase or financing of a manufactured home to a credit underwriter or a lending institution.

Other changes. The bill also would require that public and administrative hearings be held in Travis County unless all parties agreed to another location.

All other rules adopted by the TDHCA not associated with installation standards would take effect 30 days after the date of publication.

TDHCA would have to perform an inspection within 30 days, instead of 15 days, of receiving an inspection request. TDHCA would have to mail a written report and any orders to the consumer, manufacturer, and retailer within 10 days, instead of five days. Also, TDHCA could issue an amended report and warranty orders if all parties were notified and had a chance to respond.

The bill also would add “electronic media” to the definition of “advertising” or “advertisement” in the Texas Manufactured Housing Standards Act.

CSHB 1193 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

**SUPPORTERS
SAY:**

The changes proposed by CSHB 1193 to the regulation of manufactured housing represent compromises between industry and consumer groups to improve current regulations. TDHCA estimates that 33 percent of all new home sales and single family housing in Texas are manufactured homes. Since 1995, the manufactured homes industry has grown due to a greater ability for low-income families to qualify for financing of the homes and the greater number of people moving into Texas. Because many more Texans are

purchasing manufactured homes than ever before, CSHB 1193 would make needed clarifications to the 1997 law to keep pace with industry trends.

Current law does not clearly lay out a time line for when a customer will receive the warranties to a manufactured home. The law only says that the consumer shall receive the warranties at the time the contract of sale is signed, but “contract of sale” is not defined. CSHB 1193 would clearly outline that the retailer is required to deliver the actual warranties to the customer at the time of installation. It can be difficult to give customers the actual warranty before then because the manufacturer’s warranties are usually in the manufactured home and are delivered with the home. The bill also would ensure that consumers are aware of what the warranties cover and do not cover before they commit to buying a manufactured home.

CSHB 1193 would allow real estate agents to act as manufactured housing brokers. Current law prohibits them from selling more than one home that is still considered private property per year. The conversion to real estate provision in the 1997 law allows the owner of a manufactured home to cancel the manufacturer’s certificate of origin once the home is permanently affixed to real estate. The owner is required to file a certificate of attachment in the deed records of the county so that the home is then considered real estate and not personal property.

Real estate agents are finding that owners of manufactured homes on real estate are not canceling the title. As a consequence, real estate agents are prohibited from helping them sell their manufactured home as real estate. Removing the current limitation would benefit both consumers and real estate agents because of the increasing number of people who want to buy manufactured homes in Texas.

This bill would tighten current law regarding salvaged homes. If an insurance company pays the full amount of the policy on a home, then the title must be transferred to that insurance company. The owner of the home then must pay a fee to get the title back. The bill would ensure that owners keep the title to the home in the event that their insurance company pays them the full amount of their policy.

The bill also would protect consumers by more clearly defining what “salvaged” means. Under current law, a home with latent defects could be

resold because the law currently defines a “salvaged” home only as one for which an insurance company has paid out the full amount of a policy. HB 1193 would ensure that homes that were scrapped, dismantled, or destroyed would not be resold to consumers.

The warehouseman provision would benefit rental community owners because they would be allowed take an abandoned home to a retailer for storage. The rental community owner could then free up that rental space and lease it to someone else.

CSHB 1193 would further help rental community owners by allowing them to apply for a replacement title on a manufactured home that has been abandoned. Oftentimes, if a home has been abandoned, the owner also has left without paying rent on the space. The bill would allow the rental community owner to acquire the title in order to sell the home and recover losses.

**OPPONENTS
SAY:**

CSHB 1193 would allow retailers knowingly or unknowingly to sell rebuilt salvaged manufactured homes in Texas. The bill would limit the scope of the current prohibition against such sales to consumers by providing that such sales would be unlawful only if the salvage title was issued under Texas law. This could result in out-of-state manufactured homes with latent defects being sold to customers in Texas.

The section on warrantees does not go far enough to protect customers. The customer should receive the manufacturer’s warranty before installation, not at the time of installation as the bill would require, because nearly all manufacturers’ warranties are subject to cancellation if the home is not installed correctly. This includes site preparation, such as making sure water will flow away from the home in all directions.

**OTHER
OPPONENTS
SAY:**

CSHB 1193 should address other issues dealing with the manufactured housing industry in Texas. For example, the installer currently has the responsibility to determine if the ground at the location site has the necessary soil capacity to hold the anchor of the home. The law does not require installers to use a particular type of tool necessary to determine the soil capacity. As a result, anchors are being used that are not the proper size for the ground, and homes are not being properly restrained from windstorms.

In 1997, changes to the law were made to align Texas law with federal law regarding wind zones, which are areas highly susceptible to high winds or hurricanes. The changes also exempted manufactured homes that were built before 1997 from the law mandating that homes in high wind zone areas have a higher resistance to the wind. As a result, consumers can still buy manufactured homes that were built and installed on property in high wind zones that do not meet federal wind-resistance standards. Currently, TDHCA rules require retailers only to disclose information about the wind zone, thermal zone, and roof load zone of all manufactured homes, regardless of when they were built, but this disclosure requirement does not apply to consumer sales.

The bill also should address a loophole in the licensing requirements of installers. While applicants are required to attend 20 hours of training in the law and consumer protection regulations conducted by the TDHCA, current law prohibits the department from requiring that applicants pass a test as a prerequisite to obtaining a license.

NOTES:

The committee substitute would change the time when the warranties must be given to the customer. The original bill would have required retailers to deliver the manufacturer's warranty, the retailer's warranty, and the warranties for all appliances and equipment in the home at the time the sale was completed.

The substitute would allow a real estate salesperson, not only a real estate broker as in the original version, to sell more than one manufactured home per year that is still designated as personal property.

The substitute would change the time line for inspecting a home to 30 days, instead of "a reasonable amount of time" as in the original.