LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 27, 2007

TO: Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB1460** by Haggerty (relating to licensing, acquisition, and regulation of manufactured housing; providing penalties.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1460, Committee Report 1st House, Substituted: a negative impact of ($2,051,363) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	($1,056,388)
2009	($994,975)
2010	($994,975)
2011	($994,975)
2012	($994,975)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *GENERAL REVENUE FUND* 1	Probable Savings/ (Cost) from *GENERAL REVENUE FUND* 1	Probable Revenue Gain/(Loss) from *MFG HOMEOWNER RECOVERY FD* 926	Change in Number of State Employees from FY 2007
2008	($918,000)	($138,388)	$918,000	1.5
2009	($918,000)	($76,975)	$918,000	1.0
2010	($918,000)	($76,975)	$918,000	1.0
2011	($918,000)	($76,975)	$918,000	1.0
2012	($918,000)	($76,975)	$918,000	1.0

Fiscal Analysis

The bill would amend the Occupations Code, the Government Code, and the Tax Code, relating to the taxation, licensing, acquisition, and regulation of manufactured housing.

The bill would amend Chapter 1201 of the Occupations Code to expand the definition of a manufactured home or manufactured housing, including new or used homes. The bill would raise the amount of bond required for a rebuilder license to $50,000 (from $30,000) and for an installer's license to $25,000 (from $10,000) and add a new $50,000 bond for each additional branch location of a retailer.

The bill would reactivate the currently inactive Manufactured Homeowner's Recovery Trust Fund 0926 as a dedicated fund held in trust for carrying out the purposes of the fund. Administrative penalties and $10 of each statement of ownership and location fee would be deposited to the credit of the fund. The executive director of the Texas Department of Housing and Community Affairs (TDHCA) would administer the fund.

The bill would require a retailer to surrender the original manufacturer's statement of origin at the first retail sale and apply for a statement of ownership and location within 60 days. Failing to meet the deadline could lead to an administrative penalty of not less than $100 against the seller.

Persons whose license was revoked, suspended, or denied could request a hearing conducted by the State Office of Administrative Hearings. Penalties would be forwarded to TDHCA for deposit to an escrow account.

The bill would amend Chapter 2306 of the Government Code relating to the criteria TDHCA would consider in determining the amount of an administrative penalty assessed against a housing sponsor or development owner.

The bill would amend Chapter 11 of the Tax Code to allow a person seeking a homestead exemption to provide a copy of the current title page for a manufactured home from the TDHCA website or other computer records of TDHCA. An exemption could be obtained regardless of the owner's election to treat the home as real property or personal property or if the home was listed with or separately from the real property.

The bill would limit the time a tax lien could be recorded on a home to no later than six months, following the end of a calendar year for which a tax was owed. A properly recorded tax lien could be enforced, but not against the owner of a new home when acquired from a retailer in the ordinary course of business. Title could not be transferred on a home until all tax liens perfected on a home were filed in a timely manner with TDHCA and all personal property taxes accruing on each January 1 within 18 months of the date of the sale were extinguished or satisfied and released.

The bill would place limits on the use of tax warrants in foreclosure, and it would give taxpayers the right to designate payments to a tax year. If a home had been omitted from a tax roll at any time before the second anniversary of the date taxes were due, a taxing unit could file a tax lien no later than the 150th day after the date the tax became delinquent.

The bill would require a taxing unit to provide a prospective buyer of a home with an estimate of personal property taxes due, accept payment in escrow and certify that information to TDHCA, apply payments when due, and notify a new owner of any liability that might be due.

The bill would take effect September 1, 2007. The changes relating to ad valorem taxes would apply beginning January 1, 2008.

Methodology

The bill would raise the amount of bond required from an applicant for a rebuilder license to $50,000 (from the current $30,000) for an installer's license to $25,000 (from the current $10,000) and add a new $50,000 bond for each additional branch location of a retailer. There would be no fiscal impact to the state for this change.

The changes relating to qualification for the homestead exemption and the informational and other requirements imposed on taxing units cannot be estimated.

The bill would reactivate the currently inactive Manufactured Homeowner's Recovery Trust Fund 0926 as a dedicated fund held in trust for carrying out the specific purposes of the fund. Administrative penalties—estimated to be $18,000 annually—now dedicated to the General Revenue Fund 0001 would be dedicated to the trust fund. In addition, $10 of each $55 fee collected for a statement of ownership and location and currently deposited to Fund 0001 would be deposited to the trust fund. TDHCA estimates that 90,000 statements are sold each fiscal year. The table above reflects the Comptroller's estimate of revenue loss to General Revenue and subsequent gain to the Trust Fund.

Currently, the Manufactured Housing Division of the Texas Department of Housing and Community Affairs has no staff attorneys and the Office of the Attorney General’s (OAG) Administrative Law Division provides all legal services for general counsel, enforcement, and administrative law litigation. The bill creates numerous new rights to contested case hearings. The new provisions in the bill requiring a licensee against whom administrative action is taken to request a contested case hearing (rather than the Department being required to provide one whether requested or not) is anticipated to somewhat offset the total increase in contested case hearings. However, the need for an additional attorney to handle enforcement would still be required (as reflected in the filed version of HB 1460) due to the added provisions in the bill.

The new rule making requirements are anticipated to require additional provision of general counsel services. Additionally, implementation of the bill is anticipated to require additional provision of general counsel services based on historical use of these services. General counsel services are reduced from the filed version of HB 1460 since the committee substitute is less complicated. The Department will require less counsel because the provisions relating to tax lien recordation and enforcement have been removed. Those provisions were anticipated to be difficult to interpret and advise the Department. Nonetheless, this bill still requires new agency rule making and will require additional counsel to implement in the first year.

With the passage of this bill, the OAG would require an appropriation and additional FTEs beyond the FTE cap for the FY 2008-2009 biennium. The OAG’s Administrative Law Division would require ½ FTE assistant attorney general (AAG) IV in FY 2008 only for general counsel work related to adoption of the new rules and implementation of the bill. In fiscal years 2008-2012, 1.0 FTE (AAG II) would be needed for enforcement. The OAG would require an appropriation and additional FTEs beyond the FTE cap for the FY 2008-2009 biennium.

The fiscal impact to the OAG in fiscal year 2008 is $138,388 and $76,975 in each fiscal year 2009-2012 thereafter. The total cost over the five-year period is $446,288. The method of finance is General Revenue Fund (Fund 0001).

The bill would create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Therefore, the fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Technology

The one-time technology impact to the Office of the Attorney General is $2,787 in FY 2008 for network stations and software.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 332 Department of Housing and Community Affairs

LBB Staff: JOB, JRO, SD, SJS