

- SUBJECT:** Limiting the period TDLR may regulate industrial housing
- COMMITTEE:** Licensing and Administrative Procedures — committee substitute recommended
- VOTE:** 5 ayes — Smith, Kuempel, Geren, Guillen, Price
0 nays
4 absent — Gooden, Gutierrez, Miles, S. Thompson
- WITNESSES:** For — D. J. Pendleton, Texas Manufactured Housing Association
Against — None
On — (*Registered, but did not testify:* William Kuntz, Texas Department of Licensing and Regulation)
- BACKGROUND:** Occupations Code, sec. 1202.203 requires a municipal building official or approved third-party inspector to inspect industrialized housing, including construction of the foundation system and the erection and installation of modular components on the foundation. This inspection is carried out at the permanent site of the industrialized housing.

Under sec. 1202.002, “industrialized housing” is defined principally as a residential structure constructed in one or more modules or components, built at a location other than the permanent site, and designed for use as a permanent residence when the pieces are transported and erected or installed on a permanent foundation system.
- DIGEST:** CSHB 578 would impose a limit of two years after the final inspection for certain state officials to perform an inspection or investigation, open a complaint, or initiate an administrative or enforcement action against a builder, manufacturer, or third-party inspector of industrialized housing. Penalties imposed or enforcement actions taken against builders, manufacturers, or third-party inspectors would have to be initiated during this two-year period.

The bill would take effect September 1, 2013, and would apply only to

complaints, actions, penalties, or sanctions initiated on or after that date.

**SUPPORTERS
SAY:**

This bill would encourage the construction of industrialized housing, also known as modular homes, in the state. This construction creates jobs and homes for Texans, and establishing this time limit for inspections and enforcement actions would lift a burden on manufacturers and builders of industrialized housing.

Complaints, investigations, and enforcement activities arising two years after the last on-site inspection are rare. However, these inspections hold the houses to initial building codes and may fail to take into account possible wear and tear, subjecting manufacturers to potential fines that average about \$1,000 but under statute may reach \$5,000 a day. The bill would not eliminate current inspections that take place at the factory and on-site after installation.

Under the bill, homeowners still would have a right to pursue a civil court action or enter into arbitration against a manufacturer of industrialized housing for any defects or misrepresentations that came to light two years after the final on-site inspection.

**OPPONENTS
SAY:**

CSHB 578 could weaken consumer protections by limiting the ability of the Texas Department of Licensing and Regulation to take action against an industrialized housing manufacturer should major defects come to light many years after a home's initial construction.

While an owner of an industrialized home may have recourse by bringing a civil suit or other legal action against a manufacturer, this is an expensive and time-consuming process.

NOTES:

The committee substitute differs from the bill as filed in that would:

- move the final date for these investigations to the second anniversary of the last on-site inspection, rather than the first anniversary;
- add the executive director to those who could not inspect, investigate, or initiate inspection action of industrialized housing entities more than two years after the initial required on-site inspection;
- allow the Commission of Licensing and Regulation or the

department's executive director to impose a penalty or sanction only if the enforcement action was initiated in the two-year period after the last on-site inspection; and

- delete a number of provisions to enable design review agencies or councils to approve whole plans and designs, rather than place a stamp of approval on each page of the plans and designs.

The companion bill, SB 672 by Carona, was passed by the Senate on April 3 by a vote of 31-0 and referred to the House Committee on Licensing and Administrative Procedures on April 16.