By:  Parker S.B. No. 1955

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of 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 have derived(?) new, innovative housing construction techniques, including modular and complete residential building systems, from preapproved components or modules that are manufactured off-site, then 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 the place of manufacture, while minimizing inspection procedures and time delays associated with traditional on-site inspection procedures; and

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

Sec. 1203.002  SUBCHAPTER A. GENERAL PROVISIONS.

Sec. 1203.003.  APPLICABILITY OF CHAPTER. (a) Except as otherwise provided by this chapter, this chapter applies only to a municipality with a population of 300,000 or more. Except as otherwise provided by this chapter, this chapter applies exclusively to a modular, complete residential dwelling for residential occupancy by one or more families. Unless clearly indicated otherwise by context, the following words and terms when used by this chapter shall have the following meanings.

Sec. 1203.003  GENERAL DEFINITIONS. In this chapter:

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

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

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

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

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

(1)  "Modular residential technique" means a method of construction that utilizes a pre-engineered, complete building assembly or system of building subassemblies, designed, built and constructed in one or more three dimensional modules in a factory that are transported to a residential site for assembly and finishing.

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

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

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

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

(6)  "Approved Inspection Agency" means a person, organization, or local government approved by the executive director to be especially qualified by reason of facilities, personnel, experience, and demonstrated reliability to investigate, test, evaluate, and inspect modular residential dwelling units, systems, or the component parts of modular residential dwelling units together with the plans, specifications, and quality control procedures to ensure that such units, systems, or component parts are in full compliance with the minimum standards adopted by the executive director pursuant to this part and to label such units complying with those standards. Any person, or any organization whose membership is composed of persons, employed by a manufacturer of modular residential dwelling units or owning any interest in any such manufacturing business shall be ineligible for approval by the executive director to serve as an inspection agency.

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

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

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

(10)  "Complete application" means a submitted plan, application for construction of a modular residential dwelling, or request for inspection that contains all the information and supporting documentation required by the county or municipality to enable making the determination as to whether the plan, application, or request is in compliance with regulatory requirements of this Act and department rules.

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

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

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

(b)  All modular residential dwelling units manufactured in this state, or intended to be offered for sale, sold, or installed in this state, shall be inspected by the executive director, the executive director's designee, or an approved inspection agency, at the place of manufacture of the modular residential dwelling unit.

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

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

(e)  No local standard relating to the construction or installation of modular residential dwelling units shall be applicable to any modular residential dwelling unit subject to this part, unless such standard is identical to that set by the department pursuant to this Chapter. Any residential modular dwelling unit bearing an insignia of approval issued by the executive director, the executive director's designee, or an approved inspection agency pursuant to this part shall be deemed to comply with any local standard relating to the construction of modular residential dwelling units.

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

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

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

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

(h)  Upon submission of the certification required by this subsection, the local governing authority shall be required to accept the inspection without the necessity of further inspection or approval, except that the local governing authority may perform an inspection at any time and may issue a stop-work order for the project or any portion thereof as provided by law, after giving prompt, written notice to the manufacturer or installer, or the contractor of record, if the work is found to be in violation of code requirements.

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

Sec. 1203.006  POWERS AND DUTIES OF THE EXECUTIVE DIRECTOR.

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

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

(2)  The executive director may impose an administrative penalty against any person who violates this Act, or any rule adopted under this Act, or who violates any determination or order of the department under this Act. The department shall establish violations and penalties by rule, with each day's violation constituting a separate offense. The maximum penalty shall be $1,000 per day per violation. All penalties collected under this section shall be deposited into the "Modular Residential Dwelling Fund". Subject to appropriation, moneys in the Fund shall be used for enforcement of this Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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