

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1026

SPONSOR: Comprehensive Planning, Local & Military Affairs Committee, Senators Cowin and Latvala

SUBJECT: Factory-Built Housing Safety

DATE: March 16, 1999

REVISED: 4/7/99 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable/CS</u>
2.	<u>Vickers</u>	<u>Meyer</u>	<u>TR</u>	<u>Fav/4 amendments</u>
3.	_____	_____	<u>FP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This CS transfers all responsibilities relating to the regulation and administration of mobile homes from the Bureau of Mobile Home and Recreational Vehicle Construction within the Department of Highway Safety and Motor Vehicles to the Division of Factory-built Housing (Division) within the newly created Division of Factory-built Housing in the Department of Community Affairs (DCA).

This CS substantially amends the following sections of the Florida Statutes: 20.18; 161.55; 316.515; 319.001; 320.131; 320.27; 320.28; 320.71; 320.781; 320.822; 320.8225; 320.8231; 320.8232; 320.824; 320.8245; 320.8256; 320.834; 320.835; 320.865; 325.202; 325.203; 325.213; 556.36; 553.38; 627.351; 627.702.

This CS transfers and renumbers the following sections of the Florida Statutes: 320.77; 320.823; 320.8249; 320.8255; 320.827; 320.8285; 320.830; 320.831; 320.8325; 320.8335; 320.840.

This CS creates the following sections of the Florida Statutes: 553.431; 553.4315; 553.432; 553.433; 553.434; 553.435; 553.436; 553.4365; 553.437; 553.438; 553.439; 553.440; 553.441; 553.442; 553.443; 553.444; 553.445; 553.446; 553.447; 553.448; 553.449; 553.450; 553.451; 553.452; 553.453; 553.454; 553.455; 553.456; 553.457; 553.458.

II. Present Situation:

The Federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C., 600 et seq.) established federal construction and safety standards for manufactured homes. The Department of Housing and Urban Development (HUD) was directed to develop a federal standard building code for mobile homes. These standards supersede any standards regarding mobile home construction or safety. Thus, mobile homes are exempt from state or local regulation and are governed by the federal act and the corresponding rules promulgated by the Department of Housing and Urban Development.

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 the Department of Highway Safety and Motor Vehicles (DHSMV) has since administered the contracts. The bureau is the "State Administrative Agency" 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.

Florida is one of 36 states performing these functions. Ten of those 36 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 a manufacturer is following approved quality control procedures and provide on-going in-plant inspection of the manufacturing process for conformance with the federal code standards. If the manufacturer complies, it is issued a label for each of the mobile homes manufactured in Florida.

According to the Office of Program Policy and Government Accountability (OPPAGA), Florida is one of the top three states receiving the largest number of manufactured homes. Florida is ranked seventh in the nation in highest production. During Fiscal Year 1997-98, the program registered 168,466 mobile homes and inspected 20,649 mobile homes at manufacturing plants. The program issued 4,223 manufacturer non-compliance notices. Currently, Florida licenses 364 manufactured home installers.

Inspection and monitoring activities are funded through fees. DHSMV estimates the program will generate \$1,899,670 in revenue for the 1998/99 fiscal year. Mobile Home Seal fees account for \$875,000 and Dealer License fees account for \$180,000, both of which are deposited in the General Revenue fund. Revenue deposited in the Highway Safety Operating Trust Fund totals \$735,320. DHSMV also estimates \$109,350 will be collected for additional dealer license and title fees for deposit in the Mobile Home and Recreational Vehicle Protection Trust Fund. Of this amount, \$92,948 relates to mobile home transactions and \$16,402 relates to recreational vehicle transactions. Program expenditures are estimated to be \$1,565,185. The Bureau currently has 39 established positions.

In January 1996, the Senate Committee on Transportation issued a report that examined the feasibility of consolidating the Mobile Home and Recreational Vehicle Construction Services component with the DCA, which oversees the fabrication of commercial structures, single-family dwellings, and lawn storage buildings. The intent of the consolidation proposal was to reduce duplication and costs. The report concluded state activities related to the regulation of manufactured buildings appear to pay for itself and satisfy the requirements in statutes.

Part IV of chapter 553.35, F.S., is the Florida Manufactured Building Act of 1979. Manufactured buildings are distinct from mobile homes, which are under the jurisdiction of DHSMV. The DCA is responsible for enforcing the act, assuring that each manufactured building is structurally sound and properly installed on site and that the various systems in the building are reasonably safe. The Codes and Standards Section of the Division of Housing and Community Development at DCA, administers this act. The DCA contracts with private individuals to inspect manufactured buildings. Four staff positions within DCA monitor these inspectors.

III. Effect of Proposed Changes:

This CS transfers all responsibilities relating to the regulation and administration of mobile home manufacturers, dealers, and brokers from the Bureau of Mobile Home and Recreational Vehicle Construction within the DHSMV to the Division of Factory-built Housing (Division) within the newly created Division of Factory-built Housing in the Department of Community Affairs.

Various provisions of chapter 320, F.S., relating to the regulation and administration of mobile home manufacturers, dealers, and brokers are transferred to or duplicated, as they relate to mobile homes, in part IV of chapter 553, F.S. Related provisions in chapter 320, F.S., are amended to delete references to mobile homes. Various other provisions are amended to replace statutory references effectuated by this CS.

Section 1 amends s. 20.18, F.S., (1998 Supplement) to establish the Division of Factory-built Housing in DCA. The division will be responsible for ensuring there is adequate affordable housing in this state through the use of factory-built homes and for the installation of mobile homes, park trailers and manufactured buildings.

Section 2 transfers personnel, property, functions and the responsibility for administering part IV of chapter 553, F.S., from the Codes and Standards Section of the Division of Housing and Community Development at DCA to the proposed Division of Factory-built Housing.

Section 3 provides for the transfer of all responsibilities relating to the regulation and administration of mobile homes from the Bureau at DHSMV to the newly created Division of Factory-built Housing within in DCA.

Section 4 provides for the transfer of the mobile home portions of the Mobile Home and Recreational Vehicle Protection Trust Fund and the Operating Trust Fund of DHSMV into DCA's operating trust fund to be administered by the Division of Factory-built Housing.

Section 5 amends s. 320.781, F.S., to rename the Mobile Home and Recreational Vehicle Protection Trust Fund as the Recreational Vehicle Protection Trust Fund, and deletes relevant references to mobile homes, thereby reflecting the transfer of mobile home related funds and responsibilities to the Division of Factory-built Housing in DCA.

Section 6 amends s. 553.36, F.S., to define "division" as the Division of Factory-built Housing in DCA, to add definitions for "manufactured home" and "park trailers," and to replace a definition for "mobile home."

Section 7 amends s. 553.38, F.S., to specify the DCA, through the Division of Factory-built Housing, is responsible for rule promulgation and enforcement of the Florida Manufactured Building Act.

Section 8 creates s. 553.431, F.S., to provide for licensing of nonresident mobile home dealers. This provision duplicates s. 320.71, F.S., as it relates to mobile home dealers. However, license

proceeds are to be deposited in DCA's Operating Trust Fund rather than the General Revenue Fund of the State, as is required under current law. **Section 44** amends s. 320.71, F.S., to remove references to mobile homes.

Section 9 creates s. 553.4315, F.S., to regulate nonresident dealers in secondhand mobile homes. This provision duplicates s. 320.28, F.S., as it relates to mobile home dealers. **Section 43** amends s. 320.28, F.S., to remove references to mobile homes.

Section 10 transfers and renumbers s. 320.77, F.S., as s. 553.432, F.S., to provide procedures for licensing mobile home dealers. References to the DHSMV are replaced with references to the Division. A statutory reference is replaced with the appropriate statutory reference effectuated by section 12 of this CS. A statutory reference to chapter 319, which addresses title certificates, is deleted. The authority for licensed mobile home dealers to transact business in recreational vehicles is deleted. The requirement that persons transacting business in both mobile homes and recreational vehicles provide the same surety bond required of mobile home dealers is deleted. In addition, license fees are to be deposited in DCA's Operating Trust Fund rather than the General Revenue Fund of the State, as is required under current law.

Section 11 creates s. 553.433, F.S., to provide a system for compensating persons with uncompensated judgements or claims against a mobile home dealer or broker. This provision substantially duplicates s. 320.781, F.S., as it relates to mobile homes. **Section 5** amends s. 320.781, F.S., to delete relevant references to mobile homes.

Section 12 creates s. 553.434, F.S., to provide definitions for ss. 553.434 - 553.458, F.S. This provision duplicates the definitions provided in s. 320.822, F.S., as they relate to mobile homes, and includes a definition of "division," which is the newly created Division of Factory-built Housing of DCA. **Section 45** amends s. 320.822, F.S., to remove definitions and references to mobile homes.

Section 13 creates s. 553.435, F.S., to provide for licensing mobile home manufacturers. This provision duplicates s. 320.8225, F.S., as it relates to mobile home manufacturers. However, license proceeds are to be deposited in DCA's Operating Trust Fund rather than the General Revenue Fund of the State, as is required under current law. **Section 46** amends s. 320.8225, F.S., to remove references to mobile homes.

Section 14 transfers and renumbers s. 320.823, F.S., as s. 553.436, F.S. This provision requires mobile homes manufactured or sold in this state to meet the Federal Mobile Home Construction and Safety Standards promulgated by HUD.

Section 15 creates s. 553.4365, F.S., to establishment uniform standards for park trailers. This provision duplicates s. 320.8231, F.S., as it relates to park trailers. **Section 47** amends s. 320.8231, F.S., to remove references to park trailers.

Section 16 creates s. 553.437, F.S., to provide the Division authority to adopt rules. This provision duplicates s. 320.824, F.S., as it relates to mobile homes. **Section 49** amends s. 320.824, F.S., (1998 Supplement) to remove references to mobile homes.

Section 17 creates s. 553.438, F.S., to limit the alteration or modification to mobile homes. This provision duplicates s. 320.8245, F.S., as it relates to mobile homes. **Section 50** amends s. 320.8245, F.S., to include references to recreational vehicles and to remove references to mobile homes.

Section 18 transfers and renumbers s. 320.8249, F.S., as s. 553.439, F.S. This provision provides procedures for licensing mobile home installers. References to DHSMV are replaced with references to the Division. However, licensed mobile home dealers and manufacturers performing mobile home installation will no longer be exempt from requirements to obtain a license as a mobile home installer. A statutory reference is replaced with the appropriate statutory reference effectuated by section 12 of this bill. In addition, new subsection (15) is created to provide that local governments may require only one building permit or other applicable fees for improvements to mobile homes in a mobile home park when the improvements are made using state appropriated funds to improve the wind resistance of their property. Finally, obsolete language is deleted.

Section 19 transfers and renumbers s. 320.8255, F.S., as s. 553.440, F.S., which provides for mobile home inspections. References to DHSMV are replaced with references to the Division. A statutory reference is replaced with the appropriate statutory reference effectuated by section 20 of this bill. Fee proceeds are to be deposited in DCA's Operating Trust Fund rather than the General Revenue Fund of the State, as is required under current law.

Section 20 transfers and renumbers s. 320.827, F.S., as s. 553.441, F.S. This section provides for mobile home labels and certifications on new mobile homes. References to DHSMV are replaced with references to the Division and obsolete language is deleted.

Section 21 transfers and renumbers s. 320.8285, F.S., as s. 553.442, F.S.. This section provides for onsite inspections of mobile homes. References to DHSMV are replaced with references to the Division. A statutory reference is replaced with the appropriate statutory reference effectuated by section 14 of this CS. A provision is added to prohibit counties and cities from requiring used mobile or manufactured homes that are moved into their jurisdiction to be brought into compliance with the current federal codes.

Section 22 transfers and renumbers s. 320.830, F.S., as s. 553.443, F.S. This section provides for reciprocity with other states. References to DHSMV are replaced with references to the Division.

Section 23 transfers and renumbers s. 320.831, F.S., as s. 553.444, F.S. This section provides penalties for noncompliance with construction and safety standards. Statutory references are replaced with appropriate statutory references effectuated by this CS.

Section 24 transfers and renumbers s. 320.8325, F.S., as s. 553.445, F.S. This section addresses mobile home tie-downs and installation standards. References to DHSMV are replaced with references to the Division.

This section is amended to require uniform standards, as opposed to minimum standards, for the manufacture and installation of "manufactured housing installation systems," which specifically include buckles, straps, stabilizer plates, and piers as well as anchors, which is addressed in

current law. Only DCA is authorized to amend these uniform installation standards. Such systems must ensure that the house “remains secured to the ground when subjected to winds equal to or less than their HUD code design criteria...” Division rules must be “reasonably related” to the age and windzone of the house. The division is also charged with developing standards for installation and anchoring systems for park trailers. Fees and civil penalties collected pursuant to s. 553.439, F.S., (section 18 of this CS) deposited in DCA’s operating trust fund are to be used for testing of manufactured housing installation systems to ensure such housing meets the wind design criteria adopted by the division.

Section 25 creates s. 553.446, F.S., to provide for the retention, destruction, and reproduction of records. This provision duplicates s. 320.833, F.S., as it relates to mobile homes.

Section 26 transfers and renumbers s. 320.8335, F.S., as s. 553.447, F.S. This section provides for the disclosure of the manner used in determining the length of mobile homes.

Section 27 creates s. 553.448, F.S., to express the intent of the Legislature and purpose of a mobile home inspection program. This provision duplicates s. 320.834, F.S. References to DHSMV are replaced with references to the Division, and references to park trailers are added. **Section 52** amends s. 320.834, F.S., to remove references to mobile homes.

Section 28 creates s. 553.449, F.S., to specify mobile home manufacturer, dealer, and supplier warranty responsibilities. This provision duplicates s. 320.835, F.S., as it relates to mobile homes. **Section 53** amends s. 320.835, F.S., to remove references to mobile homes.

Section 29 creates s. 553.450, F.S., to provide procedures for presenting warranty claims. This provision duplicates s. 320.836, F.S.

Section 30 creates s. 553.451, F.S., to address warranty service. This provision duplicates s. 320.837, F.S., with statutory references replaced with appropriate statutory references effectuated by section 28 of this CS.

Section 31 creates s. 553.452, F.S., to address civil actions brought by buyers to resolve a warranty claim. This provision duplicates s. 320.838, F.S.

Section 32 creates s. 553.453, F.S., to address cumulative remedies in suits brought by buyers of mobile homes. This provision duplicates s. 320.839, F.S.

Section 33 transfers and renumbers s. 320.840, F.S., as s. 553.454, F.S. This section allows mobile home retailers to retain damages according to specified terms.

Section 34 creates s. 553.455, F.S., to authorize the Division to inspect and subpoena licensee records relating to complaints against the licensee. This provision duplicates s. 320.861, F.S., with references to the DHSMV replaced with references to the Division.

Section 35 creates s. 553.456, F.S., to provide for the revocation of a mobile home manufacturer, dealer, or installer license. This provision duplicates s. 320.862, F.S.

Section 36 creates s. 553.457, F.S., to provide for the maintenance of records. This provision duplicates s. 320.865, F.S. with references to the DHSMV replaced with references to the Division. Statutory references are replaced with appropriate statutory references effectuated by section 13 of this CS.

Section 37 creates s. 553.458, F.S., to provide for electronic or telephonic transactions. This provision duplicates s. 320.95, F.S., with references to the DHSMV replaced with references to the Division.

Section 38 amends s. 161.55, F.S., to replace a statutory reference effectuated by Section 14 of this CS.

Section 39 amends s. 316.515, F.S., to replace a statutory reference effectuated by Section 6 of this CS.

Section 40 amends s. 319.001, F.S., to replace a statutory reference effectuated by Section 10 of this CS.

Section 41 amends s. 320.131, F.S., to replace a statutory reference effectuated by Section 10 of this CS.

Section 42 amends s. 320.27, F.S., to remove a statutory reference made obsolete by Section 10 of this CS.

Section 43 amends s. 320.28, F.S., which addresses nonresident dealers in second-hand motor vehicles, recreational vehicles, or mobile homes, to remove references to mobile homes. This reflects the transfer of mobile home related responsibilities to the Division of Factory-built Housing in DCA. This provision was duplicated, as it relates to mobile homes, by section 9 of this CS.

Section 44 amends s. 320.71, F.S., which addresses nonresident dealers motor vehicle, recreational vehicle, or mobile home dealer licenses, to remove references to mobile homes. This reflects the transfer of mobile home related responsibilities to the Division of Factory-built Housing in DCA. This provision was duplicated, as it relates to mobile homes, by section 8 of this CS.

Section 45 amends s. 320.822, F.S., which addresses definitions, to remove definitions and references to mobile homes. This reflects the transfer of mobile home related responsibilities to the Division of Factory-built Housing in DCA. This provision was duplicated, as it relates to mobile homes, by section 12 of this CS.

Section 46 amends s. 320.8225, F.S., which addresses mobile home and recreational vehicle manufacturers licences, to remove references to mobile homes. This reflects the transfer of mobile home related responsibilities to the Division of Factory-built Housing in DCA. This provision was duplicated, as it relates to mobile homes, by section 13 of this CS.

Section 47 amends s. 320.8231, F.S., which addresses uniform standards for recreational vehicle-type units and park trailers, to remove references to park trailers. This reflects the transfer of mobile home related responsibilities to the Division of Factory-built Housing in DCA. This provision was duplicated, as it relates to park trailer, by section 15 of this CS.

Section 48 amends s. 320.8232, F.S., which addresses uniform standards for used recreational vehicles and the repair and remodeling code for mobile homes, to remove references to the mobile home repair and remodeling code. Proponents of this bill state that this provision is obsolete and is addressed in section 17 of this CS.

Section 49 amends s. 320.824, F.S., (1998 Supplement), which addresses changes and modifications of standards, to remove references to mobile homes and HUD building standards. This reflects the transfer of mobile home related responsibilities to the Division of Factory-built Housing in DCA. This provision was duplicated, as it relates to mobile homes, by section 16 of this CS.

Section 50 amends s. 320.8245, F.S., which limits the alteration or modification of mobile homes or recreational vehicles, to include references to recreational vehicles and to remove references to mobile homes. This reflects the transfer of mobile home related responsibilities to the Division of Factory-built Housing in DCA. This provision was duplicated, as it relates to mobile homes, by section 17 of this CS.

Section 51 amends s. 320.8256, F.S., which addresses recreational vehicle inspections, to remove fee authorization to cover the cost of producing and issuing the mobile home seal. This authority is provided in section 19 of the bill, which transfers and renumbers s. 320.8255, F.S., as 553.440, F.S.

Section 52 amends s. 320.834, F.S., which establishes legislative purpose, to remove references to mobile homes. This reflects the transfer of mobile home related responsibilities to the Division of Factory-built Housing in DCA. This provision was duplicated, as it relates to mobile homes, by section 27 of this CS.

Section 53 amends s. 320.835, F.S., which addresses mobile home and recreational vehicle warranties, to remove references to mobile homes.

Section 54 amends s. 320.865, F.S., which addresses the maintenance of records by DHSMV, to remove references to statutory cites relating to mobile homes, which reference will be made obsolete by section 10 of this CS. This provision was duplicated, as it relates to mobile homes, by section 36 of this CS.

Section 55 amends s. 325.202, F.S., which provides definition for chapter 325, F.S., to replace a statutory reference relating to licensing of mobile home dealers, which reference will be changed by section 10 of this CS.

Section 56 amends s. 325.203, F.S., which addresses annual inspections of motor vehicles, to replace a statutory reference relating to licensing of mobile home dealers, which reference will be changed by section 10 of this CS.

Section 57 amends s. 325.213, F.S., which addresses self-inspector licenses, to remove general references to mobile home dealers and statutory references relating to licensing of mobile home dealers, which references will be made obsolete by section 10 of this CS.

Section 58 amends s. 627.351, F.S., (1998 Supplement), which addresses windstorm insurance risk apportionment, to replace a reference to the DHSMV with the Division, and to replace a statutory reference relating to mobile home tie-down and installation standards, which reference will be changed by sections 2 and 24, respectively, of this CS.

Section 59 amends s. 627.702, F.S., which addresses valued policy law, to replace a statutory reference that will be changed by section 6 of this CS.

Section 60 provides that this CS will take effect July 31, 1999.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This CS initially falls under subsection (b) of section 18 of Article VII, Florida Constitution. Subsection (b) requires a two-thirds vote of the membership of each house in order to enact a general law reducing the authority municipalities and counties had on February 1, 1989 to raise revenues in the aggregate. By limiting local governments' ability to issue only one building permit or other applicable fee for improvements to mobile homes in a mobile home park under certain circumstances, when a number of homes may be required for inspection, the CS has the effect of reducing the local governments' revenue generating authority. Since the annual local revenue loss is estimated to be less than \$1.4 million, the bill will be exempt from the requirements of subsection (b) due to the insignificant negative fiscal impact as permitted under subsection (d) of section 18 of Article VII. (See subsection (d) of s. 18, Art. VII, Florida Constitution, for various types of general laws, including those with insignificant fiscal impact.)

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

Local governments may require only one building permit for improvements to mobile homes in a mobile home park when the improvements are made using state appropriated funds to improve the wind resistance of their property.

B. Private Sector Impact:

None.

C. Government Sector Impact:

DCA will incur moving expenses and expenses related to administratively integrating the new division into its existing agency structure.

VI. Technical Deficiencies:

None.

VII. Related Issues:

As of March 8, 1999, DCA expressed the following concerns with this CS:

- The CS creates a new division in the department, and does not allow the Secretary to place their added duties and functions within the current organizational structure as appropriate.
- The organizational structure mandated in the CS would put the mobile home installation standards in the division separate from the existing division responsible for building codes and standards.
- They have questions as to whether the fees on mobile home title transactions will continue to support the mobile home protection judgement liability expenses.
- Funding for related operating issues need to be addressed, to include office space for the new division, field offices for the division, replacement of vehicles and associated operating cost, and impacts of the loss of factory-built housing revenue.

VIII. Amendments:

#1 by Transportation:

Technical amendment identifying the source document referenced in the bill.

#2 by Transportation:

Technical amendment clarifying a provision of the bill relating to “used” mobile homes or manufactured homes.

#3 by Transportation:

Deletes a provision of the bill which provides that local governments may require only one building permit for improvements to mobile homes in a mobile home park when the improvements are made using state appropriated funds to improve the wind resistance of their property.

#4 by Transportation:

Technical amendment deleting the exemption of mobile homes from the definitions contained in s. 553.36, F.S.

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