LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 20, 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 the licensing, acquisition, and regulation of manufactured housing.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1460, As Introduced: a negative impact of ($1,568,720) 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	($792,080)
2009	($776,640)
2010	($776,640)
2011	($776,640)
2012	($776,640)

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 *APPROPRIATED RECEIPTS* 666	Probable Revenue Gain/(Loss) from *MFG HOMEOWNER RECOVERY FD* 926
2008	($600,000)	($192,080)	($905,000)	$600,000
2009	($600,000)	($176,640)	($897,200)	$600,000
2010	($600,000)	($176,640)	($897,200)	$600,000
2011	($600,000)	($176,640)	($897,200)	$600,000
2012	($600,000)	($176,640)	($897,200)	$600,000

Fiscal Year	Change in Number of State Employees from FY 2007
2008	5.0
2009	5.0
2010	5.0
2011	5.0
2012	5.0

Fiscal Analysis

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

The bill would amend Chapter 11 of the Tax Code to clarify that a homestead exemption would be claimed on a personal property manufactured home and that a taxing authority would rely on the computer records on the Texas Department of Housing and Community Affairs (TDHCA) website to verify the status of a homestead exemption as an alternative to a copy of a statement of ownership and location. The bill would note the requirements necessary for a tax assessor-collector to enter into a contract to establish an escrow account with a property owner for the payment of property taxes.

The bill would establish that a valid tax lien filed timely with TDHCA would be deemed notice of a lien, require the payment of personal property taxes accrued on each January 1 within 18 months of the date of sale in order to transfer title, place limits on the use of tax warrants in foreclosure, and give taxpayers the right to designate payments to a tax year.

Under the bill, a person with ownership interest in a home who believed that a collector or appraiser was acting in disregard of the law could file a complaint with the Comptroller. The bill would require the Comptroller to receive complaints, conduct administrative hearings, issue mandates, and forward unresolved complaints to the Attorney General's Office. District courts would impose fines and penalties for failure to comply with the Comptroller's mandates.

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, apply payments when due, and notify a new owner of any liability that might be due. The bill would allow a prospective buyer (when seeking certification from a tax assessor-collector that taxes have been paid) to pay two years back taxes if a home had been omitted from the tax rolls by mistake.

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. In addition, the bill would raise the amount of bond required from an applicant for a rebuilder license to $50,000 (from the current $30,000) and for an installer's license to $50,000 (from the current $10,000).

The bill would reactivate the currently inactive Manufactured Homeowner's Recovery Trust Fund 0926 as the Manufactured Homeowner's Recovery 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 45 days. Failing to meet the deadline, if repeatedly violated, would lead to the revocation or suspension of a license and allow the board to assess administrative penalties ranging from $1,000 for a first violation to $4,000 for each subsequent violation. Persons not licensed or failing to take required actions would face an administrative penalty not to exceed $10,000, plus other reasonable fees and expenses. Persons operating without a license would commit an offense punishable as a class A or B misdemeanor and would be liable for damages. Violations would be subject to an administrative penalty not to exceed $1,000 per day for each violation. Penalties would be deposited to the credit of the fund.

The bill would amend Chapter 347 of the Finance Code, relating to the rights and responsibilities of an owner of a security interest in a home and the precedence of liens on a home.

The bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2007.

Methodology

The bill would broaden the definition of a manufactured home to include homes smaller in size than "HUD-code" manufactured homes, sometimes referred to as "park models." Because there are no data on the number of these homes in existence, the fiscal impact of this provision cannot be estimated.

The bill would amend Chapter 11 of the Tax Code to clarify that a homestead exemption may be claimed on a personal property manufactured home and that a taxing authority would rely on the computer records on the Texas Department of Housing and Community Affairs (TDHCA) website to verify the status of a homestead exemption as an alternative to a copy of a statement of ownership and location. This language would not change current law regarding the eligibility of mobile homes for homestead exemptions, and it would not create a significant cost to local governments or to the state.

Under the bill, a person with ownership interest in a home who believed that a collector or appraiser was acting in disregard of the law could file a complaint with the Comptroller. The bill would require the Comptroller to receive complaints, conduct administrative hearings, issue mandates, and forward unresolved complaints to the Attorney General's Office. District courts would impose fines and penalties for failure to comply with the Comptroller's mandates.

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

The bill would authorize administrative penalties ranging from $1,000 to $10,000, plus other reasonable fees and expenses for violations.

The administrative cost estimate to the Comptroller's Office reflects the costs associated with the handling of complaints, administrative hearings, and mandates, which would require two hearings examiners with associated administrative costs. This cost is expected to be $240,840 per year and require 2 full time employees for each year. This cost is not reflected in the above table.

The administrative cost estimate to TDHCA reflects costs related to disclosing the name and address of the person obligated on the taxes and amount of each lien on a tax lien recording. The bill would also require TDHCA to provisionally record a lien on a record that reflects a taxpayer name that is different from the name of the owner and requires TDHCA to notify the appraisal district of the disparity and allow the taxing authority to resubmit an amended tax lien reflecting the name of the owner of the home within 60 days of notification. The cost is expected to be $905,000 in fiscal year 2008 and $897,200 per year beginning in fiscal year 2009 and require 3 full time employees for each year.

The bill would create the General Revenue-Dedicated - Homeowners' Recovery Fund and terminate the Manufactured Homeowners' Recovery Trust Fund in the General Revenue Fund. This fund would generate approximately $900,000 each year in fees and TDHCA anticipates that approximately $300,000 each year will be expended for carrying out the specific purposes of the fund.

The Office of the Attorney General (OAG) reports that the Manufactured Housing Division of the Texas Department of Housing and Community Affairs currently has no staff attorneys. The Department relies on the OAG’s Administrative Law Division (ALD) for all general counsel work, enforcement work, and administrative law litigation.

Greater need for enforcement in this industry has been identified as a problem affecting the rights of consumers. Sec. 18, subsection (g) creates new enforcement authority for the Department that will require action by ALD. Sec. 32 creates additional new due process hearings and suits for injunctive relief and civil penalties--the ALD estimates that this will have significant impact in order to accomplish the goal of greater enforcement. As a result, the OAG would require 1 attorney in each fiscal year 2008-2012.

It is estimated that one FTE attorney will also be required to assist the Department in analyzing and implementing this bill, based on the complexity of the issues--taxing, lien recordation, and enforcement, and based on historic use of general counsel services for this purpose by the Department.

The OAG’s Administrative Law Division would require, in each fiscal year 2008 -2012, one Assistant Attorney General II (AAG) to handle enforcement work and one AAG IV to handle general counsel work associated with passage of the bill. The cost in fiscal year 2008 is $192,080 and $176,640 in each fiscal year thereafter. The OAG will require an appropriation and additional FTEs beyond the FTE cap for the FY 2008-2009 biennium.

Note: This legislation would do one or more of the following: 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

There would be a technology cost to the Department of Housing and Community Affairs of $7,800 in fiscal year 2008 and $4,800 in fiscal year 2013. There would also be a one-time technology impact to the Office of the Attorney General of $2,787 in fiscal year 2008 for network stations and software.

Local Government Impact

Costs to local tax collectors would depend on the number of instances in which personal property taxes have not been levied by the taxing unit and there is a prospective buyer of the manufactured home. Most of these costs would be for letterhead, postage, and personnel time to collaborate with TDHCA and new owners to clear up any outstanding tax or escrow issues.

In addition, the bill could have a negative fiscal effect on local taxing authorities by deleting liens not matching TDHCA records. Without a lien on file, a taxing authority would see a loss of tax collection revenue.

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, JM, AH, SJS, KJG