

By: King of Hemphill

H.B. No. 3892

A BILL TO BE ENTITLED

AN ACT

relating to the regulation and industrial Housing and buildings.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 7, Occupations Code, is amended by adding a new Chapter 1203 to read as follows:

SECTION 1

CHAPTER 1203. MODULAR DWELLING SYSTEM REGULATION

Sec. 1203.001. LEGISLATIVE FINDINGS AND POLICY

a. The legislature finds that:

(1) there is a continuing need to provide safe, affordable, and well-constructed housing;

(2) regulations in connection with industrial housing, mobile homes, and manufactured homes, along with partial building systems such as structurally insulated panels serve the state well;

(3) private construction creativity and market forces has driven new, innovative housing construction techniques, including modular, complete residential building systems, from preapproved, components or modules that are manufactured off-site, transported to a site for final assembly and completion on a permanent foundation;

(4) because of the nature of construction, modular, complete residential building system assembly presents unique opportunities to optimize uniform health and safety standards at

1 the place of manufacture, while minimizing inspection procedures
2 and time delays associated with traditional on-site inspection
3 procedures.

4 (5) there is a significant public benefit to
5 encouraging home ownership, by utilizing modular, complete
6 residential building construction techniques to address the
7 growing need for safe, affordable, and well-constructed housing;

8 Sec. 1203.002 SUBCHAPTER A. GENERAL PROVISIONS

9 Sec. 1203.003. APPLICABILITY OF CHAPTER. (a) Except as
10 otherwise provided by this chapter, this chapter applies
11 exclusively to a modular, complete residential dwelling for
12 residential occupancy by one or more families. Unless clearly
13 indicated otherwise by context, the following words and terms when
14 used by this chapter, shall have the following meanings.

15 Sec. 1203.003 GENERAL DEFINITIONS. In this chapter:

16 (1) "Commission" means the Texas Commission of
17 Licensing and Regulation.

18 (2) "Council" means the Texas Industrialized Building
19 Code Council.

20 (3) "Department" means the Texas Department of
21 Licensing and Regulation.

22 (4) "Executive director" means the executive director
23 of the department.

24 Sec. 1203.004 DEFINITIONS FOR MODULAR RESIDENTIAL
25 DWELLINGS. In this chapter:

26 (1) "Modular residential technique" means a method of
27 construction that utilizes a pre-engineered, complete building

1 assembly or system of building subassemblies, designed, built and
2 constructed in one or more three dimensional modules in a factory
3 that are transported to a residential site for assembly and
4 finishing.

5 (2) "Modular Residential Dwellings" means a structure
6 designed and built for residential use and constructed using a
7 modular technique in one or more three dimensional modules in a
8 factory, designed, and built utilizing an agency approved method of
9 construction that consists of pre-engineered, inspection
10 factory-fabricated sections that are transported to a site for
11 final assembly and finishing to completion on a permanent
12 foundation for residential occupancy by one or more families and
13 including the necessary electrical, plumbing, heating,
14 ventilation, and other service systems, which is of closed
15 construction,. Modular residential dwelling does not include
16 mobile homes, recreational vehicles, or manufactured homes. A
17 modular residential dwelling located in Texas is regulated by the
18 Texas Department of Licensing and Regulation.

19 (3) "Approved foundation and support system" means,
20 for a modular residential dwelling unit, a closed perimeter
21 formation consisting of materials such as concrete, mortared
22 concrete block, mortared brick, steel, or treated lumber extending
23 into the ground.

24 (2) "Closed construction" is any residential building
25 component, assembly or system manufactured in such a manner that
26 all portions cannot readily be inspected at the installation site
27 with disassembly, damage to, or destruction thereof.

1 (3) "Code compliance certificate" means the
2 certificate provide by the manufacturer or builder to the
3 Department that warrants that the modular residential dwelling unit
4 complies with appropriate safety codes as established by the
5 Department. The Codes shall contain the standards and requirements
6 for modular residential dwellings so that adequate performance for
7 the intended use is made to test the acceptability, provided that
8 the structural requirements adopted for modular residential
9 dwellings shall be no more stringent than the requirements
10 contained in the most recent edition of the International
11 Residential Code for One and Two Family Dwellings or the
12 International Building Code, as applicable. The Code of Standards
13 shall permit the use of new technology, techniques, methods and
14 materials for modular residential dwellings, consistent with
15 recognized and accepted codes and standards developed by the
16 International Code Council, the National Fire Protection
17 Association, the International Association of Plumbing and
18 Mechanical Officials.

19 (4) "Approved Inspection Agency" means a person,
20 organization or local government approved by the executive director
21 to be especially qualified by reason of facilities, personnel,
22 experience, and demonstrated reliability, to investigate, test,
23 evaluate and inspect modular residential dwelling units, systems,
24 or the component parts of modular residential dwelling units
25 together with the plans, specifications, and quality control
26 procedures to ensure that such units, systems, or component parts
27 are in full compliance with the minimum standards adopted by the

1 executive director pursuant to this part and to label such units
2 complying with those standards. Any person, or any organization
3 whose membership is composed of persons, employed by a manufacturer
4 of modular residential dwelling units or owning any interest in any
5 such manufacturing business, shall be ineligible for approval by
6 the executive director to serve as an inspection agency.

7 (5) "Installation" means the assembly of a modular
8 residential dwelling or dwellings onsite and/or the process of
9 affixing a modular residential dwelling unit or dwellings, which
10 may include the structural, electrical, mechanical, plumbing, fire
11 protection, or other structurally integrated system or systems
12 thereof affecting life safety;

13 (6) "Installer" a company or general contractor
14 certified by the department that is responsible for design,
15 engineering, manufacturing, and installation the components for a
16 modular residential dwelling unit at the final onsite location
17 pursuant to the Original Building Manufacturer's (OBM)
18 instructions.

19 (7) "Person" means any individual, group of
20 individuals, association, trust, partnership, limited liability
21 company, corporation, person doing business under an assumed name,
22 county, municipality, the State of Texas, or any political
23 subdivision or department thereof, or any other entity.

24 (8) "Complete application" means a submitted plan,
25 application for construction of a modular residential building
26 unit, or request for inspection that contains all the information
27 and supporting documentation required by the county or municipality

1 for it to make the determination as to whether the plan,
2 application, or request is in compliance with regulatory
3 requirements of this Act and department rules.

4 (8) "Certification". The department shall issue an
5 authorizing certification to any manufacturer or installer upon
6 submittal of an application that is supported by affidavit in
7 addition to other evidence which the department deems necessary to
8 satisfy itself that the person meets the modular residential
9 dwelling criteria and that the project is compliant with this Act
10 and thereby approved to manufacture, install, rent, sell, or offer
11 for sale a modular residential dwelling.

12 (9) "Modular Residential Dwelling Fund", is a fund
13 established within the department's budget, consisting of fines and
14 penalties, subject to appropriation, be used for enforcement of
15 this Act.

16 Sec. 1203.005 PREREQUISITES TO SALE OR INSTALLATION (a)
17 After the effective date of the rules adopted pursuant to this part,
18 no modular residential dwelling shall be offered for sale, sold, or
19 installed in this state, unless it is approved and bears the
20 insignia of approval of the executive director, the executive
21 director's designee, or an approved inspection agency. It is
22 unlawful for any person to manufacture, rent, sell, or offer for
23 sale for location within this State, any modular residential
24 dwelling unless such modular residential dwelling complies with
25 this Act and all rules adopted by the department.

26 (b) All modular residential dwelling units manufactured in
27 this state, or intended to be offered for sale, sold, or installed

1 in this state, shall be inspected by the executive director, the
2 executive director's designee, or an approved inspection agency, at
3 the place of manufacture of the modular residential dwelling unit.

4 (c) No more than 30 days after receipt of both a modular
5 residential dwelling unit or project application and the affidavit
6 from a qualifying manufacturer, installer or construction
7 contractor, the department shall issue the requested authorization
8 or provide written notice to the applicant identifying the specific
9 plan features that do not comply with the applicable regulatory
10 requirements, as well as the specific code chapters and sections of
11 such regulatory requirements. If the department or any local
12 governing authority fails to provide written notice of alleged
13 deficiencies with the prescribed 30-day period, the permit
14 application shall be deemed approved as a matter of law and the
15 project can proceed.

16 (d) Nothing in this chapter prohibits a city, town, village,
17 or county from adopting construction standards for modular
18 residential dwelling units under local ordinances, provided such
19 ordinances are in substantial compliance with state requirements
20 and reviewed and approved by the department.

21 (e) No local standard relating to the construction or
22 installation of modular residential dwelling units shall be
23 applicable to any modular residential dwelling unit subject to this
24 part, unless such standard is identical to that set by the
25 department pursuant to this Chapter. Any residential modular
26 dwelling unit bearing an insignia of approval issued by the
27 executive director, the executive director's designee, or an

1 approved inspection agency pursuant to this part, shall be deemed
2 to comply with any local standard relating to the construction of
3 modular residential dwelling units.

4 (f) Subject to subdivision 1203.005(C), a local government
5 may make, and charge a fee for, an inspection of the installation of
6 a modular residential dwelling unit. Any such fee shall not exceed
7 the amount charged for the equivalent inspection on conventionally,
8 onsite, built housing.

9 (e) Local land use and zoning requirements, flood control
10 areas, are specifically and entirely reserved to local government.
11 Such local requirements and rules that may be enacted by a local
12 government must be reasonable and uniformly applied and enforced
13 without any distinction as to whether a residential dwelling is
14 conventionally, onsite, constructed or a modular residential
15 dwelling under this Chapter.

16 (f) Modular residential dwelling units bearing an insignia
17 of approval issued by the executive director, the executive
18 director's designee, or an approved inspection agency pursuant to
19 this part shall not be modified prior to or during installation,
20 except in conformance with the rules of the executive director.

21 (g) The department shall promulgate a standard form notice
22 and a standard form certificate that shall be used to administer
23 this Act. Any local inspectors shall make copies of the standard
24 forms available to contractors.

25 (h) Upon submission of the certification required by this
26 subsection, the local governing authority shall be required to
27 accept the inspection without the necessity of further inspection

1 or approval, except that the local governing authority may perform
2 an inspection at any time and may issue a stop-work order for the
3 project or any portion thereof as provided by law, after giving
4 prompt, written notice to the manufacturer or installer, or the
5 contractor of record, if the work is found to be in violation of
6 code requirements.

7 (i) If a local governing authority issues a stop-work order,
8 the local official shall be available to meet with the person
9 responsible for manufacturing, installing, or constructing the
10 modular residential dwelling unit within two-business days to
11 resolve any dispute.

12 Sec. 1203.006 POWERS AND DUTIES OF THE EXECUTIVE DIRECTOR

13 (A) The executive director shall enforce and administer this part.

14 (1) The executive director shall promulgate such rules
15 and regulations as the executive director finds necessary to
16 protect health and safety of the public against dangers inherent in
17 the use of substandard construction and unsafe plumbing, electrical
18 and heating systems, and other appropriate regulations to carry out
19 this part, in accordance with the Texas Administrative Procedures
20 Act found in Title 10, Chapter 2001, Texas Government Code.

21 (2) The executive director may impose an
22 administrative penalty against any person who violates this Act, or
23 any rule adopted under this Act, or who violates any determination
24 or order of the department under this Act. The department shall
25 establish violations and penalties by rule, with each day's
26 violation constituting a separate offense. The maximum penalty
27 shall be \$1,000 per day per violation. All penalties collected

1 under this section shall be deposited into the "Modular Residential
2 Dwelling Fund", subject to appropriation, moneys in the Fund shall
3 be used for enforcement of this Act.

4 (3) The executive director is authorized to require
5 licenses of manufacturers, and any other person involved in the
6 construction, installation, sale, or lease of a modular residential
7 dwelling unit, and to set reasonable fees and conditions for such
8 licenses.

9 (4) The executive director may also establish record
10 keeping requirements from manufactures and installers.

11 (B) In addition to any other powers conferred on the executive
12 director by law, the executive director is authorized to perform
13 necessary inspection of manufacturing facilities and products to
14 implement the provisions of this Act, including:

15 (1) Prescribe all forms required to be filed pursuant
16 to this part;

17 (2) Establish a schedule of fees to pay the cost
18 incurred by the department for the administration and uniform
19 enforcement of the codes consistent with rules, regulations and
20 interpretations promulgated by the department;

21 (3) Appoint and employ such qualified personnel as are
22 necessary to carry out the duties imposed upon the executive
23 director by this part;

24 (4) Delegate inspection authority under this part, by
25 contract or other agreement, to local governments, private persons,
26 corporations, associations, and agencies of other states, as an
27 approved inspection agency; and

1 (5) After notice and opportunity for hearing to an
2 applicant or insignia holder, may deny, suspend, or revoke a
3 certification or asses a civil penalty not to exceed five thousand
4 dollars (\$5,000) for each violation of this Act in any case where a
5 finding of substantial failure to comply with the provisions of
6 this Act or the minimum standards, rules and regulations adopted by
7 the department under this Act.

8 (6) All final administrative or civil penalty
9 decisions by the executive director shall be subject to judicial
10 review.

11 (C) If a modular residential dwelling is manufactured, sold, or
12 installed in violation of this part, the executive director may
13 require:

14 (1) The manufacturer or installer in violation of this
15 part to provide the executive director with as-built plans to be
16 evaluated and approved by the executive director for compliance
17 with state building codes;

18 (2) The manufacturer or installer in violation of this
19 part to make available for inspection any components and concealed
20 spaces of the structure and to repair any damages made when making
21 the components and concealed spaces available for inspection;

22 (3) Inspections to be made during the remanufacturing
23 process and may require that closed construction or concealed
24 spaces be opened or made accessible as necessary to determine that
25 components comply with state building codes; and

26 (4) The manufacturer or installer to be responsible
27 for all costs or expenses incurred pursuant to this subsection (c).

1 Sec. 1203.007 RECIPROCITY - INTERSTATE AGREEMENTS If the
2 executive director determines that the minimum standards for
3 construction and inspection of modular residential dwelling units
4 prescribed by statute or rule of another state are at least equal to
5 rules prescribed under this part and that such standards are
6 enforced by such other state, the executive director may negotiate
7 and enter into reciprocal agreements with appropriate officials of
8 other states.

9 SECTION 2. This Act does not make an appropriation. A
10 provision in this Act that creates a new governmental program,
11 creates a new entitlement, or imposes a new duty on a governmental
12 entity is not mandatory during a fiscal period for which the
13 legislature has not made a specific appropriation to implement the
14 provision.

15 SECTION 3. (a) As soon as practicable after the effective
16 date of this Act, the executive director of the Texas Department of
17 Licensing and Regulation shall adopt rules as necessary to
18 implement the changes in law made by this Act.

19 (b) As soon as practicable after the effective date of this
20 Act, the Texas Commission of Licensing and Regulation shall adopt
21 rules necessary to implement the changes in law made by Chapter
22 1203, as added by this Act.

23 SECTION 40. This Act takes effect immediately if it
24 receives a vote of two-thirds of all the members elected to each
25 house, as provided by Section 39, Article III, Texas Constitution.
26 If this Act does not receive the vote necessary for immediate
27 effect, this Act takes effect September 1, 2023.