

2017 Regular Session

HOUSE BILL NO. 471

BY REPRESENTATIVE FOIL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HOUSING/MANUFACTURED: Provides relative to manufactured and modular housing

1 AN ACT

2 To amend and reenact R.S. 51:911.21, 911.22(5), (7), (8.1), (10)(introductory paragraph),

3 (11), and (12), 911.24(A)(1) through (3) and (6), (B)(introductory paragraph) and

4 (L), 911.26(A)(1), (D)(1) through (3), (F)(1) through (4) and (10), 911.29, 911.30,

5 911.32(E), 911.36, 911.38, 911.39, 911.41, 911.43, 911.46, 912.3(introductory

6 paragraph) and (7), 912.5(A), 912.21(introductory paragraph), (1), (2), (4), (6), and

7 (9) through (12), 912.22(introductory paragraph), (1), and (7), 912.25(2) and (3),

8 912.26, 912.27(A)(1) and (B) through (D), 912.28(A), and 912.52(B)(5), to enact

9 R.S. 51:911.22(13), 911.24(C)(3), 911.26(F)(11), and 912.21(13), and to repeal R.S.

10 51:911.24(K), 911.26(A)(3), 911.26(J), and 911.28(A)(10); relative to provisions

11 applicable to manufactured and modular housing; to expand Parts XIV, XIV-A, and

12 XIV-B of Chapter 2 of Title 51 of the Louisiana Revised Statutes of 1950 with

13 respect to greater inclusion of and applicability to modular housing; to modify and

14 create definitions; to provide with respect to requirements of retailers, developers,

15 and transporters; to provide with respect to members at large and authority of the

16 Louisiana Manufactured Housing Commission; to require consumers to provide

17 certain written notice to the commission with respect to defects; to modify certain

18 installation standards; to provide with respect to licensure of installers and

19 transporters; to increase certain civil penalties for violations; to repeal certain

20 licensing requirements and fees applicable to manufactured home brokers; to repeal

1 §911.24. License required; qualifications; application; issuance; transfer; criminal
2 history record information

3 A.(1) No manufacturer, retailer, or salesman within or without this state shall
4 sell or offer for sale in Louisiana any mobile home, modular home, or manufactured
5 housing unless he has obtained a valid manufacturer's, retailer's, or salesman's
6 license, whichever is applicable, from the commission as provided in this Part.

7 (2) No developer shall sell or offer for sale to the public any manufactured
8 or modular home unless he has obtained a license from the commission, as provided
9 in this Part. No employee of a developer shall offer manufactured or modular
10 housing for sale to the general public without first obtaining a salesman license or
11 being a licensed real estate agent.

12 (3) No manufacturer within or without this state shall sell or offer for sale
13 to a person any manufactured or modular housing for resale to the public unless the
14 person has obtained a valid retailer's or developer's license from the commission as
15 provided in this Part.

16 * * *

17 (6) No retailers or developers shall offer for sale to the public any new
18 manufactured or modular home unless the manufacturer of the home has obtained
19 a valid manufacturer's license.

20 B. Application for a manufacturer's license shall be made upon the form
21 prescribed by the commission and shall contain all of the following:

22 * * *

23 C.

24 * * *

25 (3) All retailers and developers are required to have at least one licensed
26 salesman.

27 * * *

28 L. The commission shall require that retailers, developers, transporters, and
29 installers show proof of continued and ongoing general liability insurance coverage

1 of at least one hundred thousand dollars. Manufacturers shall be required to show
2 proof of continued and ongoing liability insurance coverage of at least one million
3 dollars.

4 * * *

5 §911.26. Louisiana Manufactured Housing Commission

6 A.(1) The Louisiana Manufactured Housing Commission is hereby created.
7 The commission shall be composed of seven members, with at least one member
8 appointed from each Public Service Commission district and two at-large members,
9 all appointed by the governor with the consent of the Senate as provided in this
10 Section.

11 * * *

12 D.(1) The commission ~~shall~~ may hire a qualified person to serve as executive
13 director who shall have had sufficient management and organizational experience to
14 direct the day-to-day operations of the commission. The commission shall fix the
15 salary and shall define and prescribe the duties of the executive director.

16 (2) The executive director shall be in charge of the commission's office and
17 shall devote such time as directed by the commission to fulfill the duties thereof; ~~and~~
18 ~~before entering upon his duties he shall take and subscribe to the oath of office.~~

19 (3) The commission may employ such clerical, technical, legal, and other
20 help and incur such expenses as may be necessary for the proper discharge of its
21 duties ~~under~~ as provided in this Part and Part XIV-B of this Chapter.

22 * * *

23 F. The powers and duties of the commission shall include but are not limited
24 to the following:

25 (1) Licensing of manufacturers, retailers, developers, salesmen, transporters,
26 and installers as provided in this Part and Part XIV-B of this Chapter.

27 (2) Inspecting a reasonable sample of installations of manufactured and
28 modular homes within this state to ~~insure~~ ensure compliance with state and federal
29 standards.

1 (3) Working with consumers, manufacturers, retailers, developers, salesmen,
2 transporters, and installers to hear complaints and make determinations relating to
3 construction defects, warranty issues, service complaints, and other matters which
4 are not set forth pursuant to 24 CFR Part 3280 and 24 CFR Part 3282.

5 (4) Establishing an alternative dispute resolution process for manufactured
6 and modular home consumers in Louisiana. The commission may charge a
7 reasonable fee to defray the cost of establishing the alternative dispute resolution
8 process.

9 * * *

10 (10) The authority to establish a mandatory uniform written transportation
11 and installation contract that is required to be used by all transporters and installers
12 when moving or installing a manufactured or modular home in this state.
13 Transporters and installers shall be required to give their customers a copy of the
14 contract, itemizing all services being provided and the cost associated with those
15 services, prior to beginning work or moving a home. These records shall be
16 maintained for at least three years and shall be made available to the commission for
17 inspection. Transporters who are only passing through the state or are delivering a
18 home from a manufacturer to a licensee of the commission; are not required to
19 comply with the provisions of this Paragraph. The commission ~~shall have~~ has the
20 authority to promulgate rules and regulations in accordance with the Administrative
21 Procedure Act in order to implement the provisions of this Paragraph.

22 (11) The authority to adopt rules governing the repairs or renovations of
23 manufactured homes.

24 * * *

25 §911.29. Motor vehicle inspection; exception

26 The provisions of Chapter 7 of Title 32 of the Louisiana Revised Statutes of
27 1950 relative to inspections shall not apply to manufactured or modular housing.

1 §911.30. Serial numbers on manufactured and modular homes

2 ~~On each manufactured home manufactured after January 1, 1975, a~~ A serial
3 number shall be stamped by the manufacturer on the Header Plate or front cross
4 member of the frame so that it can be easily read. It may not contain more than
5 fifteen digits. Any multiple units shall contain the same serial number with letters
6 of the alphabet designating that each is a different separate unit. Starting with the
7 letter "A", each unit addition shall be in alphabetical order. The letter shall be
8 stamped at the end of the serial number.

9 §911.32. Administration and enforcement of Part; powers of commission; cease and
10 desist orders; applicability of Administrative Procedure Act

11 * * *

12 E. The commission or its authorized representatives may enter any place,
13 establishment, or location where manufactured or modular homes are manufactured,
14 sold, offered for sale, transported, or installed; for the purpose of ascertaining
15 whether the requirements of the Code and of this Part and Part XIV-B of this
16 Chapter, and the rules and regulations of the commission, have been or are being
17 complied with.

18 * * *

19 §911.36. Hearings to investigate and determine violations; orders prohibiting
20 violations and requiring compliance

21 A. Whenever in the opinion of the commission the Code or the requirements
22 of this Part or Part XIV-B of this Chapter are being violated, it may conduct hearings
23 to investigate and determine whether the violation has occurred or is occurring and
24 may issue orders prohibiting such violation and requiring compliance with the Code
25 and the provisions of this Part or Part XIV-B of this Chapter.

26 B. All costs incurred by the commission, including reasonable attorney fees,
27 may be borne by the person or licensee who has been found in violation of the
28 provisions of the Code, or any provision of this Part or Part XIV-B of this Chapter,

1 §911.41. Supremacy of the Part

2 Notwithstanding any provision of law to the contrary, the codes and standards
3 referenced in R.S. 51:911.21 et seq. and R.S. 51:912.21 et seq. and those adopted by
4 the commission shall be the only construction and installation standards used for
5 manufactured or modular housing in Louisiana, and these standards shall preempt
6 all local standards as they relate to the construction and installation of manufactured
7 ~~housing and manufactured~~ or modular homes in Louisiana.

8 §911.43. Maintenance of records; reports required

9 Each ~~manufactured home~~ licensee shall establish and maintain such records,
10 make such reports, and provide such information as the commission may reasonably
11 require in order to be able to determine whether such licensee has acted or is acting
12 in compliance with the Code and the manufactured or modular housing provisions
13 of this Part, Part XIV-B of this Chapter, or any rule or regulation adopted by the
14 commission. Upon request of the commission, each ~~manufacturer, distributor, and~~
15 ~~dealer~~ licensee shall permit the commission or its representative to inspect
16 appropriate books, papers, records, and documents relevant to determining whether
17 the licensee has acted or is acting in compliance with the provisions of this Part, Part
18 XIV-B of this Chapter, or any rule, as well as any regulation or order issued
19 thereunder.

20 §911.46. Down payments, sale of manufactured housing

21 It is unlawful for a retailer or developer to set forth in any retail installment
22 sales contract, chattel mortgage, or security agreement any down payment unless all
23 of the down payment has actually been received by the retailer or developer at the
24 time of execution of such document. If any part of the down payment is represented
25 by a loan, trade-in, or any consideration other than cash, this fact shall be expressly
26 set forth on the retail installment sales contract, chattel mortgage, or security
27 agreement. No amount of the cash down payment shall be from any rebate or other

1 consideration received by or to be given to the consumer from the retailer or
2 developer, or his agents respective agent.

3 * * *

4 §912.3. Definitions

5 For purposes of this Part, the following words, phrases, and terms ~~shall be~~ are
6 defined and construed as follows:

7 * * *

8 (7) "Manufactured home" or "manufactured housing" means a factory-built,
9 residential dwelling unit constructed to standards and codes, as promulgated by the
10 United States Department of Housing and Urban Development, under the National
11 Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C.
12 5401 et seq., as amended. Further, the terms "manufactured home" and
13 "manufactured housing" may be used interchangeably and apply to structures bearing
14 the permanently affixed seal of the United States Department of Housing and Urban
15 Development ~~or to factory-built, residential dwellings that are mounted on a chassis.~~

16 * * *

17 §912.5. Required notice

18 A. Before undertaking any repair himself or instituting any action for breach
19 of warranty, the owner shall give the commission written notice by filling out the
20 consumer complaint form provided by the commission and submitting it; by
21 registered or certified mail; within one year after knowledge of the defect, advising
22 the commission of all defects. The commission shall then have the home inspected
23 and a determination made on all defects listed by the owner. Thereafter, the
24 commission shall give the appropriate builder a reasonable opportunity to comply
25 with the provisions of this Part. Once the repairs are made, the commission shall
26 have the home reinspected to determine if the repairs have been made in compliance
27 with the building standards.

28 * * *

1 Such operations include but are not limited to ~~transporting~~, positioning, blocking,
2 leveling, supporting, tying down, making minor adjustments and trim out, and
3 assembling multiple or expandable units in the final construction process.

4 ~~(11)~~(12) "Stabilizer device" means an approved device or method that is
5 used to resist lateral movement of manufactured homes and anchors.

6 ~~(12)~~(13) "Transporter" means an individual who transports a manufactured
7 or modular home to the site of installation but does not perform ~~the~~ any blocking or
8 anchoring of the home, except a transporter is allowed to put blocks under the hitch
9 on the tongue of the frame.

10 §912.22. Installation standards for manufactured and modular homes

11 All manufactured and modular homes shall be installed to meet the following
12 standards, unless otherwise specified in this Part:

13 (1) Installation standards for the setup of new ~~or used~~ manufactured homes
14 shall be in compliance with the manufacturer's installation instructions, ~~if available.~~
15 Installation for the setup of new or used modular homes shall be in compliance with
16 the International Residential Code enforced by the local authority having
17 jurisdiction.

18 * * *

19 (7) Piers or load-bearing supports or devices shall be installed and
20 constructed to evenly distribute the loads. Steel piers with mechanical adjustments
21 shall be securely attached to the frame of all manufactured homes ~~and mobile homes.~~
22 Manufactured load-bearing supports or devices shall be listed and approved for the
23 use intended, or piers shall be constructed as outlined in this Part. Concrete products
24 shall comply with the minimum dimensional and structural requirements for load-
25 bearing. Solid and cell concrete blocks shall be to the standard specification for
26 load-bearing concrete masonry units, ASTM C-90, 1993 Edition. Poured concrete
27 shall be a minimum of FCL = 2500 PSI. All plastic products shall be conditioned
28 at ASTM D 618-61, reapproved 1990, standard practice for conditioning plastics and
29 electrical insulating materials for testing. Plastics shall be tested to the ASTM D

1 790-92 standard test methods for flexural properties or unreinforced and reinforced
2 plastics and electrical insulating materials, ASTM D 732-85 standard test method for
3 shear strength or plastics by punch tool, and ASTM G 53-88 standard practice for
4 operating light and water exposure apparatus for exposure of nonmetallic materials.

5 * * *

6 §912.25. Installation standards for used manufactured homes in hurricane zones

7 When the manufacturer's printed setup requirements are not available for the
8 applicable wind zone, the following guidelines are to be used:

9 * * *

10 (2) ~~Diagonal~~ Longitudinal ties only are required at each end of each unit.

11 The minimum number of ties at a minimum angle of forty-five degrees from vertical
12 is three each for Zone II and four each for Zone III.

13 (3) All designated tie points on the perimeter side walls shall be equipped
14 with vertical and diagonal ties with stabilizer devices. When tie points are not
15 designated on the side walls, ~~vertical and~~ diagonal ties with stabilizer devices shall
16 be spaced a maximum of ~~twelve~~ ten feet for Zone I, eight feet for Zone II, and six
17 feet six inches for Zone III.

18 * * *

19 §912.26. Local installation standards preempted

20 The manufactured and modular home installation standards provided for in
21 this Part shall preempt all local installation standards.

22 §912.27. Licensure of installers and transporters; adoption of rules; compliance with
23 installation instructions; disposition of fees

24 A.(1) The commission shall, by rule adopted in accordance with the
25 Administrative Procedure Act, provide for the licensure of installers and transporters
26 of manufactured and modular homes and the implementation and collection of an
27 annual license fee and an installation permit sticker fee. The installer's and
28 transporter's license fee shall be one hundred twenty-five dollars per license, and the
29 installation permit sticker fee shall be twenty dollars. Further, a licensed installer

general liability insurance coverage of at least \$100,000. Requires manufacturers to show proof of continued and ongoing liability insurance coverage of at least \$1,000,000.

Proposed law retains present law and adds transporters as persons required to show proof of \$100,000 in continued and ongoing general liability coverage.

Present law requires the commission to be comprised of seven members with at least one member appointed from each Public Service Commission district and all appointed by the governor with the consent of the Senate. Requires three of the seven members to be appointed by the governor from a list of six individuals submitted by the La. Manufactured Housing Association or its successor. Proposed law retains present law.

Proposed law repeals the present law provision (R.S. 911.26(A)(3)) requiring the remaining four members of the commission to be members at large, appointed by the governor, further requiring at least one of the four to be an individual residing during the term of his appointment in a manufactured home.

Proposed law requires two of the seven members to be members at large.

Present law requires the commission to hire a qualified person with certain credentials to serve as executive director as prescribed by the commission.

Proposed law modifies present law to make the commission's hiring of an executive director permissive.

Present law requires the executive director to take and subscribe to the oath of office prior to engaging in duties. Proposed law repeals present law.

Present law establishes the commission's right to exercise certain powers and duties with respect to manufacturers, retailers, developers, salesmen, and installers.

Proposed law retains present law and adds transporters as persons under the commission's authority with respect to powers and duties exercised by the commission, including requirements for licensure, payment of associated fees, and the commission's assessments of penalties.

Present law requires a transporter and installer to provide his respective customer with a copy of the uniform written transportation and installation contract as prescribed by the commission. Requires the contract to be provided to a customer prior to the transporter's or installer's work on the customer's home.

Proposed law retains present law and requires presentation of the contract to a customer prior to moving a customer's home. Further provides that present law does not apply to transporters who are only passing through the state or delivering a home from a manufacturer to a licensee of the commission.

Proposed law authorizes the commission to adopt rules governing the repairs or renovations of manufactured homes.

Present law requires a serial number to be stamped by the manufacturer on the front cross member of the frame of a manufactured home. Proposed law modifies present law to require the serial number to be stamped on the Header Plate or front cross member of the frame of a manufactured or modular home.

Present law authorizes the commission to hold hearings to investigate and determine violations.

Proposed law retains present law and further provides that all costs incurred by the commission, including reasonable attorney fees, may be borne by the person or licensee found in violation of the provisions of present law and proposed law.

Present law provides that persons found guilty of violations of present law are liable for a civil penalty not to exceed \$1,000 for each violation. Proposed law modifies present law to provide for a civil penalty not to exceed \$2,500 for each violation of a provision applicable to manufactured and modular housing as provided in present law and proposed law.

Proposed law authorizes the commission to double the civil penalty up to \$5,000 for each violation, if the commission determines a violation was intentional or the violator is a habitual offender.

Present law prohibits a retailer from setting forth a down payment in any retail installment sales contract, chattel mortgage, or security agreement unless all of the down payment has actually been received by the retailer at the time of execution of such document. Prohibits cash down payment amounts made to a retailer from any rebate or other consideration received by or to be given to the consumer from the retailer or his agent.

Proposed law retains present law and makes present law applicable to a developer and his agent.

Present law requires homeowners to provide the commission with written notice of defects to homes by registered or certified mail within one year after knowledge of defect, prior to the homeowner making reparative or civil action.

Proposed law modifies present law to require the written notice to be provided on the consumer complaint form provided by the board. Otherwise retains present law.

Proposed law requires installation for the setup of new or used modular homes to be in compliance with the International Residential Code enforced by the local authority having jurisdiction.

Proposed law deletes mobile homes from certain installation standards as provided in present law and proposed law.

Present law requires diagonal ties only at each end of each manufactured home unit. Proposed law replaces diagonal ties in favor of longitudinal ties and otherwise retains present law.

Present law requires vertical and diagonal ties with stabilizer devices on the perimeter side walls of manufactured homes and requires spacing between ties to be a minimum of 12 feet for Zone I homes. Proposed law removes the requirement for vertical ties on perimeter side walls and shortens the distance requirement from 12 feet to 10 feet.

Proposed law authorizes a licensed installer to perform the functions of a transporter without obtaining a transporter license.

Present law provides certain authority of the fire marshal with respect to the state's administration of manufactured housing. Proposed law retains present law.

Present law authorizes the fire marshal to provide oversight as prescribed by law of remedial actions carried out by manufacturers and a manufacturer's handling of consumer complaints as to plants located within this state.

Proposed law modifies present law by removing the portion of present law applicable to plants located in the state. Proposed law otherwise retains present law

Present law (R.S. 51:911.24(K)) prohibits a person from acting as a manufactured home broker without first obtaining a license from the commission. Proposed law repeals present law.

Present law (R.S. 51:911.28(A)(10)) provides for a manufactured home broker license and an associated \$150 licensure fee. Proposed law repeals present law.

Proposed law repeals the obsolete present law provision (R.S. 51:911.26(J)) requiring the office of state fire marshal to transfer all records, assets, and equipment in use by the manufactured housing division to the commission upon establishment of the commission.

Proposed law makes technical changes.

(Amends R.S. 51:911.21, 911.22(5), (7), (8.1), (10)(intro. para.), (11), and (12), 911.24(A)(1)-(3) and (6), (B)(intro. para.) and (L), 911.26(A)(1), (D)(1)-(3), (F)(1)-(4) and (10), 911.29, 911.30, 911.32(E), 911.36, 911.38, 911.39, 911.41, 911.43, 911.46, 912.3(intro. para.) and (7), 912.5(A), 912.21(intro. para.), (1), (2), (4), (6), and (9)-(12), 912.22(intro. para.), (1), and (7), 912.25(2) and (3), 912.26, 912.27(A)(1) and (B)-(D), 912.28(A), and 912.52(B)(5); Adds R.S. 51:911.22(13), 911.24(C)(3), 911.26(F)(11), and 912.21(13); Repeals R.S. 51:911.24(K), 911.26(A)(3), 911.26(J), and 911.28(A)(10))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Modify present law and proposed law (R.S. 51:912.22(1)) to require installation for the setup of new or used modular homes to be in compliance with the International Residential Code enforced by the local authority having jurisdiction.
2. Make technical changes.