

## Committee Substitute for Senate Bill No. 1414

An act relating to mobile and manufactured homes; amending s. 319.261, F.S.; deleting a requirement that the manufacturer's certificate of origin be recorded with the clerk of court in order for the Department of Highway Safety and Motor Vehicles to retire the title to a mobile home; amending s. 320.822, F.S.; defining the term "installation"; amending s. 320.823, F.S.; requiring that mobile and manufactured homes sold in this state be constructed to meet certain standards; amending s. 320.8249, F.S.; revising penalties imposed against mobile home installers who engage in certain prohibited activities; prohibiting a local government from requiring an installer to obtain an additional bond or insurance; requiring installers to maintain a location log; creating s. 320.8251, F.S.; requiring a person or entity that manufactures mobile home installation components, products, or systems to obtain a certificate of approval from the Department of Highway Safety and Motor Vehicles; providing requirements for certification; authorizing the department to revoke or suspend the certification under certain circumstances; providing that products, components, or systems currently used in the installation of mobile homes need not be certified until a certain date; amending s. 320.8285, F.S.; requiring each county or municipality to be responsible for the onsite inspection of mobile home installation within its jurisdiction; revising competency requirements for performing onsite inspections; providing requirements for a county or municipality in issuing a permit for the installation of a mobile home and issuing a certificate of occupancy; amending s. 320.8325, F.S.; deleting provisions requiring the use of tie-downs and anchors; revising requirements of the department with respect to rules setting forth standards for the installation of mobile homes, manufactured homes, and park trailers; providing that owners are responsible for installation pursuant to department rules; amending s. 320.834, F.S.; providing legislative intent that mobile homes be an affordable housing resource in this state; amending s. 320.835, F.S.; requiring installers to warrant the installation of a new mobile home from the date of receipt of a certificate of occupancy for a certain period; authorizing the department to adopt rules to resolve disputes between mobile home manufacturers, dealers, installers, or suppliers; amending s. 215.559, F.S.; extending the repeal date of the Hurricane Loss Mitigation Program; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (2), (3), and (6) of section 319.261, Florida Statutes, are amended to read:

319.261 Real property transactions; retiring title to mobile home.—

(2) The title to the mobile home may be retired by the department if the owner of the real property records the following documents in the official

records of the clerk of court in the county in which the real property is located:

(a) ~~The original title to the mobile home, or for a new home the manufacturers' certificate of origin, which document~~ shall include a description of the mobile home, including model year, make, width, length, and vehicle identification number, and a statement by any recorded lienholder on the title that the security interest in the home has been released, or that such security interest will be released upon retirement of the title as set forth in this section.

(b) The legal description of the real property, and in the case of a leasehold interest, a copy of the lease agreement.

(c) A sworn statement by the owner of the real property, as shown on the real property deed or lease, that he or she is the owner of the mobile home and that the home is permanently affixed to the real property in accordance with state law.

(3) The clerk of court, upon receipt of the documents set forth in subsection (2), shall record said documents against the real property and provide a copy of the recorded title ~~or manufacturers' certificate of origin~~ to the owner of the real property with a copy of all the documents recorded pursuant to subsection (2).

(6) The owner of the real property with a recorded and retired title shall file an application with the department to issue a new title to the mobile home, if the mobile home is to be removed from the real property. The department shall issue a new title upon receipt of an application from the owner of the real property containing the following information:

(a) An affidavit signed by the owners of the land and all secured parties and other lienholders consenting to the removal of the home.

(b) A certification from a title insurance company listing the owners and all secured parties and other lienholders, which is dated within 10 days ~~after~~ the date of application for a new title under this subsection.

Section 2. Subsection (14) of section 320.822, Florida Statutes, is amended to read:

320.822 Definitions; ss. 320.822-320.862.—In construing ss. 320.822-320.862, unless the context otherwise requires, the following words or phrases have the following meanings:

(14) “Setup” or “installation” means the operations performed at the occupancy site which render a mobile home or park trailer fit for habitation. Such operations include, but are not limited to, transporting; positioning; blocking; leveling, supporting, installing foundation products, components, and systems; ~~tying down~~; connecting utility systems; making minor adjustments; or assembling multiple or expandable units.

Section 3. Section 320.823, Florida Statutes, is amended to read:

320.823 Establishment of uniform mobile home standards.—Each new single-family or duplex mobile or manufactured home manufactured in this state or manufactured outside this state but sold or offered for sale in this state must be constructed to shall meet the Manufactured the Federal Mobile Home Construction and Safety Standards, promulgated by the Department of Housing and Urban Development, pursuant to the Manufactured Housing Improvement Act. ~~Each duplex mobile home manufactured in this state or manufactured outside this state but sold or offered for sale in this state shall be constructed to meet the Federal Mobile Home Construction and Safety Standards. Construction requirements shall include a 1-hour fire-rated wall separating the two units. Such standards must shall include, but need not be limited to, standards for body and frame construction and the installation of plumbing, HVAC heating, and electrical systems.~~

Section 4. Subsections (1), (9), (10), and (12) of section 320.8249, Florida Statutes, are amended, present subsections (14), (15), and (16) of that section are redesignated as subsections (15), (16), and (17), respectively, and a new subsection (14) is added to that section, to read:

320.8249 Mobile home installers license.—

(1) Any person who installs a engages in mobile home ~~installation~~ shall obtain a mobile home installers license from the Bureau of Mobile Home and Recreational Vehicle Construction of the Department of Highway Safety and Motor Vehicles pursuant to this section. Said license shall be renewed annually, and each licensee shall pay a fee of \$150.

(9) A ~~No~~ licensed person or ~~not~~ licensed applicant may not shall:

(a) Obtain a mobile home installers license by fraud or misrepresentation.

(b) Be convicted or found guilty of, or enter a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of mobile home installation or the ability to practice.

(c) Violate any law or rule relating to installing, repairing, or dealing in mobile homes or any lawful order of the department.

(d) Commit fraud or deceit in the practice of contracting.

(e) Commit incompetence or misconduct in the practice of contracting.

(f) Commit gross negligence, repeated negligence, or negligence resulting in a significant danger to life or property.

~~(g) Commit violations of the installation standards for mobile homes or manufactured homes contained in rules 15C-1.0102 to 15C-1.0104, Florida Administrative Code.~~

(10) Any licensed person or license applicant who violates subsection (7) or any provision of subsection (9) may have any of the following disciplinary penalties imposed by the department, at its discretion:

- (a) License revocation;
- (b) License suspension;
- (c) A fine not to exceed \$1,000 per violation involving a single installation and not to exceed \$5,000 for a violation involving the total setup;
- (d) A requirement to take and pass, or retake and pass, the department-approved examination;
- (e) Probation;
- (f) Probation subject to such restriction of practice as the department chooses to impose;
- (g) A notice of noncompliance; or
- (h) Refusal of licensure application.

(12) ~~A~~ No county, municipality, or other unit of local government may not require additional licensing, bonding, or insurance of a duly licensed installer who performs setup operations as defined in s. 320.822. However, a county, municipality, or other unit of local government may require an installer to obtain a local occupational license, which license shall not require for its issuance any conditions other than those required by this chapter ~~act~~ and payment of the appropriate occupational license fee.

(14) Each installer shall maintain a location log for each decal for 2 years. This requirement must not take effect until the department develops an acceptable format for the log and provides a sample of the acceptable format to each licensed installer.

Section 5. Section 320.8251, Florida Statutes, is created to read:

320.8251 Mobile home installation products; product approval.—

(1) Each person or entity that engages in the manufacture of mobile home installation components, products, or systems must obtain a certification from the department which affirms that such component, product, or system is approved for use in the installation of mobile homes in this state.

(2) The department shall certify for use in this state any mobile home installation component, product, or system for which a person or entity applies to the department and which complies with subsection (3).

(3) In order to obtain the certification set forth in this section, a manufacturer must submit to the department a report certifying that the mobile home installation component, product, or system meets the mobile home installation standards set forth in this section and in department rules. The report must be signed and sealed by a professional engineer registered in this state. In accordance with chapter 120, the department shall review the report and approve or deny the certification of the installation component, product, or system for use in the installation of mobile homes in this state.

(4) The certification set forth in this subsection is subject to suspension or revocation, and the person or entity that obtained the certification is subject to a fine set by department rules upon a finding by the department that the person or entity has obtained the certification by misrepresentation or fraud or that the product, component, or system does not meet the mobile home installation standards set forth in this chapter or in department rules.

(5) Any product, component, or system subject to this section which is currently being used in the installation of mobile homes in this state is not required to be certified in accordance with this section until July 1, 2009.

Section 6. Section 320.8285, Florida Statutes, is amended to read:

320.8285 Onsite inspection.—

(1) Each county or municipality in this state shall be responsible for the prepare and adopt a plan providing for an onsite inspection of each mobile home installation located within the jurisdiction of such entity. The onsite inspection shall ensure compliance with the department's uniform installation standards set forth in this chapter and in department rules. state and local building codes, ordinances, and regulations regarding such functions as blocking and leveling, tie-downs, utility connections, conversions of appliances, and external improvements on the mobile home. If a mobile home is manufactured in conformity with the code, as established in s. 320.823, a county may not require modification of the mobile home in order to comply with local tie-down regulations.

~~(2) When a county or municipality has not prepared and adopted a plan providing for onsite inspection, the department shall prepare a minimum onsite inspection plan for such county. The department may promulgate reasonable rules and regulations pursuant to chapter 120 in preparing and enforcing such a minimum onsite inspection plan.~~

~~(2)(3) Each county or municipality may designate the persons who are to perform the onsite inspection. If a county or municipality does not so designate, the department shall designate the persons who are to perform the onsite inspection. A No person may not shall be designated to perform onsite inspections unless that such person is competent in the area areas of mobile home installation. blocking and leveling, tie-downs, utility connections, conversions of appliances, and external improvements. Pursuant to the onsite inspection, each mobile home shall be issued a certificate of occupancy if the mobile home complies with state and local building codes, ordinances, and regulations regarding such functions as blocking and leveling, tie-downs, utility connections, conversion of appliances, and external improvements to the mobile home.~~

(3) The county or municipality issuing a permit for the installation of a mobile home shall issue such permit only to a licensed mobile home installer or to a licensed mobile home dealer or manufactured home owner if the dealer or owner demonstrates on the face of the application that a licensed installer will be performing the actual work. In the case of issuance to an owner, the permit must reflect the name and the license number of the licensed installer performing the work.

(4) Pursuant to the onsite inspection, each mobile home shall be issued a certificate of occupancy if the mobile home complies with department rules regarding the installation of mobile homes.

(5)(4) Fees for onsite inspections and certificates of occupancy of mobile homes shall be reasonable for the services performed. A guideline for fee schedules shall be issued by the department.

(6)(5) The Department of Highway Safety and Motor Vehicles shall enforce every provision of this section and the rules regulations adopted pursuant hereto, except that local land use and zoning requirements, fire zones, building setback and side and rear yard requirements, site development and property line requirements, subdivision control, and onsite installation inspection requirements, as well as review and regulation of architectural and aesthetic requirements, are hereby specifically and entirely reserved to local jurisdictions. However, any architectural or aesthetic requirement imposed on the mobile home structure itself may pertain only to roofing and siding materials. Such local requirements and regulations ~~and others~~ for manufactured homes must be reasonable, uniformly applied, and enforced without distinctions as to whether such housing is manufactured, located in a mobile home park or a mobile home subdivision, or built in a conventional manner. No local jurisdiction shall prohibit siting or resiting of used mobile homes based solely on the date the unit was manufactured.

(7)(6) Park trailers are subject to inspection in the same manner as are mobile homes pursuant to this section.

Section 7. Section 320.8325, Florida Statutes, is amended to read:

320.8325 Mobile homes, manufactured homes, and park trailers; uniform tie-down requirements; ~~minimum~~ installation standards; injunctions; penalty.—

(1) ~~The owner of a mobile home or park trailer shall secure the mobile home or park trailer to the ground by the use of anchors and tie-downs so as to resist wind overturning and sliding. However, nothing herein shall be construed as requiring that anchors and tie-downs be installed to secure mobile homes or park trailers which are permanently attached to a permanent structure. A permanent structure shall have a foundation and such other structural elements as are required pursuant to rules and regulations promulgated by the department which assure the rigidity and stability of the mobile home or park trailer.~~

(a) ~~A mobile home or park trailer manufactured in accordance with the code standards and labeled “hurricane and windstorm resistive” shall be anchored to each anchor point provided on the mobile home or park trailer. A mobile home or park trailer which does not meet these standards must be anchored with anchor points spaced as required by the department starting at each end of the mobile home or park trailer.~~

(b) ~~In addition, each mobile home or park trailer shall be tied down by one of the following means:~~

1. ~~A mobile home or park trailer having built-in, over-the-roof ties shall be secured by the tie-down points, provided such built-in ties and points meet the standards promulgated by the department.~~

2. ~~A mobile home or park trailer not having built-in, over-the-roof ties and tie-down points which meet department standards shall be secured in accordance with standards promulgated by the department.~~

~~(1)(2) The department shall adopt promulgate rules and regulations setting forth 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 mobile homes, manufactured homes, and park trailers. The rules shall ensure that the home or park trailer is installed on a permanent foundation that resists wind, flood, flotation, overturning, sliding, and lateral movement of the home or park trailer. ~~manufacture or installation of anchors, tie-downs, over-the-roof ties, or other reliable methods of securing mobile homes or park trailers when over-the-roof ties are not suitable due to factors such as unreasonable cost, design of the mobile home or park trailer, or potential damage to the mobile home or park trailer.~~ No entity, other than the department, has authority to amend these uniform standards. The owner of the mobile home, manufactured home, or park trailer shall be responsible for the installation in accordance with department rules. Such devices required under this section, when properly installed, shall cause the mobile home or park trailer to resist wind overturning and sliding. In promulgating such rules and regulations, the department may make such discriminations regarding mobile home or park trailer tie-down requirements as are reasonable when factors such as age, location, and practicality of tying down a mobile home or park trailer are considered.~~

~~(2)(3)(a) Persons licensed in this state to engage in the business of insuring mobile homes, manufactured homes, or park trailers that are subject to the provisions of this section against damage from windstorm shall issue such insurance only if the mobile home, manufactured home, or park trailer has been installed anchored and tied down in accordance with the requirements provisions of this chapter and department rules section.~~

~~(b) If ~~In the event that~~ a mobile home, manufactured home, or park trailer is insured against damage caused by windstorm and subsequently sustains windstorm damage of a nature that indicates that the mobile home, manufactured home, or park trailer was not installed anchored or tied down in the manner required by this chapter and department rules section, the person issuing the policy shall not be relieved from meeting the obligations specified in the insurance policy with respect to such damage on the basis that the mobile home or park trailer was not properly installed anchored or tied down.~~

~~(3)(4) Whenever a person or entity that who engages in the business of manufactured housing installation or installing anchors, tie-downs, or over-the-roof ties or who engages in the business of manufacturing components, products, or systems, distributing, or dealing in such devices for use in this state and does so in a manner that is not in accordance with the uniform~~

~~minimum~~ standards set forth by the department, a person or entity aggrieved thereby may bring an action in the appropriate court for actual damages. In addition, the court may provide appropriate equitable relief, including the enjoining of a violator from engaging in the business or from engaging in further violations. Whenever it is established to the satisfaction of the court that a willful violation has occurred, the court shall award punitive damages to the aggrieved party. The losing party may be liable for court costs and reasonable attorney's fees incurred by the prevailing party.

(4)(5) In addition to other penalties provided in this section, the department or the state attorneys and their assistants are authorized to apply to the circuit courts within their respective jurisdictions, and such courts shall have jurisdiction, upon hearing and for cause shown, to grant temporary or permanent injunctions restraining any person or entity ~~persons~~ engaging in the business of manufactured housing installation or the manufacturing of components, products, or systems ~~manufacturing, distributing, or dealing in anchors, tie-downs, or over-the-roof ties~~ from installing homes or manufacturing or selling such components, products, or systems ~~devices~~ in a manner not in accordance with the uniform minimum standards set forth by the department or restraining any persons in the business of installing such components, products, or systems ~~anchors, tie-downs, or over-the-roof ties~~ from using ~~utilizing~~ devices that do not meet the uniform minimum standards set forth by the department or from installing such components, products, or systems ~~devices~~ in a manner not in accordance with the uniform minimum standards set forth by the department, whether or not there exists an adequate remedy at law, and such injunctions shall issue without bond.

(5)(6) This section ~~only~~ applies only to a mobile home, manufactured home, or park trailer that is being used as a dwelling place and that is located on a particular location for a period of time exceeding 14 days, for a mobile or manufactured home, or 45 days, for a park trailer.

(6)(7) For the purposes of this section, the definitions set forth in s. 320.822 apply.

Section 8. Section 320.834, Florida Statutes, is amended to read:

320.834 Purpose.—It is the intent of the Legislature to ensure the safety and welfare of residents of mobile homes through an inspection program conducted by the Department of Highway Safety and Motor Vehicles. Mobile homes are a primary affordable housing resource of many of the residents of the state and satisfy a large segment of statewide housing needs. It is the further intent of the Legislature that the department, mobile home dealers, and mobile home manufacturers continue to work together to meet the applicable code requirements for mobile homes and that such dealers and manufacturers share the responsibilities of warranting mobile homes in accordance with applicable codes and resolving legitimate consumer complaints in a timely, efficient manner.

Section 9. Section 320.835, Florida Statutes, is amended to read:

320.835 Mobile home and recreational vehicle warranties.—Each manufacturer, dealer, installer, and supplier of mobile homes or recreational

vehicles shall warrant each new mobile home or recreational vehicle sold in this state and the setup of each such mobile home, in accordance with the warranty requirements prescribed by this section, for a period of at least 12 months, measured from the date of delivery of the mobile home to the buyer or the date of sale of the recreational vehicle in the case of a manufacturer or dealer, or from the date of receipt of a certificate of occupancy in the case of an installer. The warranty requirements of each manufacturer, dealer, installer, and supplier of mobile homes or recreational vehicles are as follows:

(1) The manufacturer warrants:

(a) For a mobile home or recreational vehicle, that all structural elements; plumbing systems; heating, cooling, and fuel-burning systems; electrical systems; fire prevention systems; and any other components or conditions included by the manufacturer are free from substantial defect.

(b) That 100-ampere electrical service exists in the mobile home.

(2) The dealer warrants:

(a) That any modifications or alterations made to the mobile home or recreational vehicle by the dealer or authorized by the dealer shall be free from substantial defect. Alterations or modifications made by a dealer shall relieve the manufacturer of warranty responsibility only as to the item altered or modified.

(b) That setup operations performed on the mobile home are performed in compliance with s. 320.8325.

(c) That substantial defects do not occur to the mobile home during setup or by transporting it to the occupancy site.

When the setup of a mobile home is performed by a person who is not an employee or agent of the mobile home manufacturer or dealer and is not compensated or authorized by, or connected with, such manufacturer or dealer, then the warranty responsibility of the manufacturer or dealer as to setup shall be limited to transporting the mobile home to the occupancy site free from substantial defect.

(3) The installer warrants that the setup operations performed on the mobile home are performed in compliance with s. 320.8325 and department rules governing the installation.

~~(4)~~(3) The supplier warrants that any warranties generally offered in the ordinary sale of his or her product to consumers shall be extended to buyers of mobile homes and recreational vehicles. When no warranty is extended by suppliers, the manufacturer shall assume warranty responsibility for that component.

(5) The department may adopt rules under chapter 120 to resolve disputes that may arise among the mobile home manufacturer, dealer, in-

staller, or supplier. Those rules must comply with the dispute resolution process as set forth in the federal Manufactured Housing Improvement Act.

Section 10. Subsection (8) of section 215.559, Florida Statutes, is amended to read:

215.559 Hurricane Loss Mitigation Program.—

(8) This section is repealed June 30, 2011 ~~2006~~.

Section 11. This act shall take effect upon becoming a law.

Approved by the Governor June 10, 2004.

Filed in Office Secretary of State June 10, 2004.