

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairman Karin Brownlee at 8:35 A.M. on February 4, 2005 in Room 123-S of the Capitol.

Committee members absent:

Senator Susan Wagle-excused

Committee staff present:

Kathie Sparks, Legislative Research Department
Susan Kannarr, Legislative Research Department
Helen Pedigo, Revisor of Statutes
Jackie Lunn, Committee Secretary

Conferees appearing before the committee:

Martha Neu Smith, Executive Director, Kansas Manufactured Housing Association
Robert Haley, Special Assistant to the President, Kansas Housing Resources Corporation

Others attending:

See attached

Chairperson Brownlee opened the meeting stated the committee would be working **SB 4** today and there were balloons to consider. With that said Chairperson Brownlee introduced Martha Neu Smith, Executive Director, Kansas Manufactured Housing Association to explain the balloon they are offering on **SB 4**.

Ms. Neu Smith referred the committee to a copy of the balloon they have been working on since last Friday. (Attachment 1) Ms. Nu Smith explained the balloon. After explaining the balloon Ms. Neu Smith stated there were still three areas they could not reach an agreement on: the Sunset provision, the right of Inspection and the Dispute Resolution. (Attachment 2) Ms. Neu Smith offered a copy of what they propose for a new Section 10 which is regarding the dispute resolution. (Attachment 3) After a brief summary of the new Section 10, Ms. Neu Smith offered her proposal to the committee.

Upon conclusion of Ms. Neu Smith's proposal, there was some discussion on the Sunset Resolution dispute by the committee.

Chairperson Brownlee introduced Robert Haley, Special Assistant to the President of the Kansas Housing Resources Corporation. Mr. Haley referred to his written testimony (Attachment 4) explaining what the Kansas Housing Resources Corporation is proposing in regard to the three areas in which they are not in agreement. Upon completion of Mr. Haley's summary, he stood for questions from the committee.

There was discussion on the Right of Inspection with Mr. Haley and some discussion on the Dispute Resolution and the Sunset Resolution also.

Chairperson Brownlee proposed an Amendment that would be an alternative to the Sunset provision. (Attachment 5) Chairperson Brownlee briefly summarized the amendment by stating it would require the President of the Kansas Housing Resources Corporation to monitor the progress of the standards obligated by the Federal act and determine whether Kansas was in compliance and report to the Senate Commerce Committee and the House Commerce Committee.

A Motion was made by Senator Barone to adopt amendment presented by Chairperson Brownlee and seconded by Senator Jordan. Motion passed.

Senator Jordan made the motion to accept the New Section 10 submitted by Ms. Neu Smith with a change of language in section c to read "All parties involved in the dispute shall be given an opportunity to be present during the inspection of the home". Senator Barone seconded the motion. Motion passed.

CONTINUATION SHEET

MINUTES OF THE Senate Commerce at 8:35 A.M. on February 4, 2005 in Room 123-S of the Capitol.

Senator Jordan made the motion to accept the technical amendments which would include the words installation, licensed and July throughout. Senator Kelly seconded the motion. Motion passed.

Senator Jordan made the motion to accept the balloon amend with the addition of the change in wording on page 4 which would be a period after thereto with the rest being deleted. Motioned seconded by Senator Barone. Motion passed.

A motion was made by Senator Emler to move **SB 4** out of the committee as amended. Motion seconded by Senator Kelly. Motion passed.

Chairperson Brownlee stated that **SB 33** needed more time. Chairperson Brownlee has asked the subcontractors to furnish her with a copy of the contracts they were working with. There was some discussion among the committee on the **SB 33** retainage issue.

Senator Jordan made the motion to approve the minutes for January 18th and January 19th with a correction of the spelling of Jon Federico to John Federico on January 19th minutes. Motion seconded by Senator Barone. Motion passed.

Chairperson Brownlee announced the committee would not meet on Monday and gave a brief summary of next week's agenda. Meeting adjourned at 9:20 a.m. The next meeting scheduled for Tuesday, February 8, 2005 at 8:30 a.m. in room 123S.

SENATE BILL No. 4

By Joint Committee on Economic Development

12-17

Martha New Smith
KHS Manufactured
Housing Assoc

Senate Commerce Committee
2-4-05

Attachment 1-1

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

15 *Be it enacted by the Legislature of the State of Kansas:*

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

18 (a) "Manufactured home" means a structure which:
19 ~~(1) is subject to the federal act and which is~~ transportable in one or
20 more sections which, in the traveling mode, is 8 body feet or more in
21 width or 40 body feet or more in length, or, when erected on site, is 320
22 or more square feet; and which is built on a permanent chassis and de-
23 signed to be used as a dwelling, with or without permanent foundation,
24 when connected to the required utilities, and includes the plumbing,
25 heating, air conditioning and electrical systems contained therein; and
26 ~~(2) is subject to the federal manufactured home construction and~~
27 ~~safety standards established pursuant to 42 U.S.C. § 5403.~~

28 (b) "Mobile home" means a structure which:
29 ~~(1) is not subject to the federal act and which is~~ transportable in one
30 or more sections which, in the traveling mode, is 8 body feet or more in
31 width and 36 body feet or more in length and is built on a permanent
32 chassis and designed to be used as a dwelling, with or without a perma-
33 nent foundation, when connected to the required utilities, and includes
34 the plumbing, heating, air conditioning and electrical systems contained
35 therein; and

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

38 (c) "Modular home" means a structure which is: (1) Transportable in
39 one or more sections; (2) ~~not constructed on a permanent chassis;~~ (3)
40 designed to be used as a dwelling on a permanent foundation when con-
41 nected to the required utilities, and includes the plumbing, heating, air
42 conditioning and electrical systems contained therein; and (4) (3) certified
43 by its manufacturer as being constructed in accordance with a nationally

, except that such term shall include any structure which meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files with the U.S. department of housing and urban development a certification required by the secretary of housing and urban development and complies with the standards established under the federal act, and except that such term shall not include any self-propelled recreational vehicle

1 recognized building code.

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

4 (e) "Division" means the division of vehicles of the department of
5 revenue.

6 (f) "Director" means the director of vehicles, either acting directly
7 or through officers or agents of the division of vehicles of the department
8 of revenue.

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

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

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

17 (3) bringing together buyers and sellers of manufactured homes or
18 mobile homes.

19 (h) "New manufactured home dealer" means any manufactured
20 home dealer who is a party to a manufactured home sales agreement with
21 a manufactured home manufacturer, which manufactured home sales
22 agreement authorizes the manufactured home dealer to sell, exchange or
23 transfer new manufactured homes or parts and accessories made or sold
24 by such manufactured home manufacturer, and ~~obligates~~ ^{authorizes} the manufac-
25 tured home dealer to fulfill the warranty commitments of such manufac-
26 tured home manufacturer.

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

30 (j) "Manufactured home manufacturer" or "manufacturer" means
31 any person who manufactures, assembles and sells new manufactured
32 homes, *subject to regulation pursuant to the federal act*, to new manu-
33 factured home dealers for resale in this state, *whether such person is*
34 *located within or outside the state of Kansas.*

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

38 (l) "Factory representative" means a representative employed by a
39 manufactured home manufacturer for the purpose of making or promot-
40 ing the sale of its new manufactured homes to new manufactured home
41 dealers, or for advertising or contacting its new manufactured home deal-
42 ers with respect to the promotion and sale of manufactured homes and
43 parts or accessories for the same.

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

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

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

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

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

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

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

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

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

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

34 (u) "Apprentice installer" means a person who is licensed as an ap-
35 prentice installer pursuant to this act.

36 ~~(v) "Authorized installer" means an installer who has met the require-~~
37 ~~ments set forth in this act and rules and regulations promulgated here-~~
38 ~~under, and has been issued a manufactured home installer's license by the~~
39 ~~director.~~

40 ~~(w) "Corporation" means the Kansas housing resources corporation,~~ (v)
41 ~~a not-for-profit subsidiary of the Kansas development finance authority~~
42 ~~incorporated pursuant to K.S.A. 74-8904(v).~~ (w)

43 ~~(x) "Federal act" means the national manufactured housing construc-~~

tion and safety standards act of 1974 (42 U.S.C. §§ 5401 et seq., and amendments thereto), as constituted on the effective date of this act.

~~(x)~~ ["Installation standards" means the standards adopted by the president for the installation and siting of manufactured homes.] (x)

~~(y)~~ ["Installer" means a person engaged in the business of installing manufactured homes on behalf of such person, or on behalf of any other person who has not been issued a manufactured home installer's license under this act.] (y)

(aa) "Municipality" means any city or county in this state.
(bb) "President" means the president of the Kansas housing resources corporation.

(z) "Licensed installer" means an installer who has met the requirements set forth in this act and rules and regulations promulgated hereunder, and has been issued a manufactured home installer's license by the president.

Sec. 2. K.S.A. 58-4205 is hereby amended to read as follows: 58-4205. It is hereby declared to be the public policy of this state to provide for fair and impartial regulation of those persons engaged in manufacturing, distributing or selling of manufactured homes or mobile homes and the installation of manufactured homes. The provisions of the Kansas manufactured housing act which are applicable to such activities shall be administered in such a manner as will continue to promote fair dealing and honesty in the manufactured home and mobile home industry and among those engaged therein without unfair or unreasonable discrimination or undue preference or advantage. It is further declared to be the policy of this state to protect the public interest in the purchase and trade of manufactured homes and mobile homes and the installation of manufactured homes, so as to insure protection against irresponsible vendors and installers and dishonest or fraudulent sales and installation practices.

New Sec. 3. (a) The purposes of sections 3 to 11, inclusive, and amendments thereto, are: (1) To ensure that manufactured homes installed in the state of Kansas are installed in accordance with the requirements and purposes of the federal act; (2) to ensure that persons installing manufactured homes in the state of Kansas are appropriately trained to do so; and (3) to provide for the promulgation of uniform standards which shall be applicable throughout the state to effect the foregoing.

(b) To accommodate realization of the purposes set forth in subsection (a) of this section, the legislature hereby declares its intent to exercise the exclusive power to regulate the installation of manufactured homes and the persons who install manufactured homes. ~~By the enactment of sections 3 to 11, inclusive, and amendments thereto, cities and counties are preempted from the exercise of such regulatory power, and any city ordinance or county resolution in conflict with or contrary to sections 3 to 11, inclusive, and amendments thereto, shall be null and void, except that nothing in this act shall be construed as prohibiting a city or county from inspecting a manufactured home installed in this state after the effective date of this act for the sole purpose of determining that it has~~

, except that municipalities may adopt standards for the installation of manufactured homes which are consistent with the installation standards promulgated pursuant to section 4, and amendments thereto, and any municipality adopting such standards, or amending any standards so adopted, shall notify in writing the corporation within 30 days of the adoption or amendment of the standards. Any notification provided the corporation by a municipality shall include a certification by an appropriate officer of the municipality that the installation standards adopted by the municipality, or as amended, are consistent with the installation standards promulgated by the president.

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1 ~~been installed in compliance with the standards promulgated pursuant to~~
2 ~~section 4, and amendments thereto.~~

3 New Sec. 4. (a) ~~The president shall adopt rules and regulations to~~ installation
4 ~~promulgate uniform standards for the proper installation and siting of~~ installation
5 ~~manufactured homes at the places of occupancy in this state. The stan-~~
6 ~~dards promulgated shall take effect on January 1, 2006, and shall pertain~~
7 ~~to the foundation, support and anchoring systems, underpinning, heating,~~
8 ~~ventilation and air conditioning systems and joinder of sections of such~~
9 ~~manufactured homes.~~ The standards so promulgated shall be reasonable
10 and shall be consistent with the standards established by or pursuant to
11 the federal act. ~~No~~ person, other than the president, shall have authority
12 to amend or alter the uniform standards so adopted.

or on and after the date which is six months from the date the standards promulgated pursuant to the federal act are published in the federal register, whichever is later. The installation standards shall establish reasonable specifications for the installation of a manufactured home, at the place of occupancy, to ensure proper siting, the joining of all sections of the home and installation of stabilization, support or anchoring systems

13 (b) The president may enter into an agreement with the state de-
14 partment of revenue to have such department act as an agent of the
15 corporation for the purposes of sections 3 through 11, and amendments
16 thereto. The corporation and the state department of revenue may
17 exchange information beneficial to the administration of sections 3
18 through 11, and amendments thereto.

The rules and regulations promulgating the installation standards shall be adopted in the manner prescribed by K.S.A. 2004 Supp. 77-421, and amendments thereto, after notice has been given and a hearing held in the manner prescribed by K.S.A. 2004 Supp. 77-421, and amendments thereto. The president may amend or alter the installation standards by duly adopted rules and regulations, but no

19 New Sec. 5. (a) Except as otherwise provided in this section, any
20 person installing manufactured homes in this state on or after ~~January 1,~~ July
21 2006, either shall hold a manufactured home installer's license issued
22 pursuant to this section or shall work under the supervision of an au-
23 ~~thorized installer and hold an apprentice license pursuant to this section.~~ a licensed

24 Each such license shall be valid for a term of three years and may be
25 renewed. The fee for such license and for each renewal thereof shall be
26 \$300, which shall be paid to the corporation by the applicant. From and
27 after ~~January 1, 2006,~~ July
28 pursuant to this section shall be the only authority required for the in-
29 stallation of manufactured homes within this state. The manufactured
30 home installer's license shall entitle ~~an authorized installer~~ a licensed
31 to install man-
32 ufactured homes in this state, including the installation of heating and air
33 conditioning systems and the hookup of electric, gas and water utilities
34 from the utility meters to the manufactured home.

35 (b) On or after ~~January 1, 2006,~~ July
36 additional licensing requirements or require the payment of an additional
37 or separate fee as a condition for the installation of a manufactured home
38 within its boundaries by ~~an authorized installer,~~ a licensed
39 ~~except that nothing~~
40 herein shall be construed as prohibiting a municipality from requiring a
41 building permit as a condition precedent to the installation of a manu-
42 factured home and charging a fee in connection with such building per-
43 mit, or prohibiting a municipality which provides for the inspection of
44 manufactured homes installed in this state, from imposing a reasonable
45 inspection fee.

(c) Nothing in this act shall be construed to require a person who installs a new or previously owned manufactured home on property owned by such person, for occupancy by such person, to obtain a manufactured home installer's license. However, none of the rights, remedies or causes of action provided under sections 3 to 9, inclusive, and amendments thereto, shall be available to any such person.

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

- (1) Be at least 18 years of age;
- (2) complete an installation training course approved by the president;
- (3) submit an application for a license on a form prescribed and furnished by the corporation;
- (4) submit with the license application the required license fee and examination fee, unless the examination fee is to be submitted directly to a person who administers an examination certified by the president, as provided in subsection (f) of this section;
- (5) pass the examination specified in this section as being designed to test the skills necessary to properly install manufactured homes and to ascertain that the applicant has adequate knowledge of the laws applicable to manufactured home installation contracting;
- (6) not have been found responsible in any administrative action by the division or corporation for any violation of the Kansas manufactured housing act or any rules or regulations promulgated thereunder;

(7) submit with the license application proof satisfactory to the president that, within the three years preceding the date the license application is submitted to the corporation, the applicant has not less than two years experience as an installer; and

(8) carry liability insurance in an amount determined by the president pursuant to duly adopted rules and regulations, but such liability insurance shall have limits of not less than \$100,000, and such liability insurance must insure the authorized installer and any apprentice installer working under the supervision of the authorized installer.

(e) Except as otherwise provided in subsection (f), the president shall establish a standard examination for determining the competency of applicants to become authorized installers, based upon codes and standards in effect on the effective date of this act. In developing the standard examination, the president may consult with: (1) Persons who are recognized in the industry for testing persons to determine their qualifications to install manufactured homes and to ascertain that such persons have adequate knowledge of the laws applicable to manufactured home installation contracting, or (2) persons recognized in the industry as having developed installation standards or providing courses or programs to

(i)

, except that for an applicant submitting an application during calendar year 2007, at least one year of the applicant's prior experience shall be as an apprentice installer; and for an applicant submitting an application thereafter, both years of the applicant's prior experience shall be as an apprentice installer

licensed

licensed

licensed

the installation standards

2-4-05

1 ~~educate installers regarding installation of manufactured homes in com-~~
2 ~~pliance with installation standards. For such purpose, the president may~~
3 ~~enter into consulting agreements with such persons.~~

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

- 17 (1) The name and address of the person submitting the application;
- 18 (2) information substantiating the qualifications of the person sub-
- 19 mitting the application,
- 20 (3) the amount of the examination fee to be charged an applicant for
- 21 a manufactured home installer's license;
- 22 (4) a statement as to how, when and where the examination would
- 23 be administered to an applicant for a manufactured home installer's
- 24 license;
- 25 (5) the basis for determining passage of the examination; and
- 26 (6) such other information as the president may require. A copy of
- 27 the examination for which certification is requested shall accompany the
- 28 application.

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

37 An applicant for a manufactured home installer's license shall be fur-
38 nished by the corporation with a list of the examinations which have been
39 certified by the president pursuant to this subsection. The list shall in-
40 clude all of the information necessary to take each of the certified ex-
41 aminations, including the amount of the examination fee to be paid di-
rectly to the person administering the examination by the applicant for a
manufactured home installer's license. The applicant must successfully

1 complete one of the certified examinations on the list.

2 (g) ~~Any person engaged by an authorized installer to assist in the~~ On and after July 1, 2006, a
3 ~~installation of a manufactured home, including an apprentice installer, at~~ a licensed
4 ~~all times shall work under the supervision of an authorized installer. The~~ a licensed

5 ~~authorized installer shall be responsible for all acts or omissions of ap-~~ licensed
6 ~~prentice installers and other persons working under the authorized in-~~ licensed
7 ~~staller's supervision in the installation of a manufactured home.~~

A licensed installer shall be present at the site where the manufactured home is being installed at such times as may be necessary for the licensed installer to ensure that the manufactured home is being installed in accordance with the installation standards.

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

- 11 (1) Must be at least 18 years of age;
- 12 (2) must complete an installation training course approved by the
- 13 president;
- 14 (3) must submit an application for a license on a form prescribed and
- 15 furnished by the corporation;
- 16 (4) must submit with the license application a license application fee
- 17 in the amount of \$50; and
- 18 (5) must not have been found responsible in any administrative action
- 19 by the corporation for any violation of the Kansas manufactured housing
- 20 act or any rules or regulations promulgated thereunder.

21 An apprentice installer's license shall be valid for one year, but may be
22 renewed upon application to the president on a form prescribed by the
23 corporation and payment of a renewal license fee of \$50.

24 (i) An applicant for a license as ~~an authorized installer shall not be~~ manufactured home installer's
25 ~~required to take the examination required by this section in order to~~ a licensed
26 ~~obtain a manufactured home installer's license, if the president finds that~~ the applicant satisfies all of the following requirements

27 (1) The applicant is licensed as an installer by a municipality on the ef- July
28 ffective date of this act; (2) prior to January 1, 2006, the applicant had

29 successfully completed an examination administered by any municipality
30 that is designed to test the skills necessary to properly install manufact-
31 ured homes; and (3) within the three years preceding the date the ap-
32 plicant submitted a license application to the corporation, the applicant
33 had not less than two-years experience either as an installer licensed by
34 any municipality or working under the supervision of an installer licensed
35 by any municipality or as an apprentice installer working under the su- a licensed
36 pervision of ~~an authorized installer.~~

37 New Sec. 6. From and after January 1, 2006, a municipality may July
38 inspect or cause to be inspected by qualified individuals any manufactured
39 home installed within the municipality's jurisdiction after the effective said
40 date of this act. Any such inspection shall be limited to a determination
41 that the installation of the manufactured home complies with the instal-
42 lation standards prescribed by the duly adopted rules and regulations of
43 the president. A municipality may impose a reasonable fee to cover the , or the standards promulgated by the municipality in accordance with section 3

41 that the installation of the manufactured home complies with the instal-
42 lation standards prescribed by the duly adopted rules and regulations of
43 the president. A municipality may impose a reasonable fee to cover the , or the standards promulgated by the municipality in accordance with section 3

1 costs of such inspection. _____ licensed

2 New Sec. 7. (a) No ~~authorized~~ installer, apprentice installer or ap-
3 plicant for a manufactured home installer's license or apprentice in-
4 staller's license shall:

- 5 (1) Violate any lawful order of the president;
- 6 (2) obtain a manufactured home installer's license by fraud or
7 misrepresentation;
- 8 (3) be convicted of or enter a plea of nolo contendere to a crime in
9 any jurisdiction which directly relates to the installation of manufactured
10 homes or the ability to install manufactured homes in that jurisdiction;
11 or
- 12 (4) commit fraud or deceit in the practice of manufactured home
13 installation contracting.

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

- 17 (1) License revocation;
- 18 (2) license suspension;
- 19 (3) a civil penalty not to exceed \$1,000 per violation;
- 20 (4) a requirement to take and pass, or retake and pass, the exami-
21 nation approved by the president;
- 22 (5) a notice of non-compliance; or
- 23 (6) refusal of license application.

24 New Sec. 8. (a) From and after ~~January 1, 2006~~ July _____

- 25 (1) ~~Falsely represent such person or any other person as an author-~~ a licensed
26 ~~ized~~ installer or licensed apprentice installer; _____ a licensed
- 27 (2) falsely impersonate ~~an authorized~~ installer or licensed apprentice
28 installer;

29 (3) present as such person's own the manufactured home installer's
30 license or apprentice installer's license of another;

- 31 (4) knowingly give false evidence to the corporation;
- 32 (5) use or attempt to use any manufactured home installer's license
33 or apprentice installer's license that has been suspended or revoked, or
34 that has expired or is otherwise invalid; or

35 (6) engage in the business of or act in the capacity of ~~an authorized~~ _____ a licensed
36 installer or licensed apprentice installer without being ~~an authorized~~ _____ a licensed
37 installer or licensed apprentice installer, as the case may be.

38 (b) Any person who violates any of the provisions of subsection (a)
39 shall be subject to a civil penalty of not to exceed \$1,000 per violation. If
40 the president or the president's designee determines that any person vi-
41 olating any provision of subsection (a) is not licensed under section 5, and
42 amendments thereto, and is not working under the supervision of ~~an~~ _____ a licensed
43 ~~authorized~~ installer, the president or the president's designee may request

1 the attorney general to file an action in a court of competent jurisdiction,
2 to enjoin that person from engaging in unauthorized activities.

3 New Sec. 9. From and after January 1, 2006, whenever the president
4 or the president's designee has reason to believe that an authorized in- a licensed
5 staller, an apprentice installer or an applicant for a manufactured home
6 installer's license or apprentice installer's license is in violation of any
7 provision contained in sections 3 to 8, inclusive, and amendments thereto,
8 or any rule or regulation adopted thereunder, the president or the pres-
9 ident's designee, either upon the president's or such designee's own mo-
10 tion or upon complaint, may hold a hearing for the purpose of determin-
11 ing whether any of the actions authorized by subsection (b) of section 7,
12 and amendments thereto, is warranted. The hearing shall be conducted
13 and any action taken by the president or the president's designee pursuant
14 to the hearing shall be in accordance with the provisions of the Kansas
15 administrative procedure act.

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

21 ~~(b) If any party submits to the other party or parties a written request
22 to negotiate the dispute, the parties shall first negotiate in good faith to
23 resolve each such dispute. If each such dispute has not been resolved by
24 negotiation within 60 days after the date of the written request to nego-
25 tiate the dispute, then upon the written request of any party to the other
26 party or parties, the parties shall agree upon an independent, qualified
27 mediator to assist the parties in the resolution of each such dispute. If
28 the parties are unable to agree upon a mediator within 30 days after such
29 written request, then any party may submit to the president a written
30 request that the president appoint a mediator, and the president shall
31 appoint an independent, qualified mediator to assist the parties in the
32 resolution of each such dispute. Each party involved in the mediation of
33 a dispute under this section shall be responsible for that party's costs of
34 mediation, including that party's proportionate share of the mediator's
35 fees and expenses.~~

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

39 New Sec. 11. The president may adopt rules and regulations as nec- SEE ATTACHED
40 essary for the implementation of sections 3 through 10, and amendments
41 thereto.

42 New Sec. 12. Any civil penalties or fees paid to the president or cor-
43 poration pursuant to sections 3 to 11, inclusive, and amendments thereto,

1 shall be remitted to the state treasurer in accordance with K.S.A. 75-
2 4215, and amendments thereto. Upon receipt of each such remittance,
3 the state treasurer shall deposit the entire amount in the state treasury
4 to the credit of the state housing trust fund.

5 Sec. 13. K.S.A. 2004 Supp. 74-8959 is hereby amended to read as
6 follows: 74-8959. (a) There is hereby established in the state treasury the
7 state housing trust fund. All moneys credited to the state housing trust
8 fund shall be used for the purposes of housing programs and services
9 including, but not limited to, the provision of financial programs for the
10 repair, rehabilitation and improvement of existing residential housing,
11 accessibility modifications, rental subsidies and the provision of housing
12 services and assistance to persons having low or moderate income and
13 disabled persons and costs and expenditures incurred in implementing
14 sections 3 through 10, and amendments thereto, of the Kansas manufac-
15 tured housing act.

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

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

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

26 (1) The average daily balance of moneys in the state housing trust
27 fund for the preceding month; and

28 (2) the net earnings rate for the pooled money investment portfolio
29 for the preceding month.

30 New Sec. 14. Sections 3 to 11, inclusive, and amendments thereto,
31 shall be a part of and supplemental to the Kansas manufactured housing
32 act.

33 Sec. 15. K.S.A. 58-4205 and K.S.A. 2004 Supp. 58-4202 and 74-8959
34 are hereby repealed.

35 Sec. 16. This act shall take effect and be in force from and after its
36 publication in the Kansas register.



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The three areas we could not reach an agreement on are:

Sunset provision

KMHA's position:

- The federal law does not sunset.
- The program can be evaluated without a sunset provision.

Right of Inspection – KHRC would like language in the law that 1) states homeowners have the right to have their homes inspected 2) would require the industry to distribute notification.

KMHA's position:

- Homeowners already have the right to any inspection
- What happens if the homeowner says he/she did not receive the notice?
- Violation of the Manufactured Housing Act

Dispute Resolution – KHRC has three requirements: 1) Consumer pays no more than \$100 2) No cost to KHRC and 3) The program meets the federal requirement.

KMHA's position:

- KMHA's New Section 10 meets two of KHRC's three requirements: 1) No cost to KHRC and 2) Meets the federal requirement.

Senate Commerce Committee

2-4-05

Attachment 2-1

New Sec. 10. (a) If the owner of a manufactured home which is installed on or after July 1, 2006, believes that the manufactured home is not in compliance with the installation standards or the federal act, the owner may file an application with the corporation for an inspection of the manufactured home by a qualified inspector. The application shall be submitted on a form prescribed by the corporation and shall be accompanied by a non-refundable application fee of \$100.00. Upon receipt of the application and fee, the president shall designate a qualified inspector to conduct an inspection of the manufactured home, to determine the validity of the owner's complaint, and the president, within three days thereafter, shall give to all parties involved in the dispute, written notice of the filing of the owner's application and the designation of the qualified inspector.

(b) The president shall adopt such rules and regulations as may be necessary to provide for the inspection of a manufactured home pursuant to this section and to otherwise provide for the implementation of this section.

(c) All parties involved in the dispute shall be present during the inspection of the home. At the completion of the inspection, the inspector shall prepare a written report of the inspector's findings of defects, if any. The report shall be submitted to the president, and copies of the report shall be given at the same time to all parties involved in the dispute. Within 10 days of receipt of the inspector's report, any party involved in the dispute may file with the president written objections to the inspector's report. A copy of any party's written objections shall, at the same time, be provided to the other parties.

(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. If no party prevails on all issues, the president shall assess the costs to the parties in such proportion as the president deems just and equitable.

(e) Any party aggrieved by the president's order may file a written request for a hearing within 10 days of the date of the order. The hearing shall be conducted and any action taken by the president or the president's designee pursuant to the hearing shall be in accordance with the provisions of the Kansas administrative procedure act.

Senate Commerce Committee

24-05

Attachment 3-1

KANSAS HOUSING RESOURCES CORPORATION

To: Senate Commerce Committee
From: Robert Haley, Special Assistant to the President
Subject: Senate Bill 4 Compromises
Date: February 4, 2005

Following the January 28, 2005, Committee hearing on Senate Bill 4 the Kansas Manufactured Housing Association and the Kansas Housing Resources Corporation have worked to find mutually acceptable solutions to the issues that were outstanding at that time. We believe that we have found mutually acceptable compromises on some of the issues.

The Kansas Housing Resources Corporation proposes the following four changes to the bill balloon presented by the Kansas Manufactured Housing Association.

First, 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.

Second, 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 (c) All parties involved in the dispute shall be given an opportunity to be present during the inspection of the home...

(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.

Senate Commerce Committee

24-05

Third, we believe that there should be a statutory commitment to reviewing and modifying, as necessary, the impact for this legislation. 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.

Fourth, in order to have a basis for certifying to HUD that Kansas was in compliance with the federal law, KHRC originally proposed that local governments provide assurance that any locally adopted installation standards satisfied the federal requirements. Upon further review, we agree that this is not necessary. The following amendment to the KMHA proposal will delete this requirement.

Sec 2 (b) To accommodate realization of the purposes set forth in subsection (a) of this section, the legislature hereby declares its intent to exercise the exclusive power to regulate the installation of manufactured homes and the persons who install manufactured homes, except that municipalities may adopt standards for the installation of manufactured homes which are consistent with the installation standards promulgated pursuant to section 4, and amendments thereto. ~~and any municipality adopting such standards, or amending any standards so adopted, shall notify in writing the corporation with 30 days of the adoption or amendment of the standards. Any notification provided the corporation by a municipality shall include a certification by an appropriate officer of the municipality that the installation standards adopted by the municipality, or as amended, are consistent with the installation standards promulgated by the president.~~

1 *tion and safety standards act of 1974 (42 U.S.C. §§ 5401 et seq., and*
2 *amendments thereto), as constituted on the effective date of this act.*

3 (y) *“Installation standards” means the standards adopted by the pres-*
4 *ident for the installation and siting of manufactured homes.*

5 (z) *“Installer” means a person engaged in the business of installing*
6 *manufactured homes on behalf of such person, or on behalf of any other*
7 *person who has not been issued a manufactured home installer’s license*
8 *under this act.*

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

10 (bb) *“President” means the president of the Kansas housing resources*
11 *corporation.*

12 Sec. 2. K.S.A. 58-4205 is hereby amended to read as follows: 58-
13 4205. It is hereby declared to be the public policy of this state to provide
14 for fair and impartial regulation of those persons engaged in manufac-
15 turing, distributing or selling of manufactured homes or mobile homes
16 *and the installation of manufactured homes.* The provisions of the Kansas
17 manufactured housing act which are applicabl~~e~~ to such activities shall be
18 administered in such a manner as will continue to promote fair dealing
19 and honesty in the manufactured home and mobile home industry and
20 among those engaged therein without unfair or unreasonable discrimi-
21 nation or undue preference or advantage. It is further declared to be the
22 policy of this state to protect the public interest in the purchase and trade
23 of manufactured homes and mobile homes *and the installation of man-*
24 *ufactured homes*, so as to insure protection against irresponsible vendors
25 *and installers* and dishonest or fraudulent sales *and installation* practices.

26 New Sec. 3. (a) The purposes of sections 3 to 11, inclusive, and
27 amendments thereto, are: (1) To ensure that manufactured homes in-
28 stalled in the state of Kansas are installed in accordance with the require-
29 ments and purposes of the federal act; (2) to ensure that persons installing
30 manufactured homes in the state of Kansas are appropriately trained to
31 do so; and (3) to provide for the promulgation of uniform standards which
32 shall be applicable throughout the state to effect the foregoing.

33 (b) To accommodate realization of the purposes set forth in subsec-
34 tion (a) of this section, the legislature hereby declares its intent to exercise
35 the exclusive power to regulate the installation of manufactured homes
36 and the persons who install manufactured homes. By the enactment of
37 sections 3 to 11, inclusive, and amendments thereto, cities and counties
38 are preempted from the exercise of such regulatory power, and any city
39 ordinance or county resolution in conflict with or contrary to sections 3
40 to 11, inclusive, and amendments thereto, shall be null and void, except
41 that nothing in this act shall be construed as prohibiting a city or county
42 from inspecting a manufactured home installed in this state after the
43 effective date of this act for the sole purpose of determining that it has

PROPOSED AMENDMENT TO SB 4
SENATOR BROWNLEE
FEBRUARY 4, 2005

Senate Commerce Committee

Attachment

or a licensed inspector

1 been installed in compliance with the standards promulgated pursuant to
2 section 4, and amendments thereto.

3 New Sec. 4. (a) The president shall adopt rules and regulations to
4 promulgate uniform standards for the proper installation and siting of
5 manufactured homes at the places of occupancy in this state. The stan-
6 dards promulgated shall take effect on January 1, 2006, and shall pertain
7 to the foundation, support and anchoring systems, underpinning, heating,
8 ventilation and air conditioning systems and joinder of sections of such
9 manufactured homes. The standards so promulgated shall be reasonable
10 and shall be consistent with the standards established by or pursuant to
11 the federal act. No person, other than the president, shall have authority
12 to amend or alter the uniform standards so adopted.

13 (b) The president may enter into an agreement with the state de-
14 partment of revenue to have such department act as an agent of the
15 corporation for the purposes of sections 3 through 11, and amendments
16 thereto. The corporation and the state department of revenue may
17 exchange information beneficial to the administration of sections 3
18 through 11, and amendments thereto.

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

34 (b) On or after January 1, 2006, no municipality may impose any
35 additional licensing requirements or require the payment of an additional
36 or separate fee as a condition for the installation of a manufactured home
37 within its boundaries by an authorized installer, except that nothing
38 herein shall be construed as prohibiting a municipality from requiring a
39 building permit as a condition precedent to the installation of a manu-
40 factured home and charging a fee in connection with such building per-
41 mit, or prohibiting a municipality which provides for the inspection of
42 manufactured homes installed in this state, from imposing a reasonable
43 inspection fee.

The use of a licensed inspector shall be at
the request and expense of the purchaser.
The president shall post a list of licensed
inspectors and contact information on a web
site accessible to the purchaser.

Sec. 4

(c) The president shall monitor the progress
of standards promulgated pursuant to the
federal act, shall determine whether the state
of Kansas is in compliance with the federal
standards and shall report such activity and
recommend action necessary to bring
Kansas into compliance with the federal act.
Such report shall be delivered to the senate
commerce committee and the house
commerce and labor committee by February
1 of each year.