

By: Parker

S.B. No. 1955

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation of industrial housing and buildings.

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

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

6 SECTION 1

7 CHAPTER 1203. MODULAR DWELLING SYSTEM REGULATION.

8 Sec. 1203.001. LEGISLATIVE FINDINGS AND POLICY.

9 (a) The legislature finds that:

- 10 (1) there is a continuing need to provide safe,
11 affordable, and well-constructed housing;
- 12 (2) regulations in connection with industrial
13 housing, mobile homes, and manufactured homes,
14 along with partial building systems such as
15 structurally insulated panels serve the state
16 well;
- 17 (3) private construction creativity and market forces
18 have derived(?) new, innovative housing
19 construction techniques, including modular and
20 complete residential building systems, from
21 preapproved components or modules that are
22 manufactured off-site, then transported to a site
23 for final assembly and completion on a permanent
24 foundation;

- 1 (4) because of the nature of construction, modular,
2 complete residential building system assembly
3 presents unique opportunities to optimize uniform
4 health and safety standards at the place of
5 manufacture, while minimizing inspection
6 procedures and time delays associated with
7 traditional on-site inspection procedures; and
8 (5) there is a significant public benefit to
9 encouraging home ownership, by utilizing modular,
10 complete residential building construction
11 techniques to address the growing need for safe,
12 affordable, and well-constructed housing.

13 Sec. 1203.002 SUBCHAPTER A. GENERAL PROVISIONS.

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

22 Sec. 1203.003 GENERAL DEFINITIONS. In this chapter:

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

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

27 (3) "Department" means the Texas Department of

1 Licensing and Regulation.

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

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

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

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

26 (3) "Approved foundation and support system" means,
27 for a modular residential dwelling unit, a closed perimeter

1 formation consisting of materials such as concrete, mortared
2 concrete block, mortared brick, steel, or treated lumber extending
3 into the ground.

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

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

26 (6) "Approved Inspection Agency" means a person,
27 organization, or local government approved by the executive

1 director to be especially qualified by reason of facilities,
2 personnel, experience, and demonstrated reliability to
3 investigate, test, evaluate, and inspect modular residential
4 dwelling units, systems, or the component parts of modular
5 residential dwelling units together with the plans,
6 specifications, and quality control procedures to ensure that such
7 units, systems, or component parts are in full compliance with the
8 minimum standards adopted by the executive director pursuant to
9 this part and to label such units complying with those standards.
10 Any person, or any organization whose membership is composed of
11 persons, employed by a manufacturer of modular residential dwelling
12 units or owning any interest in any such manufacturing business
13 shall be ineligible for approval by the executive director to serve
14 as an inspection agency.

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

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

27 (9) "Person" means any individual, group of

1 individuals, association, trust, partnership, limited liability
2 company, corporation, person doing business under an assumed name,
3 county, municipality, the State of Texas, or any political
4 subdivision or department thereof, or any other entity.

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

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

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

24 Sec. 1203.005 PREREQUISITES TO SALE OR INSTALLATION. (a) After
25 the effective date of the rules adopted pursuant to this part, no
26 modular residential dwelling shall be offered for sale, sold, or
27 installed in this state unless it is approved and bears the insignia

1 of approval of the executive director, the executive director's
2 designee, or an approved inspection agency. It is unlawful for any
3 person to manufacture, rent, sell, or offer for sale for location
4 within this state any modular residential dwelling unless such
5 modular residential dwelling complies with this Act and all rules
6 adopted by the department.

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

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

27 (d) Nothing in this chapter prohibits a city, town, village,

1 or county from adopting construction standards for
2 modular residential dwelling units under local
3 ordinances, provided such ordinances are in substantial
4 compliance with state requirements and reviewed and
5 approved by the department.

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

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

23 (e) Local land use and zoning requirements and flood control
24 areas are specifically and entirely reserved to local
25 government. Such local requirements and rules that may
26 be enacted by a local government must be reasonable and
27 uniformly applied and enforced without any distinction

1 as to whether a residential dwelling is conventionally,
2 onsite constructed or a modular residential dwelling
3 unit under this Chapter.

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

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

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

24 (i) If a local governing authority issues a stop-work order,
25 the local official shall be available to meet with the
26 person responsible for manufacturing, installing, or
27 constructing the modular residential dwelling unit

1 within two business days to resolve any dispute.

2 Sec. 1203.006 POWERS AND DUTIES OF THE EXECUTIVE DIRECTOR.

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

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

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

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

27 (4) The executive director may also establish record

1 keeping requirements from manufactures and installers.

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

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

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

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

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

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

1 the department under this Act.

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

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

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

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

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

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

25 Sec. 1203.007 RECIPROCITY - INTERSTATE AGREEMENTS. If the
26 executive director determines that the minimum standards for
27 construction and inspection of modular residential dwelling units

1 prescribed by statute or rule of another state are at least equal to
2 rules prescribed under this part and that such standards are
3 enforced by such other state, the executive director may negotiate
4 and enter into reciprocal agreements with appropriate officials of
5 other states.

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

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

15 (b) As soon as practicable after the effective date of this
16 Act, the Texas Commission of Licensing and Regulation shall adopt
17 rules necessary to implement the changes in law made by Chapter
18 1203, as added by this Act.

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