

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Don Dahl at 9:00 A.M. on March 11, 2005 in Room 241-N of the Capitol.

All members were present except:  
Stephanie Sharp- excused

Committee staff present:  
Jerry Ann Donaldson, Kansas Legislative Research Department  
Norm Furse, Office of Revisor of Statutes  
Renaë Jefferies, Office of Revisor of Statutes  
June Evans, Committee Secretary

Conferees appearing before the committee:

Others attending:  
See attached list.

The Chairman stated the Sub-Committee had two meetings on **SB 4 - Establishing installation licenses and standards for the installation and siting of manufactured homes**. Hopefully, after the Sub-Committee report final action will be taken.

Representative Jeff Jack, Chairman of the Sub-Committee on **SB 4** briefed the committee on the balloon amendment (Attachment 1).

Representative Swenson moved and Representative Ruiz seconded to adopt the balloon with the technical change of replacing "president" with "corporation" into the amendment. The motion carried.

Representative Johnson moved and Representative Huntington seconded to move **SB 4** out favorably as amended. The motion carried.

The Chairman reminded the committee of the hearing yesterday on **SB 69 - Kansas self-service storage act: late fees**. The Revisor mentioned there were some technical clean-up that needed to be amended into the bill. In new Section 2., K.S.A. 58-814, Section 1. will include "part of and supplemental to the self-service storage act."

After discussion, Representative Ruff moved and Representative Ruiz seconded to move **SB 69** out favorably as amended. The motion carried.

The meeting adjourned at 9:30 a.m. The next meeting will be March 15, 2005.



[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

Session of 2005

SENATE BILL No. 4

Report of Subcommittee

By Joint Committee on Economic Development

12-17

12 AN ACT concerning the Kansas manufactured housing act; prescribing  
13 installation standards; providing for manufactured home installers' li-  
14 censes; providing for apprentice installers' licenses; authorizing certain  
15 fees and civil penalties; amending K.S.A. 58-4205 and K.S.A. 2004  
16 Supp. 58-4202 and 74-8959 and repealing the existing sections.

74-8904

17  
18 *Be it enacted by the Legislature of the State of Kansas:*

19 Section 1. K.S.A. 2004 Supp. 58-4202 is hereby amended to read as  
20 follows: 58-4202. As used in the Kansas manufactured housing act:

, unless the context clearly requires otherwise

21 (a) "Manufactured home" means a structure which-

22 ~~—(1)~~ is subject to the federal act and which is transportable in one or  
23 more sections which, in the traveling mode, is 8 body feet or more in  
24 width or 40 body feet or more in length, or, when erected on site, is 320  
25 or more square feet; and which is built on a permanent chassis and de-  
26 signed to be used as a dwelling, with or without permanent foundation,  
27 when connected to the required utilities, and includes the plumbing,  
28 heating, air conditioning and electrical systems contained therein; and

29 ~~—(2)~~ is subject to the federal manufactured home construction and  
30 safety standards established pursuant to 42 U.S.C. § 5403, **[except that]**  
31 **such term shall include any structure which meets all the require-**  
32 **ments of this subsection except the size requirements and with re-**  
33 **spect to which the manufacturer voluntarily files with the United**  
34 **States department of housing and urban development a certification**  
35 **required by the secretary of housing and urban development and**  
36 **complies with the standards established under the federal act, [and]**  
37 **except that such term shall not include any self-propelled recrea-**  
38 **tional vehicle.**

and

39 (b) "Mobile home" means a structure which-

40 ~~—(1)~~ is not subject to the federal act and which is transportable in one  
41 or more sections which, in the traveling mode, is 8 body feet or more in  
42 width and 36 body feet or more in length and is built on a permanent  
43 chassis and designed to be used as a dwelling, with or without a perma-

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1 nent foundation, when connected to the required utilities, and includes  
2 the plumbing, heating, air conditioning and electrical systems contained  
3 therein; and.

4 ~~(2) is not subject to the federal manufactured home construction and~~  
5 ~~safety standards established pursuant to 42 U.S.C. § 5403.~~

6 (c) "Modular home" means a structure which is: (1) Transportable in  
7 one or more sections; ~~(2) not constructed on a permanent chassis;~~ (3)  
8 designed to be used as a dwelling on a permanent foundation when con-  
9 nected to the required utilities, and includes the plumbing, heating, air  
10 conditioning and electrical systems contained therein; and ~~(4)~~ (3) certified  
11 by its manufacturer as being constructed in accordance with a nationally  
12 recognized building code.

13 (d) "Factory-built home" means a mobile home, manufactured home  
14 or modular home.

15 (e) "Division" means the division of vehicles of the department of  
16 revenue.

17 (f) "Director" means the director of vehicles, either acting directly  
18 or through officers or agents of the division of vehicles of the department  
19 of revenue.

20 (g) "Manufactured home dealer" or "dealer" means any person who,  
21 for commission, money or other thing of value, is engaged in the business  
22 of:

23 (1) Buying, selling or offering or attempting to negotiate a sale of an  
24 interest in manufactured homes or mobile homes; or

25 (2) buying, selling or offering or attempting to negotiate a sale of an  
26 interest in manufactured homes or mobile homes for other persons as an  
27 agent, middleman or negotiator; or

28 (3) bringing together buyers and sellers of manufactured homes or  
29 mobile homes.

30 (h) "New manufactured home dealer" means any manufactured  
31 home dealer who is a party to a manufactured home sales agreement with  
32 a manufactured home manufacturer, which manufactured home sales  
33 agreement authorizes the manufactured home dealer to sell, exchange or  
34 transfer new manufactured homes or parts and accessories made or sold  
35 by such manufactured home manufacturer, and ~~obligates~~ **authorizes** the  
36 manufactured home dealer to fulfill the warranty commitments of such  
37 manufactured home manufacturer.

38 (i) "Used manufactured home dealer" means any person actively en-  
39 gaged in the business of buying, selling or exchanging used manufactured  
40 homes or mobile homes.

41 (j) "Manufactured home manufacturer" or "*manufacturer*" means  
42 any person who manufactures, assembles and sells new manufactured  
43 homes, *subject to regulation pursuant to the federal act*, to new manu-

1 factured home dealers for resale in this state, *whether such person is*  
2 *located within or outside the state of Kansas.*

3 (k) "Salesperson" means any person who is employed as a salesperson  
4 by a manufactured home dealer to sell manufactured homes or mobile  
5 homes.

6 (l) "Factory representative" means a representative employed by a  
7 manufactured home manufacturer for the purpose of making or promot-  
8 ing the sale of its new manufactured homes to new manufactured home  
9 dealers, or for advertising or contacting its new manufactured *home* deal-  
10 ers with respect to the promotion and sale of manufactured homes and  
11 parts or accessories for the same.

12 (m) "Manufactured home sales agreement" means a contract be-  
13 tween the manufacturer of manufactured homes and a new manufactured  
14 home dealer, by which the dealer is entitled to purchase new manufac-  
15 tured homes from the manufacturer for resale within this state.

16 (n) "Broker" means any person who, for commission, money or other  
17 thing of value, is engaged in the business of:

18 (1) Selling or buying manufactured homes or mobile homes for other  
19 persons as an agent, middleman or negotiator; or

20 (2) bringing together buyers and sellers of manufactured homes or  
21 mobile homes, but such term shall not include any person engaged in a  
22 business in which the acts described in this subsection are only inciden-  
23 tally performed.

24 (o) "Lending agency" means any person, desiring to be licensed un-  
25 der this act and engaged in the business of financing or lending money  
26 to any person to be used in the purchase or financing of a manufactured  
27 home or mobile home.

28 (p) "Established place of business" means a building or structure,  
29 other than a building or structure all or part of which is occupied or used  
30 as a residence, owned either in fee or leased and designated as an office  
31 or place to receive mail and keep records and conduct the routine of  
32 business. To qualify as an established place of business, there shall be  
33 located therein an operable telephone which shall be listed with the tel-  
34 ephone company under the name of the licensee.

35 (q) "Supplemental place of business" means a business location other  
36 than that of the established place of business.

37 (r) "Licensee" means any person issued a valid license pursuant to  
38 the Kansas manufactured housing act.

39 (s) "Person" means any natural person, partnership, firm, corporation  
40 or association.

41 (t) "Electronic certificate of title" means any electronic record of  
42 ownership, including any lien or liens that may be recorded, retained by  
43 the division in accordance with K.S.A. 2003 Supp. 58-4204a. and amend-

1 ments thereto.

2 (u) *“Apprentice installer” means a person who is licensed as an ap-*  
3 *prentice installer pursuant to this act.*

4 (v) ~~“Authorized installer” means an installer who has met the require-~~  
5 ~~ments set forth in this act and rules and regulations promulgated here-~~  
6 ~~under, and has been issued a manufactured home installer’s license by~~  
7 ~~the director.~~

8 ~~(w) “Corporation” means the Kansas housing resources corporation,~~  
9 ~~a not-for-profit subsidiary of the Kansas development finance authority~~  
10 ~~incorporated pursuant to K.S.A. 74-8904(v).~~

11 ~~(x) (w) “Federal act” means the national manufactured housing con-~~  
12 ~~struction and safety standards act of 1974 (42 U.S.C. §§ 5401 et seq., and~~  
13 ~~amendments thereto), as constituted on the effective date of this act.~~

14 ~~(y) (x) “Installation standards” means the standards adopted by the~~  
15 ~~president for the installation and siting of manufactured homes.~~

16 ~~(z) (y) “Installer” means a person engaged in the business of install-~~  
17 ~~ing manufactured homes on behalf of such person, or on behalf of any~~  
18 ~~other person who has not been issued a manufactured home installer’s~~  
19 ~~license under this act.~~

20 (z) *“Licensed installer” means an installer who has met the*  
21 *requirements set forth in this act and rules and regulations prom-*  
22 *ulgated hereunder and has been issued a manufactured home in-*  
23 *staller’s license by the president.*

24 (aa) “Municipality” means any city or county in this state.

25 (bb) “President” means the president of the Kansas housing re-  
26 sources corporation.

27 Sec. 2. K.S.A. 58-4205 is hereby amended to read as follows: 58-  
28 4205. It is hereby declared to be the public policy of this state to provide  
29 for fair and impartial regulation of those persons engaged in manufac-  
30 turing, distributing or selling of manufactured homes or mobile homes  
31 *and the installation of manufactured homes.* The provisions of the Kansas  
32 manufactured housing act which are applicable to such activities shall be  
33 administered in such a manner as will continue to promote fair dealing  
34 and honesty in the manufactured home and mobile home industry and  
35 among those engaged therein without unfair or unreasonable discrimi-  
36 nation or undue preference or advantage. It is further declared to be the  
37 policy of this state to protect the public interest in the purchase and trade  
38 of manufactured homes and mobile homes *and the installation of man-*  
39 *ufactured homes, so as to insure protection against irresponsible vendors*  
40 *and installers and dishonest or fraudulent sales and installation practices.*

41 New Sec. 3. (a) The purposes of sections 3 to 11, inclusive, and  
42 amendments thereto, are: (1) To ensure that manufactured homes in-  
43 stalled in the state of Kansas are installed in accordance with the require-

corporation

12

1 ments and purposes of the federal act; (2) to ensure that persons installing  
 2 manufactured homes in the state of Kansas are appropriately trained to  
 3 do so; and (3) to provide for the promulgation of uniform standards which  
 4 shall be applicable throughout the state to effect the foregoing.

5 (b) To accommodate realization of the purposes set forth in subsection  
 6 (a) of this section, the legislature hereby declares its intent to exercise  
 7 the exclusive power to regulate the installation of manufactured homes  
 8 and the persons who install manufactured homes, *except that municipa-*  
 9 *lities may adopt standards for the installation of manufactured*  
 10 *homes which are consistent with the installation standards prom-*  
 11 *ulgated pursuant to section 4, and amendments thereto. By the en-*  
 12 *actment of sections 3 to 11, inclusive, and amendments thereto, cities and*  
 13 *counties are preempted from the exercise of such regulatory power, and*  
 14 *any city ordinance or county resolution in conflict with or contrary to*  
 15 *sections 3 to 11, inclusive, and amendments thereto, shall be null and*  
 16 *void, except that nothing in this act shall be construed as prohibiting a*  
 17 *city or county from inspecting a manufactured home installed in this state*  
 18 *after the effective date of this act for the sole purpose of determining that*  
 19 *it has been installed in compliance with the standards promulgated pur-*  
 20 *suant to section 4, and amendments thereto.*

21 New Sec. 4. (a) The ~~president~~ shall adopt rules and regulations to  
 22 promulgate uniform *installation* standards for the proper installation and  
 23 siting of manufactured homes at the places of occupancy in this state.  
 24 The *installation* standards promulgated shall take effect on January 1,  
 25 2006, and shall pertain to the foundation, support and anchoring systems,  
 26 underpinning, heating, ventilation and air conditioning systems and join-  
 27 der of sections of such manufactured homes *or on and after the date*  
 28 *which is six months from the date the standards promulgated pur-*  
 29 *suant to the federal act are published in the federal register, which-*  
 30 *ever is later. The installation standards shall establish reasonable*  
 31 *specifications for the installation of a manufactured home, at the*  
 32 *place of occupancy, to ensure proper siting, the joining of all sec-*  
 33 *tions of the home and installation of stabilization, support or an-*  
 34 *choring systems.* The standards so promulgated shall be reasonable and  
 35 shall be consistent with the standards established by or pursuant to the  
 36 federal act. ~~The rules and regulations promulgating the instal-~~  
 37 ~~lation standards shall be adopted in the manner prescribed by~~  
 38 ~~K.S.A. 2004 Supp. 77-421, and amendments thereto, after notice has~~  
 39 ~~been given and a hearing held in the manner prescribed by K.S.A.~~  
 40 ~~2004 Supp. 77-421, and amendments thereto. The ~~president~~ may~~  
 41 ~~amend or alter the installation standards by duly adopted rules and~~  
 42 ~~regulations, but no person, other than the ~~president~~ shall have authority~~  
 43 to amend or alter the uniform standards so adopted.

corporation

corporation



1 (b) The president may enter into an agreement with the state de-  
2 partment of revenue to have such department act as an agent of the  
3 corporation for the purposes of sections 3 through 11, and amendments  
4 thereto. The corporation and the state department of revenue may  
5 exchange information beneficial to the administration of sections 3  
6 through 11, and amendments thereto.

7 (c) *The president shall monitor the progress of standards prom-*  
8 *ulgated pursuant to the federal act, shall determine whether the*  
9 *state of Kansas is in compliance with the federal standards and shall*  
10 *report such activity and recommend action necessary to bring Kan-*  
11 *sas into compliance with the federal act. Such report shall be deliv-*  
12 *ered to the senate commerce committee and the house commerce*  
13 *and labor committee by February 1 of each year.*

14 New Sec. 5. (a) Except as otherwise provided in this section, any  
15 person installing manufactured homes in this state on or after ~~January~~  
16 **July 1, 2006**, either shall hold a manufactured home installer's license  
17 issued pursuant to this section or shall work under the supervision of an  
18 ~~authorized~~ **a licensed** installer and hold an ~~apprentice license pursuant~~  
19 ~~to this section~~. Each such license shall be valid for a term of three years  
20 and may be renewed. The fee for such license and for each renewal  
21 thereof shall be \$300, which shall be paid to the corporation by the ap-  
22 plicant. From and after ~~January~~ **July 1, 2006**, the manufactured home  
23 installer's license issued pursuant to this section shall be the only authority  
24 required for the installation of manufactured homes within this state. The  
25 manufactured home installer's license shall entitle ~~an authorized a li-~~  
26 **icensed** installer to install manufactured homes in this state, including the  
27 installation of heating and air conditioning systems and the hookup of  
28 electric, gas and water utilities from the utility meters to the manufac-  
29 tured home.

30 (b) On or after ~~January~~ **July 1, 2006**, no municipality may impose  
31 any additional licensing requirements or require the payment of an ad-  
32 ditional or separate fee as a condition for the installation of a manufac-  
33 tured home within its boundaries by an ~~authorized~~ **a licensed** installer,  
34 except that nothing herein shall be construed as prohibiting a municipality  
35 from requiring a building permit as a condition precedent to the instal-  
36 lation of a manufactured home and charging a fee in connection with  
37 such building permit, or prohibiting a municipality which provides for the  
38 inspection of manufactured homes installed in this state, from imposing  
39 a reasonable inspection fee.

40 (c) Nothing in this act shall be construed to require a person who  
41 installs a new or previously owned manufactured home on property  
42 owned by such person, for occupancy by such person, to obtain a man-  
43 ufactured home installer's license. However, none of the rights, remedies



1 or causes of action provided under sections 3 to 9, inclusive, and amend-  
2 ments thereto, shall be available to any such person.

3 (d) Except as otherwise provided in subsection ~~(h)~~ (i), in order to  
4 obtain a manufactured home installer's license, an applicant shall:

5 (1) Be at least 18 years of age;

6 (2) complete an installation training course approved by the  
7 president;

8 (3) submit an application for a license on a form prescribed and fur-  
9 nished by the corporation;

10 (4) submit with the license application the required license fee and  
11 examination fee, unless the examination fee is to be submitted directly to  
12 a person who administers an examination certified by the president, as  
13 provided in subsection (f) of this section;

an  
fixed by the corporation in an amount necessary to  
cover the costs of the examination

14 (5) pass the examination specified in this section as being designed  
15 to test the skills necessary to properly install manufactured homes and to  
16 ascertain that the applicant has adequate knowledge of the laws applicable  
17 to manufactured home installation contracting;

18 (6) not have been found responsible in any administrative action by  
19 the division or corporation for any violation of the Kansas manufactured  
20 housing act or any rules or regulations promulgated thereunder;

21 (7) submit with the license application proof satisfactory to the pres-  
22 ident that, within the three years preceding the date the license appli-  
23 cation is submitted to the corporation, the applicant has not less than two-  
24 years experience as an installer, *except that for an applicant submitting*  
25 *an application during calendar year 2007, at least one year of the*  
26 *applicant's prior experience shall be as an apprentice installer; and*  
27 *for an applicant submitting an application thereafter, both years of*  
28 *the applicant's prior experience shall be as an apprentice installer;*  
29 and

corporation

30 (8) carry liability insurance in an amount determined by the president  
31 pursuant to duly adopted rules and regulations, but such liability insur-  
32 ance shall have limits of not less than \$100,000, and such liability insur-  
33 ance must insure the ~~authorized~~ **licensed** installer and any apprentice  
34 installer working under the supervision of the ~~authorized~~ **licensed**  
35 installer.

36 (e) Except as otherwise provided in subsection (f), the president shall  
37 establish a standard examination for determining the competency of ap-  
38 plicants to become ~~authorized~~ **licensed** installers, based upon codes and  
39 standards in effect on the effective date of ~~this act~~ **the installation stan-**

under section 4 and amendments thereto

40 ~~ards. In developing the standard examination, the president may consult~~  
41 ~~with: (1) Persons who are recognized in the industry for testing persons~~  
42 ~~to determine their qualifications to install manufactured homes and to~~  
43 ~~ascertain that such persons have adequate knowledge of the laws appli-~~

1 cable to manufactured home installation contracting, or (2) persons rec-  
2 ognized in the industry as having developed installation standards or pro-  
3 viding courses or programs to educate installers regarding installation of  
4 manufactured homes in compliance with installation standards. For such  
5 purpose, the president may enter into consulting agreements with such  
6 persons:

7 (f) In lieu of developing a standard examination pursuant to subsec-  
8 tion (e), the president may certify one or more examinations developed  
9 by persons recognized in the industry either for testing persons to deter-  
10 mine their qualifications to install manufactured homes, for having de-  
11 veloped installation standards or for having provided courses or programs  
12 to educate installers regarding installation of manufactured homes in  
13 compliance with installation standards. ~~The president may solicit from~~  
14 ~~persons meeting the foregoing qualifications the submission of examina-~~  
15 ~~tions for the president's review. Any person responding to such solicita-~~  
16 ~~tion shall submit to the president an application for certification. The~~  
17 ~~application form shall be prepared by the president and shall accompany~~  
18 ~~the written solicitation for submission of examinations. The application~~  
19 ~~for certification shall provide the following information:~~

20 —(1) ~~The name and address of the person submitting the application;~~

21 —(2) ~~information substantiating the qualifications of the person sub-~~  
22 ~~mitting the application;~~

23 —(3) ~~the amount of the examination fee to be charged an applicant for~~  
24 ~~a manufactured home installer's license;~~

25 —(4) ~~a statement as to how, when and where the examination would~~  
26 ~~be administered to an applicant for a manufactured home installer's~~  
27 ~~license;~~

28 —(5) ~~the basis for determining passage of the examination; and~~

29 —(6) ~~such other information as the president may require. A copy of~~  
30 ~~the examination for which certification is requested shall accompany the~~  
31 ~~application.~~

32 —If any application for certification of an examination is properly com-  
33 pleted and timely received by the president in response to the president's  
34 solicitation, the president shall determine if the examination submitted is  
35 designed to determine that an applicant for a manufactured home in-  
36 staller's license has the skills necessary to properly install manufactured  
37 homes and to ascertain that the applicant has adequate knowledge of the  
38 laws applicable to manufactured home installation contracting. Any ex-  
39 amination satisfying these criteria shall be certified by the president.

40 An applicant for a manufactured home installer's license shall be fur-  
41 nished by the corporation with a list of the examinations which have been  
42 certified by the president pursuant to this subsection. The list shall in-  
43 clude all of the information necessary to take each of the certified ex-

1 ainations, including the amount of the examination fee to be paid di-  
2 rectly to the person administering the examination by the applicant for a  
3 manufactured home installer's license. The applicant must successfully  
4 complete one of the certified examinations on the list.

5 (g) ~~Any~~ **On and after July 1, 2006**, a person engaged by ~~an au-~~  
6 ~~thorized a licensed~~ installer to assist in the installation of a manufactured  
7 home, including an apprentice installer, at all times shall work under the  
8 supervision of ~~an authorized a licensed~~ installer. **A licensed installer**  
9 **shall be present at the site where the manufactured home is being**  
10 **installed at such times as may be necessary for the licensed installer**  
11 **to ensure that the manufactured home is being installed in accord-**  
12 **ance with the installation standards.** The ~~authorized licensed~~ installer  
13 shall be responsible for all acts or omissions of apprentice installers and  
14 other persons working under the ~~authorized licensed~~ installer's super-  
15 vision in the installation of a manufactured home.

16 (h) A person may obtain a license as an apprentice installer from the  
17 corporation. In order to obtain an apprentice installer's license, an  
18 applicant:

- 19 (1) Must be at least 18 years of age;
- 20 (2) must complete an installation training course approved by the
- 21 president;
- 22 (3) must submit an application for a license on a form prescribed and
- 23 furnished by the corporation;
- 24 (4) must submit with the license application a license application fee
- 25 in the amount of ~~[\$50]~~ and \$75
- 26 (5) must not have been found responsible in any administrative action
- 27 by the corporation for any violation of the Kansas manufactured housing
- 28 act or any rules or regulations promulgated thereunder. two years

29 An apprentice installer's license shall be valid for ~~one year~~, but may be  
30 renewed upon application to the president on a form prescribed by the  
31 corporation and payment of a renewal license fee of ~~[\$50]~~. \$75

32 (i) An applicant for a **manufactured home installer's** license as ~~an~~  
33 ~~authorized a licensed~~ installer shall not be required to take the exami-  
34 nation required by this section in order to obtain a manufactured home  
35 installer's license, if the president finds that: (1) The applicant is licensed  
36 as an installer by a municipality on the effective date of this act; (2) prior  
37 to ~~January~~ **July 1, 2006**, the applicant had successfully completed an  
38 examination administered by any municipality that is designed to test the  
39 skills necessary to properly install manufactured homes; and (3) within  
40 the three years preceding the date the applicant submitted a license ap-  
41 plication to the corporation, the applicant had not less than two-years  
42 experience either as an installer licensed by any municipality or working  
43 under the supervision of an installer licensed by any municipality or as

\$75

two years

\$75

all three of the following conditions apply

21-1

1 an apprentice installer working under the supervision of ~~an authorized a~~  
2 *licensed* installer.

3 (j) *On and after January 1, 2007, [for good cause shown] the*  
4 *president may waive the requirement that some or all of an appli-*  
5 *cant's prior experience be obtained as an apprentice installer.*

upon a specific written finding of good cause by the president

6 New Sec. 6. From and after ~~January~~ *July* 1, 2006, a municipality may  
7 inspect or cause to be inspected by qualified individuals any manufactured  
8 home installed within the municipality's jurisdiction ~~after the effective~~  
9 ~~date of this act.~~ Any such inspection shall be limited to a determination  
10 that the installation of the manufactured home complies with the instal-  
11 lation standards prescribed by the duly adopted rules and regulations of  
12 the ~~president~~ *or the standards promulgated by the municipality in*  
13 *accordance with section 3, and amendments thereto.* A municipality  
14 may impose a reasonable fee to cover the costs of such inspection.

corporation

15 New Sec. 7. (a) No ~~authorized licensed~~ installer, apprentice installer  
16 or applicant for a manufactured home installer's license or apprentice  
17 installer's license shall:

- 18 (1) Violate any lawful order of the president;
- 19 (2) obtain a manufactured home installer's license by fraud or
- 20 misrepresentation;
- 21 (3) be convicted of or enter a plea of nolo contendere to a crime in
- 22 any jurisdiction which directly relates to the installation of manufactured
- 23 homes or the ability to install manufactured homes in that jurisdiction:
- 24 or
- 25 (4) commit fraud or deceit in the practice of manufactured home
- 26 installation contracting.

27 (b) Any person who violates any provision of subsection (a) shall be  
28 subject to any of the following actions by the president or the president's  
29 designee:

- 30 (1) License revocation;
- 31 (2) license suspension;
- 32 (3) a civil penalty not to exceed \$1,000 per violation;
- 33 (4) a requirement to take and pass, or retake and pass, the exami-
- 34 nation approved by the president;
- 35 (5) a notice of non-compliance; or
- 36 (6) refusal of license application.

37 New Sec. 8. (a) From and after ~~January~~ *July* 1, 2006, no person shall:

- 38 (1) Falsely represent such person or any other person as ~~an author-~~  
39 ~~ized a licensed~~ installer or licensed apprentice installer;
- 40 (2) falsely impersonate ~~an authorized a licensed~~ installer or licensed  
41 apprentice installer;
- 42 (3) present as such person's own the manufactured home installer's  
43 license or apprentice installer's license of another;

1 (4) knowingly give false evidence to the corporation;  
2 (5) use or attempt to use any manufactured home installer's license  
3 or apprentice installer's license that has been suspended or revoked, or  
4 that has expired or is otherwise invalid; or  
5 (6) engage in the business of or act in the capacity of ~~an authorized~~  
6 **a licensed** installer or licensed apprentice installer without being ~~an au-~~  
7 ~~thorized a licensed~~ installer or licensed apprentice installer, as the case  
8 may be.  
9 (b) Any person who violates any of the provisions of subsection (a)  
10 shall be subject to a civil penalty of not to exceed \$1,000 per violation. If  
11 the president or the president's designee determines that any person vi-  
12 olating any provision of subsection (a) is not licensed under section 5, and  
13 amendments thereto, and is not working under the supervision of ~~an~~  
14 ~~authorized a licensed~~ installer, the president or the president's designee  
15 may request the attorney general to file an action in a court of competent  
16 jurisdiction, to enjoin that person from engaging in unauthorized  
17 activities.

18 New Sec. 9. From and after ~~January~~ **July** 1, 2006, whenever the  
19 president or the president's designee has reason to believe that ~~an au-~~  
20 ~~thorized a licensed~~ installer, an apprentice installer or an applicant for a  
21 manufactured home installer's license or apprentice installer's license is  
22 in violation of any provision contained in sections 3 to 8, inclusive, and  
23 amendments thereto, or any rule or regulation adopted thereunder, the  
24 president or the president's designee, either upon the president's or such  
25 designee's own motion or upon complaint, may hold a hearing for the  
26 purpose of determining whether any of the actions authorized by subsec-  
27 tion (b) of section 7, and amendments thereto, is warranted. The hearing  
28 shall be conducted and any action taken by the president or the presi-  
29 dent's designee pursuant to the hearing shall be in accordance with the  
30 provisions of the Kansas administrative procedure act.

31 ~~New Sec. 10.—(a) Any dispute arising under the Kansas manufactured~~  
32 ~~housing act between an owner of a manufactured home and any one or~~  
33 ~~more of the following persons shall be resolved by negotiation, mediation~~  
34 ~~or, if necessary, by court action, as provided in this section: Manufacturer;~~  
35 ~~dealer, broker, authorized installer or apprentice installer.~~

36 ~~—(b) If any party submits to the other party or parties a written request~~  
37 ~~to negotiate the dispute, the parties shall first negotiate in good faith to~~  
38 ~~resolve each such dispute. If each such dispute has not been resolved by~~  
39 ~~negotiation within 60 days after the date of the written request to nego-~~  
40 ~~ciate the dispute, then upon the written request of any party to the other~~  
41 ~~party or parties, the parties shall agree upon an independent, qualified~~  
42 ~~mediator to assist the parties in the resolution of each such dispute. If~~  
43 ~~the parties are unable to agree upon a mediator within 30 days after such~~

1 written request, then any party may submit to the president a written  
 2 request that the president appoint a mediator, and the president shall  
 3 appoint an independent, qualified mediator to assist the parties in the  
 4 resolution of each such dispute. Each party involved in the mediation of  
 5 a dispute under this section shall be responsible for that party's costs of  
 6 mediation, including that party's proportionate share of the mediator's  
 7 fees and expenses.

8 ~~(c) If the parties are not successful in resolving a dispute through~~  
 9 ~~negotiation and mediation, as provided in this section, any party may~~  
 10 ~~commence an action in district court to resolve the dispute.~~

11 *New Sec. 10. (a) If the owner of a manufactured home which is*  
 12 *installed on or after July 1, 2006, believes that the manufactured*  
 13 *home is not in compliance with the installation standards or the*  
 14 *federal act, the owner may file an application with the corporation*  
 15 *for an inspection of the manufactured home by a qualified inspec-*  
 16 *tor. The application shall be submitted on a form prescribed by the*  
 17 *corporation and shall be accompanied by a nonrefundable appli-*  
 18 *cation fee of \$100. Upon receipt of the application and fee, the pres-*  
 19 *ident shall designate a qualified inspector to conduct an inspection*  
 20 *of the manufactured home, to determine the validity of the owner's*  
 21 *complaint, and the president, within three days thereafter, shall*  
 22 *give to all parties involved in the dispute, written notice of the filing*  
 23 *of the owner's application and the designation of the qualified*  
 24 *inspector.*

within the one-year period of completion of  
 installation

25 *(b) The president shall adopt such rules and regulations as may*  
 26 *be necessary to provide for the inspection of a manufactured home*  
 27 *pursuant to this section and to otherwise provide for the implemen-*  
 28 *tation of this section.*

corporation

29 *(c) All parties involved in the dispute shall be given an oppor-*  
 30 *tunity to be present during the inspection of the home. At the com-*  
 31 *pletion of the inspection, the inspector shall prepare a written re-*  
 32 *port of the inspector's findings of defects, if any. The report shall*  
 33 *be submitted to the president, and copies of the report shall be given*  
 34 *at the same time to all parties involved in the dispute. Within 10*  
 35 *days of receipt of the inspector's report, any party involved in the*  
 36 *dispute may file with the president written objections to the in-*  
 37 *spector's report. A copy of any party's written objections shall, at*  
 38 *the same time, be provided to the other parties.*

39 *(d) Upon review of the inspector's report, together with any*  
 40 *written statement of objections filed by any of the parties, the pres-*  
 41 *ident shall issue an order directing the action, if any, to be taken*  
 42 *by the parties involved. Unless the president finds that the appli-*  
 43 *cation for inspection is frivolous, the order shall assess the costs of*



1 ~~the inspection to the parties in dispute other than the owner of the~~  
 2 ~~manufactured home. The~~ [The order shall assess the costs of the  
 3 inspection to the nonprevailing party or parties. If no party prevails  
 4 on all issues, the] president shall assess the costs to the parties in  
 5 such proportion as the president deems just and equitable. All costs  
 6 of a frivolous request for inspection shall be assessed against the  
 7 owner.

8 (e) Any party aggrieved by the president's order may file a writ-  
 9 ten request for a hearing within 10 days of the date of the order.  
 10 The hearing shall be conducted and any action taken by the presi-  
 11 dent or the president's designee pursuant to the hearing shall be in  
 12 accordance with the provisions of the Kansas administrative pro-  
 13 cedure act.

14 New Sec. 11. The [president] may adopt rules and regulations as nec-  
 15 essary for the implementation of sections 3 through 10, and amendments  
 16 thereto.

corporation

17 New Sec. 12. Any civil penalties or fees paid to the president or cor-  
 18 poration pursuant to sections 3 to 11, inclusive, and amendments thereto,  
 19 shall be remitted to the state treasurer in accordance with K.S.A. 75-  
 20 4215, and amendments thereto. Upon receipt of each such remittance,  
 21 the state treasurer shall deposit the entire amount in the state treasury  
 22 to the credit of the state housing trust fund.

23 Sec. 13. K.S.A. 2004 Supp. 74-8959 is hereby amended to read as  
 24 follows: 74-8959. (a) There is hereby established in the state treasury the  
 25 state housing trust fund. All moneys credited to the state housing trust  
 26 fund shall be used for the purposes of housing programs and services  
 27 including, but not limited to, the provision of financial programs for the  
 28 repair, rehabilitation and improvement of existing residential housing,  
 29 accessibility modifications, rental subsidies and the provision of housing  
 30 services and assistance to persons having low or moderate income and  
 31 disabled persons and costs and expenditures incurred in implementing  
 32 sections 3 through 10, and amendments thereto, of the Kansas manufact-  
 33 ured housing act.

34 (b) The state housing trust fund shall be administered by the division  
 35 of housing in the Kansas development finance authority.

36 (c) The division of housing and the Kansas development finance au-  
 37 thority are hereby authorized to apply for and receive available public or  
 38 private grants, gifts and donations for the purposes of housing programs  
 39 and services. All such grants, gifts and donations shall be remitted to the  
 40 division of housing in the Kansas development finance authority.

41 (d) On or before the 10th of each month, the director of accounts  
 42 and reports shall transfer from the state general fund to the state housing  
 43 trust fund interest earnings based on:

14

1 (1) The average daily balance of moneys in the state housing trust  
 2 fund for the preceding month; and  
 3 (2) the net earnings rate for the pooled money investment portfolio  
 4 for the preceding month.

12

5 New Sec. 14. Sections 3 to ~~11~~, inclusive, and amendments thereto,  
 6 shall be a part of and supplemental to the Kansas manufactured housing  
 7 act.

See Sec. 15 attached.

8 Sec. ~~15~~ K.S.A. 58-4205 and K.S.A. 2004 Supp. 58-4202 and 74-8959  
 9 are hereby repealed.

74-8904

16

10 Sec. ~~16~~. This act shall take effect and be in force from and after its  
 11 publication in the Kansas register.

17

See KDFR recommendations attached.

1. Right of inspection. The subcommittee believes the corporation has rule and regulation authority which covers this recommendation relating to inspections.
2. Cost of dispute resolution. The subcommittee considered this item and felt that the language currently in the bill provides adequate discretion to the President to make the decision on costs.
3. Sunset. The subcommittee does not recommend the adoption of this recommendation.

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## KANSAS HOUSING RESOURCES CORPORATION

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**To:** House Commerce and Labor Committee  
**From:** Stephen R. Weatherford, President  
**Subject:** Senate Bill 4 Compromises  
**Date:** March 2, 2005

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The Kansas Manufactured Housing Association and the Kansas Housing Resources Corporation have worked to find mutually acceptable solutions to the issues that were outstanding. We believe that we have found mutually acceptable compromises on some of the issues. However, we believe that three amendments are desirable to balance protection of the homeowner against the protection of the industry.

The Kansas Housing Resources Corporation proposes the following three changes to the Senate Bill 4, As Amended by Senate Committee of the Whole.

**Right of Inspection.** The homeowner should be advised or reminded at the time of the sale that they have a right to have the installation of their home inspected so long as they pay for the inspection. We also believe that KHRC should make available a list of qualified inspectors. We propose the following wording:

New Sec. 6 (b) Any manufactured home owner has the right to have the installation of the owner's manufactured home inspected by a qualified inspector. The home owner shall pay all costs of the inspection. The president shall maintain a list of qualified inspectors and shall adopt rules and regulations establishing, but not limited to, qualifications for the inspectors, application fees, and a required notice to the home owner.

**Cost of Dispute Resolution.** The dispute resolution process should not be designed to discourage families from filing what they believe are meritorious complaints. We believe that a \$100 charge to file a complaint will prevent frivolous complaints; however, the possibility that the family might have an unknown cost will discourage legitimate complaints. We also have a procedural recommendation. We propose the following amendment to the KMHA proposal.

New Sec. 10 (d) Upon review of the inspector's report, together with any written statement of objections filed by any of the parties, the president shall issue an order directing the action, if any, to be taken by the parties involved. ~~The order shall assess the costs of the inspection to the non-prevailing party or parties.~~ Unless the president finds that the application for inspection is frivolous, the order shall assess the costs of the inspection to the parties in the dispute other than the owner of the manufactured home. ~~If no party prevails on all of the issues, the~~ The president shall assess the costs to the parties in such proportion as the president deems just and equitable. All costs of a frivolous request for inspection shall be assessed against the owner.

**Sunset.** We believe that there should be a statutory commitment to reviewing and modifying, as necessary, the impact for this legislation. The annual report requirement by the Senate does not provide adequate incentive for a level playing field. The numerous uncertainties make this particularly important. We propose the following amendment to the KMHA proposal.

New Sec. 15. Sections 3 to 11, inclusive, and amendments thereto, shall be repealed on July 1, 2009.

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Sec. 15. K.S.A. 2004 Supp. 74-8904 is hereby amended to read as follows: 74-8904. Except as otherwise limited by this act, the authority shall have the following powers to:

(a) Sue and be sued;

(b) have a seal and alter such seal;

(c) make and alter bylaws for its organization and internal management;

(d) adopt such rules and regulations as may be necessary to carry out the purposes of this act;

(e) acquire, hold and dispose of real and personal property for its corporate purposes;

(f) appoint officers, agents and employees, prescribe their duties and qualifications and fix their compensation;

(g) borrow money and to issue notes, bonds and other obligations pursuant to K.S.A. 74-8905, and amendments thereto, whether or not the interest on which is subject to federal income taxation, and to provide for the rights of the lenders or holders thereof;

(h) purchase notes or participations in notes evidencing loans which are secured by mortgages or security interests and to enter into contracts in that regard;

(i) make secured or unsecured loans for any of the purposes for which bonds of the authority may be issued under this act or to low and moderate income multifamily rental housing projects participating in programs established in section 42 of the federal internal revenue code, and provide financing for housing projects and programs in participation with programs established by the United States department of housing and urban development or the division of housing in the Kansas development finance authority; except as otherwise provided in this subsection, nothing in this act shall be construed to authorize the authority to make loans directly to individuals to finance housing developments;

(j) sell mortgages and security interests at public or private sale, to

negotiate modifications or alterations in mortgage and security interests, to foreclose on any mortgage or security interest in default or commence any action to protect or enforce any right conferred upon it by any law, mortgage, security agreement, contract or other agreement, and to bid for and purchase property which was the subject of such mortgage or security interest at any foreclosure or at any other sale, to acquire or take possession of any such property, and to exercise any and all rights as provided by law for the benefit or protection of the authority or mortgage holders;

(k) collect fees and charges in connection with its loans, bond guarantees, commitments and servicing, including, but not limited to, reimbursement of costs of financing as the authority shall determine to be reasonable and as shall be approved by the authority;

(l) make and execute contracts for the servicing of mortgages acquired by the authority pursuant to this act, and to pay the reasonable value of services rendered to the authority pursuant to those contracts;

(m) enter into agreements with and accept gifts, grants, loans and other aid from the federal government, the state, any state agency, any political subdivision of the state, or any person or corporation, foundation or legal entity, and to agree to and comply with any conditions attached to federal and state financial assistance not inconsistent with the provisions of this act;

(n) invest moneys of the authority not required for immediate use, including proceeds from the sale of any bonds, in such manner as the board shall determine, subject to any agreement with bondholders stated in the authorizing resolution providing for the issuance of bonds;

(o) procure insurance against any loss in connection with its programs, property and other assets;

(p) provide technical assistance and advice to the state or political subdivisions

of the state and to enter into contracts with the state or political subdivisions of the state to provide such services. The state or political subdivisions of the state are hereby authorized to enter into contracts with the authority for such services and to pay for such services as may be provided them;

(q) establish accounts in one or more depositories;

(r) lease, acquire, construct, sell and otherwise deal in and contract concerning any facilities;

(s) have and exercise all of the powers granted to the public housing authorities by the state, except that the authority shall not have the power of eminent domain;

(t) do any and all things necessary or convenient to carry out purposes of the authority and exercise the powers given and granted in this act;

(u) assist minority businesses in obtaining loans or other means of financial assistance. The terms and conditions of such loans or financial assistance, including the charges for interest and other services, will be consistent with the provisions of this act. In order to comply with this requirement, efforts must be made to solicit for review and analysis proposed minority business ventures. Basic loan underwriting standards will not be waived to inconsistently favor minority persons or businesses from the intent of the authority's lending practices;

(v) form one or more subsidiary corporations under K.S.A. 17-6001 et seq., and amendments thereto, in accordance with the procedures therein contained. Each subsidiary corporation shall be subject to the same restrictions and limitations as to the powers and purposes to which the authority is subject. The authority may delegate any of its powers, obligations and duties to any subsidiary corporation by inclusion of such powers, obligations and duties in the articles of incorporation of



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the subsidiary corporation. Subsidiary corporations so formed shall constitute legal entities separate and distinct from each other, the authority and the state except that for purposes of sections 3 to 12, inclusive, and amendments thereto, the Kansas housing resources corporation shall constitute an instrumentality of the state. The authority shall not be liable for the debts or obligations or for any actions or inactions of its subsidiary corporations unless the authority expressly agrees otherwise in writing. The authority may make loans or grants to a subsidiary corporation from time to time to enable the subsidiary corporation to carry out its purposes. The members of the authority shall constitute all of the directors of each subsidiary corporation.

The state, any municipality or any state commission, public authority, agency, officer, department, board or division authorized and empowered to enter into agreements with, to grant, convey, lease or otherwise transfer any property to, or to otherwise transact business with the authority, shall have the same authorization and power to engage in these activities with each subsidiary corporation of the authority.

One or more such subsidiary corporation may be formed for purposes of establishing state tax credit equity funds to assist in the development of low-income and middle-income housing and obtain financing through participation in the program established in section 42 of the federal internal revenue code.

Actions of the authority or any subsidiary corporation relating to housing pursuant to this subsection (v) shall be carried out in accordance with any terms, conditions and limitations relating to policy issues regarding housing, as established by the director of housing in the Kansas development finance authority.

One or more such subsidiary corporations may be formed for purposes of acquiring or

conveying on behalf of the state and pursuant to this act a project of statewide as well as local importance, issuing bonds on behalf of the state pursuant to this act to finance a project of statewide as well as local importance or otherwise financing on behalf of the state pursuant to this act a project of statewide as well as local importance. The Kansas statewide projects development corporation is hereby created in accordance with this section; and

(w) assist, coordinate, administer and participate with out-of-state: Governmental authorities, bodies, issuers and other public and private entities; in connection with the issuance of bonds, notes or other evidence of indebtedness for the purpose of financing any facilities whether such facility is located within or outside of Kansas. In connection with such financings which include out-of-state issuers, the authority is designated as the only entity in Kansas which may conduct the public hearing of the applicable governmental unit required by section 147 (f) of the federal internal revenue code of 1986, as amended, and the governor of Kansas is designated as the only entity in Kansas who may be the applicable governmental unit pursuant to section 147 (f) of the federal internal revenue code of 1986, as amended. Following such hearing the authority shall determine whether such financing should proceed with respect to facilities located within Kansas by an out-of-state issuer. If the authority determines that the financing should not proceed, the financing shall not proceed relative to the Kansas facilities.