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RECORDS

2003-04

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on
Housing
(AC-Ho)

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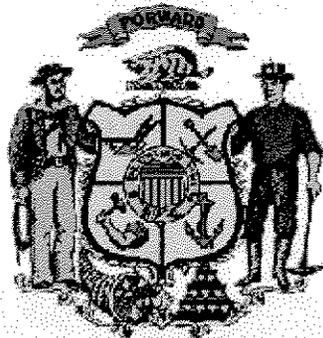
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Governor's Blue Ribbon Task Force on Manufactured Housing

Final Report



December 16, 2002

Manufactured Housing

Final Report

The Charge to the Task Force

Governor Tommy G. Thompson signed Executive Order 384 on November 10, 1999 creating an 11-member task force on manufactured housing. The order provided the following mission:

1. Report on the state of the Wisconsin manufactured housing industry.
2. Analyze and evaluate the regulatory oversight and efficiency of current state programs related to manufactured housing for Wisconsin.
3. Identify barriers for manufactured housing products and placement of products and make recommendations.
4. Review statutory provisions, administrative rules, and other state policy issues to ensure adequate measures to ensure the future viability of the manufactured housing industry.

Acknowledgements

The Governor's Blue Ribbon Task Force on Manufactured Housing gratefully acknowledges the assistance of the Department of Commerce for hosting all task force meetings and providing key staff support. The following individuals served as staff resources for the task force:

Robert DuPont, Director, Bureau of Program Development
Larry Swaziek, Program Manager, Manufactured Housing
Ronald Acker, Code Consultant

Task Force Members

The Task Force consists of the following members appointed by Governor Thompson:

- Chairman Richard J. Rand – President, Asset Development Group, Inc., Milwaukee
- Clifford L. Bader, Vice President, Mauston Home Sales, Inc., Mauston
- William M. Baudhuin, President, Baudhuin Inc., Sturgeon Bay
- Harris "Butch" Berg, Vice President & General Manager, Wick Building Systems, Marshfield
- Ray C. Feldman, Owner, Mauston Mobile Manor, Attorney At Law, Mauston
- Lynn M. Lamke, Manufactured Housing Manager, Pinewood Court, Inc., Trempealeau
- Daryll J. Lund, President & CEO, Community Bankers of Wisconsin, Madison
- Dale M. Pedretti, Owner, Majestic Homes and Senior Vice President, Fortress Bank, Westby
- Brent A. Schmaling, Vice President/Sales Manager, Rollmann Homes, Shawano
- Charlotte L. Thompson, Executive Director, Foundation for Rural Housing, Madison
- James P. Voight, Chairman & CEO, Hometown Bank, Fond du Lac

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Status of the Industry

Changing Products Changed the Industry

The modern manufactured housing industry is the outgrowth of post-World War I interest in travel and recreation that was spurred by a drop in automobile prices. Americans began to take to the road for weekend getaways. First, they packed traditional tents, then tents attached in various ways to their cars. Finally, a tent camper, a fold out tent on its own wheels, was developed. The tent camper was convenient, but desires for other amenities lead to a solid body camper. Many of these were homemade and ranged up to seven and one-half feet wide by 35 feet long.



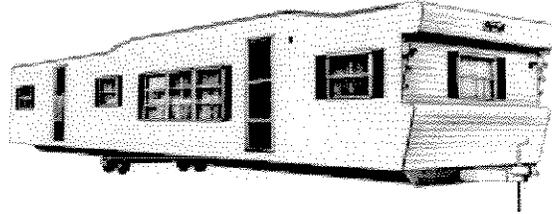
1940's

World War II, however, brought a need for year-around temporary housing. Trailers provided a convenient option. The federal government bought 35,000 trailers to house workers, particularly near government or key war production facilities. Because previous trailers had been used for vacationing, they lacked bathroom and other facilities needed for year-around living. This soon changed.



1950's

Following the war, the need continued for housing as men returned home to a more normal life. In 1953, an industry leader and innovator, Elmer Frey of Marshfield, Wisconsin coined the term "mobile home." It was at this time that the recreational trailer industry and the mobile home industry separated. The mobile home industry focused on producing year-round housing.



1960's

By 1960, the average trailer household was younger, less educated, and less affluent than the general population. These consumers were not interested in mobility so much as having an option that offered homeownership at a lower cost than site-built housing. They wanted units suitable for year-around living that looked like conventional homes. House-type features began to replace the features of cars, boats and planes.

Among the many design innovations developed to meet the demands of the new, less mobile market, was the design of a ten-foot-wide unit. The added two feet of width in the ten-wide allowed for floor plans that were more like conventional housing. But the wider unit was less mobile. It had to be moved by a truck and it required special towing permits.

Consumer demand for more living space soon had manufacturers offering 12-foot-wide units which displaced ten-wides as the market standard by the late 1960's. It was during this period that sectional homes, in the form of double-wide units, were introduced and rapidly gained popularity. Double-wides had the advantage of offering floor plans virtually identical to those of site-built homes.



1970's

By the 1970's, mobile homes had now stretched to 14 feet wide and 70 feet long as a single unit. In single section homes stretched again to 16 feet wide and 80 feet long. By the end of the 1980's, the industry was producing roughly 3,000 homes per year in Wisconsin.

The watershed event for the industry occurred in 1976, when Congress enacted the National Mobile Home Construction and Safety Standards Act, which federalized the building code. The Act effectively created a national market for mobile homes. A home built in Wisconsin could now be sold and used in another state without interference. In 1980, the Housing Act changed the name of the industry's products to "manufactured homes" to reflect the now permanent, year-around nature of the homes produced. The so-called "HUD Code" now was the construction code for all manufactured homes.

The evolution in the product continued through the 1980's. In the mid-80's, Wisconsin consumers of manufactured homes almost universally purchased single-section homes that resembled in many ways their mobile home ancestors. In fact, in 1987, 88% of homes sold in the state were single section models.

Multiple section homes consisting of two or more home sections in 1987 totaled only about 250 units. Things dramatically changed, however, in the 1990's. In 1991, multiple section new home sales totaled 500 units but only three years later the total was 1,500, and by 1998, the total number of multiple section new home sales reached nearly 2,500. By the year 2000, the predominant manufactured home type (new home sales) was a multiple section, ranch style, single story home reminiscent of site built homes in suburban neighborhoods all across the state.



1980's



2000 Raised Ranch



2000 Model - Two Story Home
Milwaukee, Wisconsin

A Birthplace of the Industry, Wisconsin Remains Strong

The industry may never have moved away from its vacation getaway roots without a strong push from Wisconsin's Elmer Frey who challenged highway regulations that limited movement of mobile homes to no more than 8 feet wide. His innovative 10-wide home made possible the start of floor plans that began to resemble the modest homes of the day.

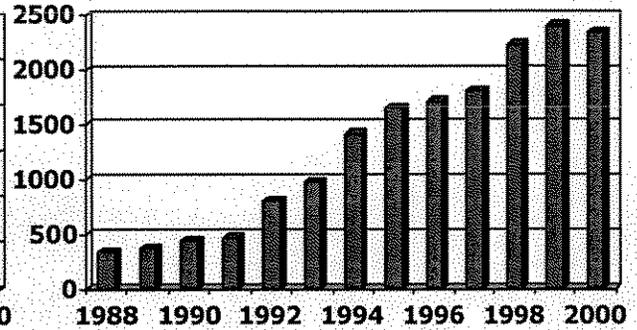
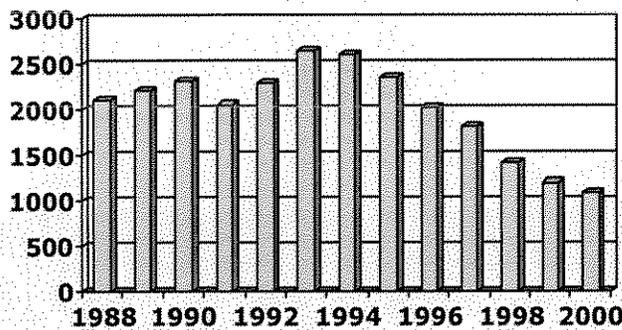
In 2001, Wisconsin has three producers of manufactured homes constructed to the HUD Code – Liberty Homes (Dorchester), Skyline (Lancaster) and Wick Building Systems (Marshfield). Those three manufacturers produce approximately 3,000 homes. An additional 30 manufacturers in the Midwest also produce homes consumed here. Wisconsin manufacturers export roughly half of their homes to surrounding states proving the value of the interstate-preemptive nature of the building code.

Manufactured homes now account for one out of five new homes constructed in the state.

The industry employs approximately 4,500 people. Manufactured homes account for one out of five new homes constructed in the state. The average manufactured home is roughly 1,600 square feet in size. Up until the early 1990's, the manufactured housing industry in Wisconsin retained as its primary product a home that was constructed in a single section, like its mobile home predecessors.

Downward Slide of Single Sections

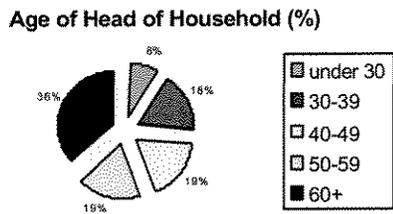
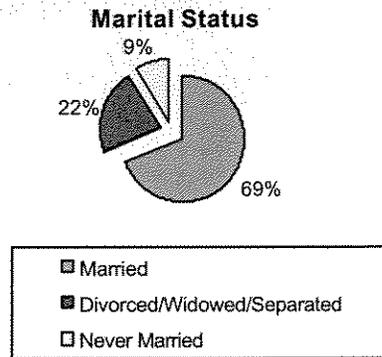
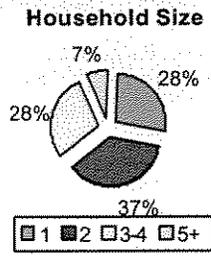
Multi-Sections Gain Market Share



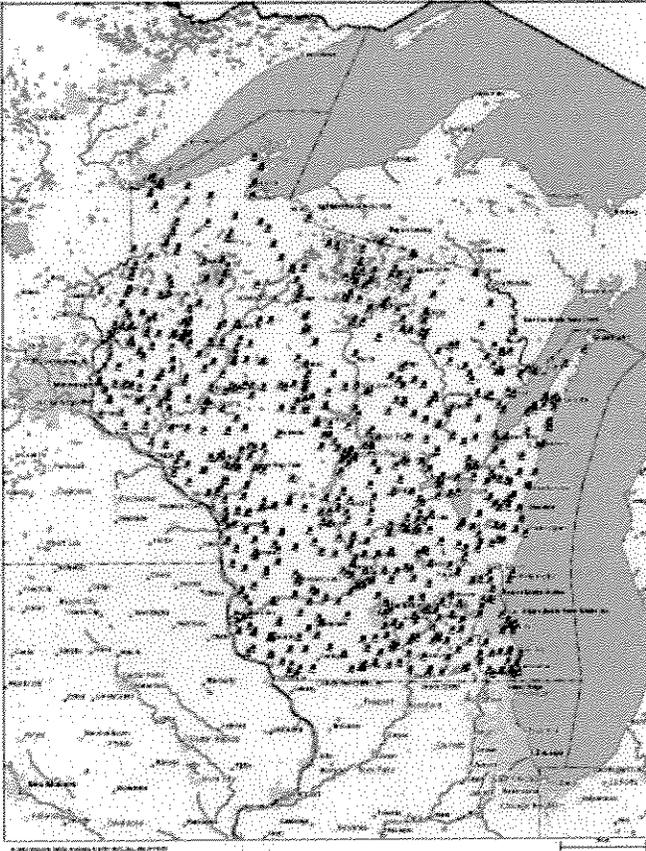
The 1990's, however, saw a new trend with homes now being constructed of two or more sections with design features similar to site constructed homes found across the Midwest. These charts show a dramatic upsurge in multiple section home construction and a concurrent decline in single section homes.

Who Lives In Manufactured Homes?

Manufactured homeowners are hard to characterize; but based on the U.S. Census, they have incomes less than the general population as a whole, but otherwise, they are of every age, marital status, and household size.



Communities

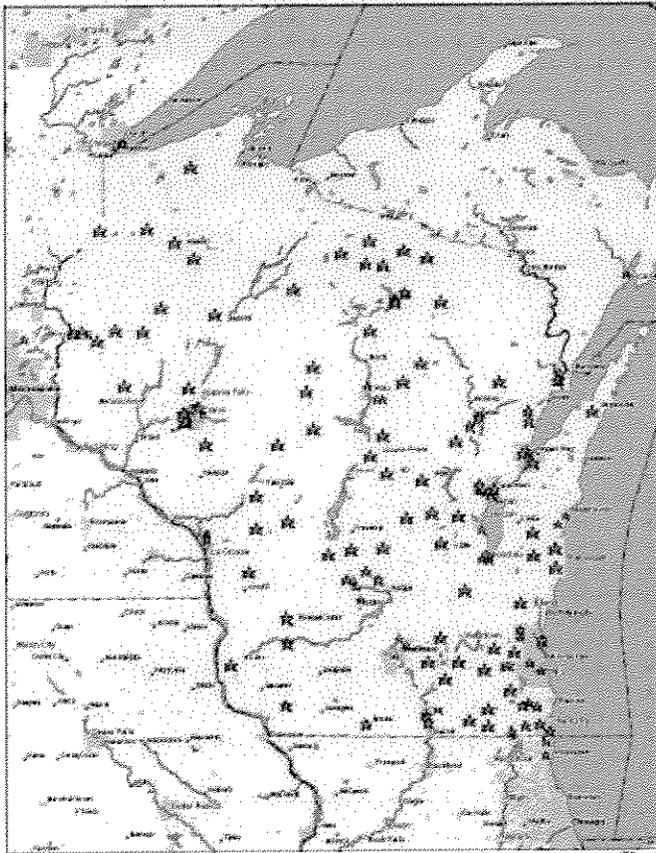


Manufactured Home Communities (MHC's) are located everywhere in Wisconsin

There are over 1,200 manufactured home communities in Wisconsin that are literally located in every corner of the state. Over 50,000 families call one of these communities "home." According to the Wisconsin Manufactured Housing Association, the break down of community size is as follows:

		<u>MHC's</u>
Less than 20 sites	-	419
21 to 75 sites	-	521
76 to 125 sites	-	106
126 to 175 sites	-	50
176 or more sites	-	44

Retailers



Licensed manufactured home retailers are also located in all parts of the state. These retailers have sales territories that often reach 200 or more miles.

There are over 150 licensed manufactured home retailers in Wisconsin. Like manufactured home communities, they are located in virtually every corner of the state. Approximately 100 of the retailers sell new homes, while the remainder sells only pre-owned homes.



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 Scale 1 : 8,200,000 Xerox Level 4-8 Datum WGS84

Manufactured Housing is a regional industry as evidenced by the location of manufacturing plants serving the Midwest.

Manufacturers of manufactured homes for the Wisconsin market are located across the Upper Midwest. Manufacturers with plants in Wisconsin include Liberty Homes (Dorchester), Skyline (Lancaster) and Wick Building Systems (Marshfield).

Courts Rule Against Zoning Discrimination

As manufactured homes developed into a suburban style home, buyers increasingly saw their new home as a choice for not just a rural setting but also for a suburban residential lot as well. However, almost universally, zoning ordinances adopted by Wisconsin communities limited "mobile homes" to licensed mobile home parks¹. The view of most cities was that if the home came to the lot on wheels and axles, it was a "mobile home" despite its finished appearance.

In 1990, the courts examined this matter closely in Collins v. City of Beloit. In this case, the Rock County Circuit Court ruled that a 3 bedroom, 2-bath home that Mr. Collins sought to place on a Beloit residential lot was not a prohibited "mobile home." The Court found the actions of the city to block the building permit to be unconstitutional. From this point forward, most municipalities were alert to the fact that they could not treat a manufactured home with the broad brush they applied to a mobile home. This didn't end zoning problems for the industry however.

In 1994, the Federal Court for the Eastern District of Wisconsin in WMHA v. Town of Suamico, ruled that the Town had interfered in the granting of a building permit to an industry consumer and awarded damages and attorney fees. Until the Suamico case, some municipalities had delayed permits they knew they would have to eventually issue in hopes that the applicant would simply go away.

On December 27, 2000, President Clinton signed the Manufactured Housing Improvement Act of 2000 that substantially strengthened the preemptive nature of the HUD Code and made the guarantee of affordable housing for all Americans a key purpose for the preemption. Industry representatives believe that this new statute will again help to guarantee that a family wishing to own a manufactured home is not restricted regarding its site location.

¹ The term "mobile home park" is used here because it is the current legal statutory term.

History Highlights: The Scattered State Regulatory Approach

The manufactured housing industry's sales activity historically was regulated much like the automobile industry. Retailers and salespeople were licensed by the Department of Transportation. The Department of Industry, Labor and Human Relations (DILHR) regulated the manufacture of mobile homes up until 1976 when Congress created a national mobile home building code and assigned regulation to the Department of Housing and Urban Development (HUD). Under contract with HUD, DILHR then performed a variety of building code compliance functions. The regulation of manufactured home communities was divided between the Department of Health & Social Services and the Department of Agriculture, Trade and Consumer Protection. [In 1980, Congress officially adopted the term "manufactured housing.]"

Beginning in the early 1990's, a consolidation of industry regulation began. Retailer and salesperson licensing was transferred to the then newly created Division of Housing, Department of Administration. Mobile home park regulation housed at the Department of Health & Social Services was also moved to the Department of Administration.

In 1998, the Wisconsin Legislature created a separate regulatory program for water and sewer service issues regarding manufactured home communities and assigned the task to the Public Service Commission (PSC).

In 2000, retailer and salesperson licensing and manufactured home community regulation were transferred again, this time to the Department of Commerce, Division of Safety & Buildings where these functions joined with the regulation of manufacturers as a new core of consolidated regulatory activity. The titling of manufactured homes was also transferred from the DOT to Commerce.

The 2001-2002 budget bill transferred water and sewer regulation from the Public Service Commission to the Department of Commerce.

Timeline of Manufactured Housing Retailers and Community Owners Regulation

Up to 1991

- Retailers licensed by the Department of Transportation
- Community owners licensed by the Department of Health & Human Services

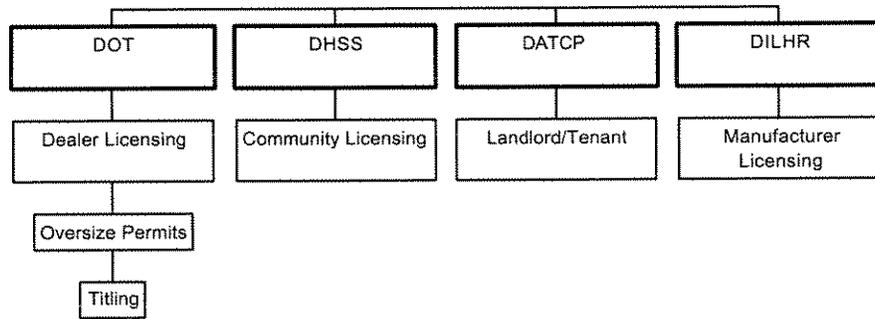
1991 to 1999

- Retailers licensed by the Department of Administration
- Community owners licensed by the Department of Administration

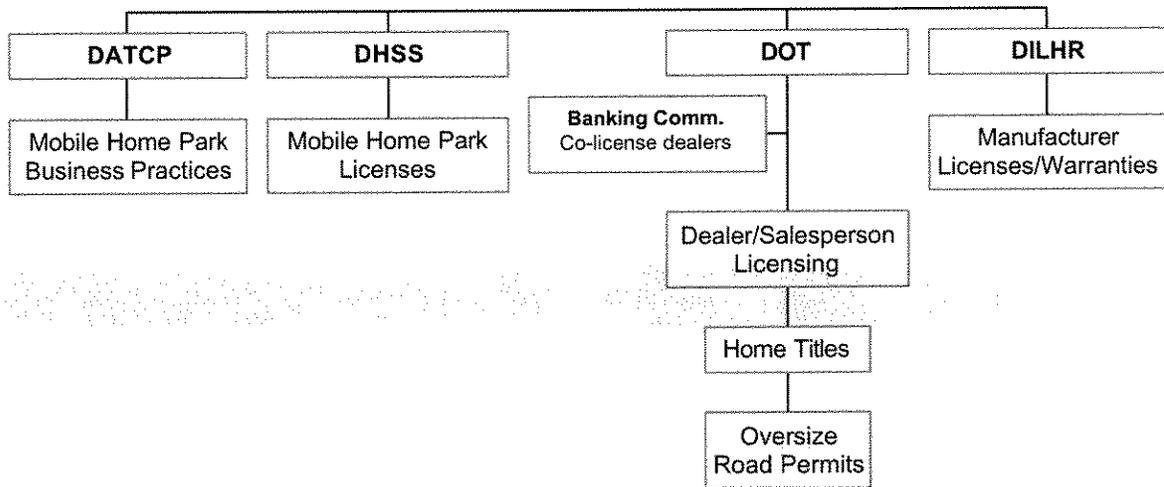
1999

- Retailers licensed by the Department of Commerce
- Community owners licensed by the Department of Commerce

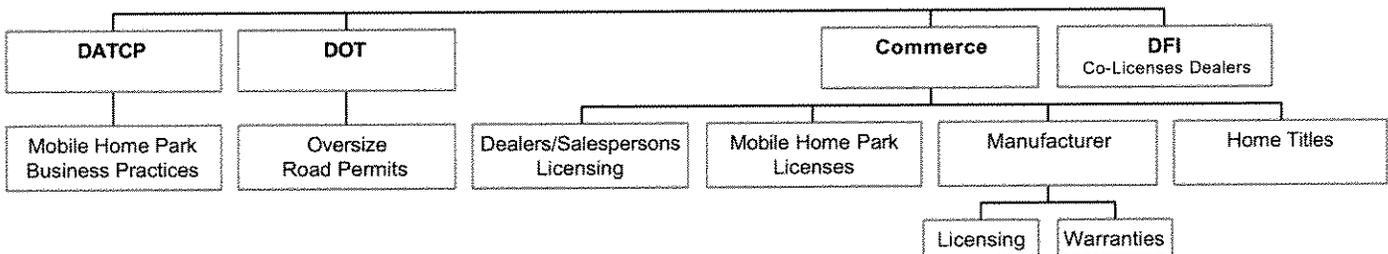
1980's Regulatory Scheme



Pre-1990 Regulatory Scheme



2001 Regulatory Scheme



Summary of Proceedings

The Task Force met on 12 occasions from January through September 2001. The Task Force met twice monthly, holding over 80 hours of face-to-face meeting time. It heard testimony from the following organizations and individuals:

- ABT Water Treatment, Brian Brown
- Department of Administration, Marty Evanson
- Department of Agriculture, Trade and Consumer Protection, Judy Cardin
- Department of Agriculture, Trade and Consumer Protection, Mary Fran Tryon
- Department of Commerce, Larry Swaziek,
- Department of Commerce, Martha Kerner,
- Department of Financial Institutions, Michael Mach
- Department of Financial Institutions, Secretary John Kundert
- Department of Natural Resources, Susan Sylvester
- Department of Natural Resources, Lee Boushon,
- Department of Natural Resources, Roger Larson,
- Department of Revenue, Greg Landretti
- Department of Revenue, Tom Ourada
- Department of Revenue, Vicki Gibbons
- Department of Transportation, Robert Cook
- First Financial Realty Advisors, Dean Larkin
- League of Wisconsin Municipalities, Curt Witynski
- Legislative Fiscal Bureau, Rick Olin
- Legislative Fiscal Bureau, Robert Lang
- Public Service Commission, Mary Pat Lytle
- Wisconsin Housing & Economic Development Authority, Executive Director Fritz Ruff
- Wisconsin Manufactured Home Owners Association, Executive Director Kristen Zehner
- Wisconsin Manufactured Housing Association, Executive Director Ross Kinzler
- Wisconsin Towns Association, Tom Harnsich

The Task Force adopted 49 motions, which the Chair used as the basis for this report.

• Conclusions and Findings

The Task Force Chairman, Richard Rand, has organized conclusions and findings within four broad and descriptive categories;

1. Regulation & Business Practices
2. Market Development
3. Transportation
4. Strengthen Resources

Conclusions and findings from the descriptive categories above have also been further detailed into five (5) action categories. Action categories were developed to convert the Task Force work product into specific "next step" recommendations;

1. Amend Both Statutes and Administrative Rules : 8 Proposed
2. Amend Administrative Rules : 12 Proposed
3. Amend State Statutes : 23 Proposed
4. Recommend Further Review / Study : 3 Proposed
5. Position and Policy Statements of the Task Force : 3 Declared

1.0 Regulation & Business Practices

1.1 Strengthen Protection of Consumers

Consumer protection is a primary responsibility of state regulators.

No agency has statutory responsibility for overall regulation of manufactured housing policy.

Consumers face a multitude of fragmented agencies and programs.

Consumers face autonomous state administrators and policy makers that sometimes operate in a decision framework that is lacking in strategic content and context.

The absence of comprehensive program coordination leads to misuse of resources, inadequate or incorrect policy implementation, and confusion. State employees are sometimes unfamiliar with regulatory practices and programs in other bureaus, divisions and departments. The absence of comprehensive program management hinders effectiveness and consumer access.

State regulations are decades old and in need of updating. For example, minimum net worth standards for retailer licensure have not had a meaningful update in over 30 years.

At the local level, manufactured home residents are not always treated fairly. As described in other sections of the Task Force report, residents often do not receive equitable treatment or availability of local government services such as individually metered water service.

Therefore, the Task Force recommends substantial modifications to policy, regulation and program implementation to improve consumer access to housing, improve product and community affordability, develop standards for fair and equitable access to state and municipal services, and establish fair tax treatment.

Outlined fully below, the Task Force recommends these specific actions:

- Establish industry education standards to increase professionalism.
- Study and then adopt new minimum financial standards for retailers.
- Adopt specific standards to deny retailer licenses based on misconduct.
- Establish a permanent manufactured home council to, among other things, develop revisions to eviction standards and other procedures related to manufactured home community operations and occupancy.
- Consolidate regulation of business practices into one agency.
- Enforce equitable tax assessment standards so that home owners pay no more or no less in taxes than homeowners in non-manufactured products.
- Require municipalities to provide fair treatment to manufactured housing communities regarding municipal services.
- Create an industry and consumer web portal to assist consumers and local officials pursuant to all aspects of construction codes, transportation, installation, land use, leasing, landlord-tenant law and other applicable issues operated by the Department of Commerce with assistance from UW-Extension and the Department of E-Government.

1.2 Modernize Licensing

The Task Force heard testimony from the Department of Commerce and industry representatives that recounted the history of the licensing of manufactured home retailers and manufactured home community owners.

Historically, retailers were licensed by the Department of Transportation in a manner similar to automobile retailers. The Department of Health & Human Services licensed manufactured home communities under a program that included public swimming pools and campgrounds. In the early 1990's, both functions were transferred to the Department of Administration, Division of Housing. In 2001, both programs were subsequently transferred to the Department of Commerce, Division of Safety & Buildings. The result was to combine in one agency, the licensing of manufacturers, retailers and community owners.

1.2.1 Reforms are in order. As the result of a series of programmatic transfers that occurred over the years, state agency rules need review and modernization.

1.2.2 Create a technical advisory committee at the Department of Commerce to assist in crafting rules revisions.

1.2.3 Create a permanent council for manufactured housing within the Department of Commerce to recommend ongoing code revisions, provide peer review in matters of discipline, and recommend policy related to consumer interests and protection. In addition, the council shall study and recommend to the Secretary actions to address the eviction process in manufactured home communities, long term leases, provision of information on rights and responsibilities to residents and dispute resolution.

Ongoing regulatory review of the manufactured housing segment of the single family housing industry in Wisconsin is vital to maintaining a working regulatory scheme. The Task Force recommends the tasks for the permanent council would be to:

- Provide input to the Department about administrative rules.
- Assist the Department in dispute resolution as required by the federal Manufactured Housing Improvement Act.
- Provide advice to the Secretary in disciplinary actions involving licensees. Create a peer review mechanism within the scope of the Department's licensing authority. Authorize the council to provide technical advice to the Secretary in determining appropriate discipline.
- Recommend improvements to landlord-tenant policies and practices, including those that remain unique to manufactured home communities. Encourage long-term leases, and evaluate the option of treating the home separately in an eviction process. Create a process to help resolve disputes. Improve communications regarding legal rights and responsibilities.

The permanent council shall be constituted so as to have broad representation of industry perspectives, have rotating membership, and its members shall be selected and appointed pursuant to their technical knowledge.

1.2.4 Implement a Department of Commerce study and adopt findings regarding standards for suspension, revocation or rejection of a retailer applicant based on a criminal background check or a conviction. Complete review and adopt findings within twelve months of report publications.

Under current law, the Department of Commerce has power to suspend or revoke a license or reject an application based on issues of "good character", but no written standards are in place to do so. In contrast, the Department of Regulation and Licensing has standardized questions on license applications and procedural steps to ensure that appropriate information needed by the Department for licensing is obtained, but that fair employment protections for applicants are also observed. The Task Force recommends that, with the assistance of the Department of Regulation and Licensing and perhaps the Department of Workforce Development, appropriate procedures can be developed to formalize determinations of "good character."

1.2.5 Implement a Department of Commerce study and adopt its findings regarding educational standards for retailers and salespersons. The study shall consider continuing education and examinations. Complete the review and adopt findings within twelve months of report publication.

The Task Force considered policy options that may increase professionalism of both manufactured home retailers and salespersons. A solution was not self-evident. The separate advisory committee shall provide a venue for comprehensive review and analysis of policy options.

1.2.6 Implement a Department of Commerce study and adopt its findings regarding retailer standards for minimum financial responsibility.

Under current law, a new manufactured home retailer need only have a net worth of \$25,000 or a bond in a like amount. This standard, adopted decades ago, is no longer a valuable proxy for consumer protection. The Task Force recommends the Department of Commerce appoint an advisory committee of licensees and consumers to study minimum financial responsibility of retailers. The present standard dates to a time when manufactured home retailers were licensed by the Department of Transportation in a manner similar to automobile retailers. Retailers of modular homes and other single-family contractors do not have to show financial responsibility even to the minimal extent that is required of manufactured home retailers. The proposed advisory committee shall study these businesses and others to make an appropriate recommendation to the Secretary.

1.2.7 Review and make recommendations regarding the Department of Financial Institutions' retailer licensing policy. Evaluate the intent and scope of the current retailer license. Also, evaluate the potential benefits of expanded retailer license authority. Policy review and evaluation shall include consideration of licensing policy applicable to mortgage broker licensees.

Currently, the Department of Commerce and the Department of Financial Institutions co-license manufactured home retailers. The portion of the license from DFI is a sales finance license. However, as the Task Force learned, many transactions with customers may begin as a simple purchase of a home as personal property, but later become real property construction agreements. If the retailer helps a customer find financing, the sales

finance obligation may later become a mortgage loan. The Task Force discussed concerns with the DFI that industry communications of this nature could evolve into, or be construed as unlicensed activity by the manufactured home retailer. It is therefore recommended that DFI explore expansion of current license authority to include portions of the mortgage broker's license.

1.2.8 Implement a joint Department of Commerce and Financial Institutions study and adopt its findings related to whether present co-licensing of manufactured home retailers by the two departments, should be separated into two distinct licenses. The Task Force recommends consideration of one license to sell homes and a second separate license to permit involvement in financial aspects of home purchasing. The second license might accommodate both a sales finance agreement and a mortgage loan.

Based on testimony and discussions, the Task Force concluded that there may be merit to separating the present co-licensing system of manufactured home retailers into two separate licensing processes. By separating the licenses, each department would regulate and develop separate licensing and policy decisions enabling each to act independently pursuant to industry changes.

1.2.9 Adopt new home installation authority within the Department of Commerce, which permits manufactured home installers to perform limited hook ups of water and sewer service.

The Task Force gathered information and discussed difficulties associated with finding and scheduling licensed plumbers to complete simple water and waste connections. The absence of this routine service and corresponding problem of accessing it has resulted in unnecessary consumer frustration, delays and costs.

The Task Force recommends that authority to install water and waste connections be codified by expanding current licensing authority pursuant to home installation.

The federal Manufactured Housing Improvement Act of 2000 dictates that states implement an installation licensing program. The federal Act requires that the state installation program conform to a federal model. However, that model is not currently available.

1.2.10 Amend Wisconsin Statutes 101.9203, to eliminate title requirements when a security interest is perfected by a recorded mortgage with an underlying deed.

During the course of Task Force deliberations, the Department of Commerce and Wisconsin Manufactured Housing Association mutually identified concerns pursuant to the above. The industry and the Department of Commerce asked the Legislature to consider and then adopt statutory modifications pursuant to titling. Current law had required title issuance for every home sold. Reform language was included in the 2001-2002 state budget bill, and has subsequently been passed and approved by both houses of the legislature and the Governor. The Task Force commends the legislature and the Governor for swift action on this titling modification. [Approved as a part of the Biennial Budget.]

1.2.11 The Department of Financial Institutions should study prohibitions or limitations on the payment of fees to brokers or other parties and the removal of the prohibition on prepayment penalties on loans used to finance the purchase of a manufactured home provided the terms of the loan are within the bounds of conscionable rates and terms.

In certain cases, financing of manufactured home purchases are only available from out-of-state funding sources and these funding sources are represented by broker representatives. The prohibition of fees or compensation to brokers and other parties effectively limits the available financing options for Wisconsin consumers. As such there is less competition in these loans. This ultimately penalizes the consumer by reduced competition for such loans and/or higher rates.

Loans used to purchase or refinance manufactured homes are prohibited from having prepayment penalties in certain situations. As noted above, most manufactured housing loans are provided by out of state lenders. Nationally, the limitation on prepayment penalties is not prevalent. In addition, as a result of this limitation, these funding sources charge higher interest rates to consumers to offset the propensity for accelerated prepayments. Financing of other primary housing other than manufactured housing does not have limits on pre-payment penalties. The Task Force recommends that all housing loans be treated the same and these limitations be removed.

1.3 Wisconsin Must Act to Conform to Federal Law

1.3.1 Authorize the Department of Commerce to adopt rules implementing the federal Manufactured Housing Improvement Act of 2000. Authorization shall include installer licensing, inspection and dispute resolution.

The Manufactured Housing Improvement Act requires states to adopt within 5 years the licensing of installers, a random inspection program and a program to resolve installation disputes.

Comm 27.18 provides minimum pier installation standards in Wisconsin, but these administrative rules do not address aspects of licensure, random inspection and dispute resolution.

A federally appointed consensus committee will recommend minimum state standards to the Secretary of Housing & Urban Affairs. Each state must then adopt minimum standards pursuant to these, however, standards may not be available for another 12 years.

The Task Force recommends new Department of Commerce authority to implement the federal act because failure to do so will result in direct federal regulation. Direct, preemptive federal regulation may lead to confusing jurisdictional disputes disrupting consumer product development, installation, and home ownership.

1.3.2 Create new "alternative construction" certification authority. Create a new Department of Commerce process using state certified building inspectors to provide "alternative construction" certification inspections as required by HUD.

The U.S. Department of Housing and Urban Development (HUD) requires that any home installed in such a manner that a roof vent or other structural component is altered on site must be re-inspected on site and that an "alternative construction" letter be obtained from HUD.

HUD requires homes produced with features such as hinged roofs to obtain "alternative construction" letters from HUD. The HUD approval process requires a third party field inspection. However, manufacturers report difficulty locating qualified inspectors. New Department of Commerce responsibilities pursuant to this recommendation should result in a public - private partnership that clarifies a niche business market for existing inspectors.

This action by the Department of Commerce may not require any new state laws or rules to implement, only coordination and notice to certified building inspectors of a new market for their services.

1.4 Fee Collection Needs Reform

1.4.1 Eliminate the use of consumer fee revenue for non-industry programs and operations.

1.4.1.1 Re-direct consumer title fees to specific development of manufactured housing programs.

1.4.1.2 Re-direct titling fee revenue not used for Department of Commerce program administration to home recycling or re-use. Authorize expenditure authority from titling fee revenue for new or expanded programs that recycle uninhabitable mobile or manufactured homes, and programs which rehabilitate (re-use) old mobile or manufactured homes for homeless families.

Current law diverts titling revenue to the non-point pollution abatement program in the Department of Natural Resources. Current law perpetuates and reinforces negative and historic perceptions of manufactured home products being "mobile", "transient", and "vehicular" in nature. This recommendation is important to the modernization of industry practices and consumer attitudes. Most manufactured products today remain on a foundation, slab, or full basement following first installation. The "mobility" of the industry is a stereotype of products and years past.

Current law authorizes about \$8.50, or 33% of the current \$25 title fee to be used for titling administration by the Department of Commerce. However, 68% of the fee (\$17) is transferred to the Department of Natural Resources for the non-point pollution abatement program. (\$9.00 is directly transferred to the DNR, and an additional \$7.5 goes to the Transportation fund and then is matched by the Department of Administration and transferred to the DNR for non-point pollution abatement programs.) Manufactured homes are no longer titled through the Department of Transportation like automobiles. It is time to modernize the tax code and treat these homes as homes – not vehicles. No other state housing product, for example site-built homes, contribute to the non-point pollution program or the Transportation Fund. The Task Force recommends elimination of this discriminatory and Jurassic revenue allocation.

The Task Force recommends two consumer oriented uses for the revenue that are consistent not only with industry and consumer product development but also consistent with the programmatic mission at the Department of Natural Resources.

1.4.1.3 Create a program to recycle old abandoned homes which currently blight the rural Wisconsin landscape. Direct that titling fee revenue support a permanent expansion of the current Department of Natural Resources demonstration grant home recycling pilot project.

1.4.1.4 The Task Force supports the re-use (through rehabilitation) of old mobile and manufactured homes for use by homeless families.

Currently an informal, cooperative partnership exists among local and state officials, a non-governmental organization and the industry association that results in the identification, facilitation, and placement of homeless families into rehabilitated manufactured housing products. In recent years, the informal partnership found

housing solutions for nearly 100 families. (The additional funding would enable the partnership to continue an expanded effort.)

1.4.2 Create Department of Commerce authority to establish fees by administrative rule. Repeal statutory fee setting authority related to certificates of title, retailer licenses, and salesperson licenses and instead authorize the Department of Commerce to establish fees by administrative rule.

As noted by the Department of Commerce in an appearance before the Task Force, fees expressed in the state statutes require action by the Legislature and Governor to keep them updated. The Department of Commerce successfully manages by administrative rule numerous other user fees. The Task Force recommends that manufactured housing industry fees be treated in accordance with similar department policy. The current statutory fee structure does not provide an appropriate mechanism to match programmatic costs with program revenue.

1.4.3 Authorize the Department of Commerce to establish a fixed fee cycle for a sales license and eliminate pro-ration of partial year licensing fees.

A 2-year, full term license fee is \$8. The current practice of pro-rating the license fee for a portion of a license cycle results in excessive administration costs. Simplify the process by charging one flat license fee of \$8.

1.4.4 Transfer and modify existing position and appropriation authority related to the titling of mobile and manufactured housing.

Transfer from the Department of Transportation to the Department of Commerce, both position and expenditure authority related to titling of mobile and manufactured homes. Modify the appropriation by eliminating the current Department of Transportation SEG fund support and instead create a new appropriation at the Department of Commerce which is an annual, PR supported appropriation.

Testimony by the Department of Commerce highlighted the path that titling fees take in the state bureaucracy beginning with collections by Commerce, a transfer to DOT and then another transfer to DNR. The Task Force recognizes that the fees should be 1) established by the Department of Commerce to cover their program administration and 2) be collected by the Department without involvement of the Transportation fund.

1.5 Terminology in the Statutes Must be Modernized

Inconsistent use of the terms "manufactured" and "mobile" home and related verbiage confuse state and local officials, the industry, general public, and consumers.

State statutes include language that is confusing pursuant to descriptions of both "mobile" homes and more recently "manufactured" homes. Language modifications are necessary to reflect modern business practices and modern home products that are used as permanent residential dwellings.

Pursuant to Chapter 101 of the Wisconsin Statutes, a "manufactured" home is a home built in accordance with federal, post 1976 construction standards.

Some sections of the statutes still include references to the term "mobile" home. Some of these references cause a generic and universal reference to be cast upon factory built housing which incorrectly combines definitions of both the pre-1976 and post 1976 products. State administrative codes are also confusing. Some codes reference homes built not to federal code but instead to the state building code.

1.5.1 Delete, create and modify certain definitions of "manufactured home", "mobile home", "manufactured home park", "recreational vehicle" and similar industry related terms throughout state statutes. Furthermore, delete, create and modify administrative rules and drafting instructions for administrative rules to reflect those changes.

The Task Force recommendation is that specific, universally used definitions be adopted to describe a mobile home, a manufactured home built to the federal standards, a manufactured dwelling built to the state building code and a recreational vehicle. The use of specific definitions will enhance consumer product awareness, enhance general public awareness, reduce or eliminate reference confusion, improve communication among consumers, the industry and state authorities, and generally improve effectiveness pursuant to state law and permit the state to better target public policy.

The Task Force recommends that each state agency with related administrative rules submit a written report to the Department of Commerce within twelve months after acceptance of this report. Agencies shall specify in their reports both the current use of related language and recommended remedies. The Department of Commerce shall use such information to submit recommendations to the legislature and Governor, should statutory corrections be necessary beyond agency level regulations or policies.

1.5.2 Review and revise state statutes related to sales finance companies. Specifically, require the Department of Financial Institutions to provide a report to the Governor, which proposes to modify statutory language related to sales finance companies and manufactured home retailers pursuant to recent amendments to Chapter 218 and Chapter 101, Stats.

The Department of Financial Institutions indicated that the move of manufactured home retailer regulation from the DOT to Commerce did not cause the function of sales finance company regulations to move outside of Chapter 218. Chapter 218 may no longer be an appropriate place to account for sales finance functions of manufactured home retailers that are no longer regulated under that chapter.

1.6 Finish Streamlining the Regulatory Environment

1.6.1 Consolidate statutory authority and related functions of business practice regulation generally found in Chapter ATCP 125 from DATCP into the Department of Commerce.

To improve efficiency, enhance consumer access to policy and program development, improve state and industry relations, and reduce costs, regulation of manufactured housing has steadily been consolidated into the Division of Safety & Buildings, Department of Commerce. This process has occurred slowly, during the course of the past two state budget cycles. Many states consolidate the same or similar functions into single programmatic areas. It is time to consolidate the final element of manufactured home community business practice regulation currently in the Department of Agriculture, Trade and Consumer Protection, Chapter ATCP 125. The Task Force found that while the Department of Commerce licenses manufactured home communities, the business practice regulation of those entities is divided between Commerce and DATCP. The licensing agency must have full authority to regulate practices of licensees. Under current law, no such authority exists.

To improve enforcement, Chapter ATCP 125, which is described by DATCP as Wisconsin's fair trade practices law for manufactured home communities, should be enforced by the agency that also licenses manufactured home communities – the Department of Commerce.

DATCP and the Wisconsin Manufactured Home Owners Association have opposed the idea of this transfer.

The Task Force has noted that DATCP has limited resources to enforce the law. Former DATCP Secretary Ben Brancel, in a letter to the Task Force stated that no department staff are authorized or dedicated to manufactured housing issues and that overall manufactured housing issues make up less than 0.7% of consumer protection hotline calls and less than 0.8% of written complaints.

The Task Force is not recommending a transfer of general landlord-tenant law to the Department of Commerce, only Chapter ATCP 125.

Chapter ATCP 125 regulates the following business practices:

- Prohibitions on "tie-in" sales of manufactured homes and rental sites.
- Minimum content of rental agreements including descriptions of property and services, security deposits and other payments, attachment of any rules or regulations, notices of governmental assessments, minimum rental agreement terms and other disclosures.
- Limitations on rental agreement provisions.
- Regulation of conditions and notices under which rental agreements may be changed.
- Regulation of sale and transfer conditions of a manufactured home.
- Relocation limitations on manufactured homes.
- Termination of tenancy (incorporates Section 710.15(5m)).
- Prohibited business practices.

1.6.2 Establish via statutory language that the Department of Commerce is the primary agency for all manufactured housing related programs and regulations.

The manufactured housing industry has a long history of regulatory programs scattered across state government. A primary objective of the Task Force was to review the disparate and confusing array of state efforts, regulation and program authority. The Task Force applauds both the Legislature and the Executive branch for recognizing the inefficiencies associated with this historic program approach. The Task Force also seeks to clarify the value of continued statutory authority, resources, and program authority being consolidated into the Department of Commerce.

In the future, all program and policy should be configured pursuant to programmatic architecture in the Department of Commerce. In the future only rare exceptions shall cause new initiatives, policy and programs to be established outside the jurisdiction and regulatory apparatus of the Department of Commerce.

1.7 Reform the Regulation of Water & Sewer Service Issues

The Public Service Commission and stakeholders testified about the negative effects of Act 229, Laws of 1997, which vested regulatory authority over manufactured home communities' water and sewer service into the Public Service Commission. Agency testimony and stakeholder testimony supported consolidation of licensing activity into the Department of Commerce. Further, additional testimony questioned the practical aspects of determining the reasonableness of rates and the resolution of complaints under the Public Service Commission rules. The Task Force was without technical resources to determine matters of rule interpretation or implementation. Further work by a technical advisory committee is necessary. Therefore, the Task Force makes the following recommendations:

1.7.1 Transfer regulation of water and sewer service from the Public Service Commission to the Department of Commerce.

The Department of Agriculture, Trade and Consumer Protection historically regulated water and sewer service in manufactured home communities. In Wisconsin Act 229, laws of 1997, the Legislature and Governor transferred that responsibility to the Public Service Commission. The general belief was that the Public Service Commission was best suited to prepare and enforce regulations dealing with technical subject matter. The agency promulgated PSC 186, which established business practice standards. However, the statute only gives the agency power to enforce the rules as the result of a complaint. Transferring the program to the Department of Commerce would consolidate this function with general licensing of manufactured home communities. Governor McCallum has included the proposed transfer in his budget. Combining water and sewer service regulation with general licensing activities increases governmental efficiency, improves accountability and provides the public with a single source pursuant to licensee disputes. [Completed as a part of the 2001-2002 State Budget]

1.7.2 Repeal the separate fee for the regulation of water and sewer service in manufactured home communities. Fund the regulatory program with the mobile home park-licensing fee.

The Public Service Commission is a program revenue agency funded by user fees. With the adoption of the recommendation above, the Task Force concludes that a separate fee is not needed since this function once transferred to the Department of Commerce would constitute a subset of manufactured home community licensing. The regulatory costs should be borne by the licensing fee process. [Completed as a part of the 2001-2002 State Budget]

1.7.3 Amend PSC 186 to simplify establishment of "reasonable rates." Create an advisory committee of stakeholders.

Current law requires that a mobile home park may only charge its residents "reasonable rates." The Public Service Commission adopted PSC 186 to establish standards for determining "reasonable rates." Testimony demonstrated that the new PSC process created confusion. Furthermore, it was determined that a more understandable process is achievable for both residents and owners of manufactured home communities. Testimony before the Task Force established that the current standard for establishing "reasonable rates" has proven to be unworkable in practice. Consumers deserve protection based on rules that they and their landlord can understand. The Task Force further recommends that a technical advisory committee be empanelled to assist in that process.

1.7.4 Three recommendations, below, address the provision of equitable utility services.

- a. Implement a Public Service Commission review of general public water and sewer service provision to manufactured home communities. Specifically, the PSC shall examine the possibility that residents are not being treated equitably pursuant to public water and sewer utility service.
- b. Require public utilities to provide metered service to all residential housing units if the public utility has service reaching the property. Such service in a licensed manufactured home community may be master and sub-metered with the community owner required to make up the difference between the master meter and the sub-meter readings. However, the mobile home park shall only pay for water losses that exceed the rate of water loss of the public system generally.
- c. Limit, by means of Public Service Commission administrative rule, a public utility to charging a fixed user fee to a mobile home park only for service(s) it provides.

Task Force members expressed concerns that residents of manufactured home communities might not be treated equitably by the public utilities. An example of inequity was provided. It would not be equitable for a public utility to use the water volume at a master meter to determine the sewer charge for the community because this methodology does not recognize that distribution systems lose water between the master meter and individual meters. The current PSC administrative code recognizes this distribution dilemma. PSC 185 permits small public utilities up to a 25 percent loss of water in the distribution system. The same latitude is not extended to manufactured home communities. The standard imposed by the local public water utility on the manufactured home community has the effect of imposing a zero percent water system loss standard. Therefore, residents of a mobile home park pay more for water and sewer services than if they were served directly by the utility.

Manufactured home residents do not benefit from the public utility service for which they otherwise pay. Manufactured home residents who live in manufactured home communities pay fees as a part of the water rates charged by the public utility. If the public utility does not provide individual metering of water, but requires the community owner to do the metering, the residents may find that they must pay metering fees a second time. The common framework for a subdivision is that the city water utility will automatically provide individual water metering for homes in a subdivision, but the city will not automatically provide individual water metering if the same home was located in a manufactured home community.

Recommendation 1.7.4(b) above would assure them of metered service. Equities are balanced by holding the mobile home park owner responsible for distribution leaks to the extent that they were worse than the public utilities' own standards.

It is not uncommon for a public utility to charge a fixed user fee to a mobile home park based upon the number of sites in the community. This charge is levied despite the fact that the public utility does not provide direct service to the residents. The residents ultimately pay a fee that no other residential dwelling units are charged. Recommendation 1.7.4(c) recognizes this inequity.

1.8 Private Utility Systems Necessitate Unique Policy Consideration

While there is no specific data on the number of manufactured home communities in the state with private water and/or sewer systems, the Task Force gathered information and testimony suggesting that a substantial portion of licensed manufactured home communities have such systems.

Because systems are privately owned, there are several practical and policy challenges.

Privately owned water systems that serve more than 25 persons a month are considered "public systems" pursuant to the federal Safe Drinking Water Act (SDWA). The SDWA requires that all public systems monitor water for contaminants and take necessary corrective action if contaminants are found. Privately owned systems are also subject to a federal mandate that they have a certified operator.

Privately owned sewer systems are subject to regulation either by the Department of Commerce or by the Department of Natural Resources depending upon the amount of effluent generated.

1.8.1 Modify existing Department of Natural Resources authority pursuant to replacement of septic systems in existing manufactured housing communities. Transfer existing DNR authority to the Department of Commerce related to DNR-WPDES permitting requirements.

Testimony before the Task Force by the Department of Natural Resources elicited concern by some task force members that the Department's regulation of large on-site wastewater treatment could have the effect of closing some manufactured home communities unless those communities could repair or replace their systems with equipment of like type and costs to their current system. WPDES permitting requirements would require pre-treatment, operator monitoring costs as well as permit renewal every five years. Those are costs that manufactured housing community operators and residents cannot bear if the mobile/manufactured housing community is to remain affordable. The five-year permit renewal period is an exposure that will preclude or, at a minimum, make it difficult for the community owner to justify their financial investment. Full implementation of the WPDES requirements could end homeownership for hundreds, if not thousands, of manufactured homeowners if their community owner cannot afford the cost of compliance.

1.8.2 Amend the Department of Commerce administrative code pursuant to what constitutes a "large system" so that it conforms to the definition used by the Department of Natural Resources.

Testimony from the Department of Natural Resources established that the DNR and the Department of Commerce have differing definitions of "large systems." Under the Commerce definition, any number of systems within a 1,500 foot diameter circle constitute a large system if their flow is 12,000 gallons per day or more.

1.8.3 The Department of Natural Resources and the Department of Commerce review current policy and recommend program changes to facilitate new mobile home park financial assistance, to both community owners and consumers to repair or replace failing water or sewer systems.

Many manufactured home owners own their home but not the land a home sits on in a manufactured home community. Testimony and Task Force discussion considered

whether residents and owners of manufactured home communities were or could be excluded from certain programs because of the home owner-land owner relationship. It was further clarified that manufactured home communities are not sanctioned municipal government jurisdictions.

Policy complications result when, for example, small mobile home park water systems are actually larger than some municipal systems and the municipal systems are eligible for state and federal financial assistance, yet, residents and owners are not eligible.



2.0 Market Development

2.1 Land Use Planning Must Incorporate Manufactured Homes

Manufactured home owners have traditionally received hostile zoning treatment.

Until just ten years ago, in the early 1990's, a manufactured home owner was often coerced by zoning limitations to live in either a licensed mobile home park or a rural area that lacked zoning policy. Almost universal discrimination of manufactured home products blocked the industry from making significant market gains and simultaneously blocked consumers from the dream of home ownership.

In Collins v. City of Beloit (1990), a Wisconsin Circuit Court ruled that limiting a manufactured home to a licensed mobile home park was unconstitutional.

In 2000, the Manufactured Housing Improvement Act modified federal law (42 USC 5401) to specify that the purpose of the Act was to provide all Americans with access to affordable housing through manufactured homes. The Act further expanded the level of federal preemption of state and local regulation of manufactured homes.

Restrictive land use regulation remains one of the single greatest barriers to industry consumers.

Across Wisconsin, local governments still attempt to zone out manufactured homes by requiring exceptionally large lots, specific building features or other techniques.

In 2000, Wisconsin adopted the Smart Growth statute to produce comprehensive plans in all jurisdictions.

The Task Force examined zoning and land use planning policy and market impact. Manufactured homes still do not receive fair zoning and planning treatment.

Pursuant to the Task Force realization that zoning and planning policy constitute the single largest focal point for consumers, the group developed the following recommendations.

2.1.1 Adopt model legislation from the American Legislative Exchange Council which established that factory-built homes shall be treated for zoning purposes like all other single family homes.

The American Legislative Exchange Council is the largest bi-partisan organization of state lawmakers. Earlier this year, the Council adopted a model bill on non-discrimination in zoning for factory built homes. The model bill was the work of ALEC's Commerce Committee chaired by Wisconsin State Representative Dan Vrakas. The model bill recognizes the vital role that factory built homes play in homeownership. The model requires that manufactured homes be permitted uses in any zoning district that permits other single-family housing.

2.1.2 Modify the Smart Growth law to provide clarity to local jurisdictions that they must provide their "fair share" of regional affordable housing.

Under the State's Smart Growth law, a local jurisdiction must consider its affordable housing needs, but need not provide for affordable housing even if it identifies a need. The Task Force recommendation implores every community to do its share and not shift the need to neighboring communities. The practice of shifting exacerbates consumer affordability as travel and other social costs escalate.

2.1.3 Amend the Smart Growth law to clarify that affordable housing specifically includes owner occupied single-family detached homes.

The terminology of affordable housing in the Smart Growth statute is vague and may lead local officials away from manufactured housing options and only toward multi-family rental housing. The Task Force recommends that affordable single-family detached homes should be a part of the affordable housing element. The Task Force recommends that the state create a new definition of affordable housing that includes, but is not limited to, manufactured housing.

2.1.4 Review and revise state zoning laws to clarify that non-conforming zoning status may not be used to eliminate existing manufactured home communities.

As older manufactured home communities are annexed into cities or rezoned the communities have been classified as a non-conforming use. Non-conformance means that the community cannot be expanded or if it is damaged beyond 50% of its value, it cannot be rebuilt. Some municipalities have taken the position that if a community becomes non-conforming because of subsequent zoning action by the municipality an existing home cannot be replaced unless the new home will meet the building separation standards in the new ordinance. The Task Force concluded that some of these zoning actions creating a non-conforming status are passed in order to force the manufactured home community out of business. Non-conforming status must not be used as an excuse to close communities, disrupt consumers, disrupt families and potentially dismantle consumers' financial equity.

2.1.5 Create and implement an appropriate prevention technique which blocks local governments from imposing new setback standards on existing manufactured home communities.

Local jurisdictions have taken the view that sites within a licensed mobile home park are subject to new side yard or other setbacks (lot line to home distances) whenever an older home is replaced by a new home. This view is not consistent with the law.

Individual sites in a licensed mobile home park are not legally described parcels.

The entire mobile home park is a single parcel. Internal lot lines, the parameters between homes in a community, are merely a feature of landowner policy. When local governments or similar entities of jurisdiction impose setback standards without legal basis they effectively reduce the number of usable lots and consequently the number of homes in the community. This practice discourages homeowners from upgrading and promotes sprawl.

2.1.6 No restrictive deed provision, restrictive covenant or agreement may be applied nor enforced on a property that prohibits the erection of a factory built home. This prohibition does not, however, limit a developer's right to adopt reasonable aesthetic compatibility criteria.

All across Wisconsin, subdivisions and other residential lots are created daily; but many are subject to deed restrictions created by the developer that prohibit a buyer from purchasing a factory-built home.²

Wisconsin law limits local governmental bodies from 'zoning out' homes built to the uniform dwelling code whether they are built on site or in a factory.

Similarly, federal law extends this limitation to homes built to the Federal Manufactured Housing Construction and Safety Standards.

These limits, however, can be of little use if developers systematically draft and record deed restrictions to affect the same purpose. The recommended Task Force language retains developer authority over the exterior 'look and feel' of their development, while protecting consumer choice.

² A factory-built home as used by the American Legislative Exchange Council includes all homes built in a factory. In Wisconsin, this would include homes built to both the state one and two family dwelling code and the federal manufactured home code.

2.2 Modernize Taxation

2.2.1 Create a single tax for manufactured home sales.

During testimony, the Department of Revenue suggested that if the transactional distinction between real and personal property manufactured home sales were eliminated, the Department would simplify the corresponding tax code.

Under current law, if a home is sold and placed upon land owned by the homebuyer, the transaction is not subject to the sales tax. It is instead subjected to a use tax on the contractor equal to the tax rate times 65% of the invoice cost of the home.

If however, the home is placed on land not owned by the homebuyer, the sales tax is applicable to the homebuyer equal to the tax rate times 65% of the purchase price.

Because the homebuyer may, and often does, decide to select a new location for their future home during the purchase phase, the tax methodology shifts back and forth between consumer and contractor.

Importantly, the tax fluctuation impacts the consumer price. Furthermore, the cost of computing multiple and complex tax scenarios is time consuming, inefficient and an impediment to consumer home ownership.

The purchase transaction and cost consequences float between affirmative and negative tax liabilities to the buyer, confusing everyone.

Complex tax consequences compound the already complicated process of home buying. A more consumer friendly tax solution is in the best interest of the industry, consumers, and the Department of Revenue.

2.2.2 Exempt from taxation under Section 66.0435 Stats, any interim holder of a manufactured home acting as the holder in due course.

Under current interpretations of the merchant's stock-in-trade exemption, a manufactured home retailer is exempt from "mobile home parking fees" as created by Section 66.0435 Stats. However, the Task Force feels that there are other circumstances such as a lender who assumes possession of a manufactured home in the course of commerce that should be similarly exempt.

Selling of a manufactured home as a business practice requires a state license. However, a lender is exempt from retailer licensing when it is selling repossessed inventory. If the lender held a manufactured home retailer's license, it would clearly be exempt from the parking fee for homes in its inventory; but because it is specifically exempted, questions arise as to whether its sales activity triggers the merchant's stock-in-trade exemption.

2.2.3 The Department of Revenue must insist on consistent enforcement of fair market value assessments of manufactured homes.

Local assessors inconsistently assess manufactured homes.

In some cases, the home is regularly depreciated; in others, no change is made year after year and in others, market adjustments are made.

Lack of consistency means that manufactured home owners' shares of local taxes are also inconsistent.

2.2.4 Amend the statutes to require municipal clerk prosecution of a small claims collection action prior to placing a tax lien on a manufactured home community.

Under Section 66.0435, Stats, a manufactured home owner and a manufactured home community owner are jointly and severally liable for collection of "mobile home parking fees.

These fees are equivalent to real estate taxes but are collected in advance and on a monthly basis.

However, if the homeowner does not pay them, the municipality may place a tax lien on the land of the community owner.

Require municipalities to make and demonstrate reasonable collection efforts against homeowners before a tax lien is permitted. Current practice allows municipal government to quickly shift responsibility to community owners. The practice is unjust in the absence of municipal "due diligence".

2.25 Create a study to evaluate state level consumer tax credits for manufactured home development. Charge the group with working with the Department of Revenue, the Department of Financial Institutions, the Department of Commerce and the Wisconsin Housing and Economic Development Authority. Authorize the Department of Commerce to organize and support the work of the committee.

As land costs and regulations have pushed up the price of new homes, developers have shifted their attention to upper income buyers leaving low and moderate-income families with few new home choices. A study should be conducted to determine if state-based tax credits could provide encouragement to developers and non-profit organizations to build new, single family, affordable manufactured homes. This credit would help bridge the gap between development costs and market prices and help expand opportunities for low and moderate-income families to enjoy home ownership.

2.3 Expand Low Interest Loan Availability

2.3.1 WHEDA should explore with the industry and the U. S. Department of the Treasury, avenues to make WHEDA's tax-exempt bond backed low interest loans available to homebuyers purchasing a manufactured home on leased or tax-exempt lands.

WHEDA sells tax-exempt bonds to fund low interest mortgage loans. Pursuant to federal law it has been interpreted that the home purchase must be "fee simple" transaction. The home and land must both be purchased.

However, over 50,000 Wisconsin families live in homes they own but happen to be located on land that they do not own. These families are not eligible for WHEDA low interest loans.

Authorize WHEDA to work with the federal Department of the Treasury to rectify this situation.



3.0 Transportation

3.1 Transportation Must be Safe, Cost Effective and Efficient

Transportation policy and transportation infrastructure are central to the manufactured housing industry and consumers. Transportation policy dictates home design, movement, and market availability, and it impacts consumer access to products.

Wisconsin's road system is as vital to the manufactured housing industry as any other single factor. In testimony from the Department of Transportation and the industry, the Task Force identified issues involving the permit process for movement of homes and information resources that are needed by the Department, manufacturers, retailers and consumers. Therefore, the Task Force makes the following recommendations:

3.1.1 Complete the Department of Transportation local roads database to generate and make available key routing information.

The Wisconsin Information System for Local Roads (WISLR) is being developed by the Department of Transportation as a database for local roads. Towns, villages, cities and counties were required to submit their inventory of local road conditions to the Department by December 15, 2001.

The Transportation Information Training Center of the University of Wisconsin is training individuals to perform the required road surface ratings.

Information on local roads is a vital part of the product-to-market equation. Wisconsin transportation policy impacts almost every aspect of manufactured housing.

3.1.2 The Task Force recommends the Governor oppose any effort to repeal Section 348.26(4), Wis. Stats granting the state sole permit authority for single trip permits on all Wisconsin roads.

The Wisconsin DOT is not an appropriate third party mediator between industry and local road authorities regarding home transport on local roads.

Support current law that provides uniform state movement rules and a single permitting source. Statewide and even region-wide home movement is required for a vibrant industry. The current law is critical.

3.1.3 Reduce the reliance on single trip permits. Complete the Department of Transportation amendments to Trans 260 and 261, which simplify movement permits.

The Wisconsin Department of Transportation has issued a rulemaking notice to increase the height and width of permitted homes pursuant to multiple trip permits.

Multiple trip permits conserve Department, industry and consumer resources when loads do not require special permit conditions. The industry's safe movement record is a basis for and justification for expansion of multiple trip permitting.

3.1.4 The Department of Transportation review and take action to eliminate the second escort vehicle on movement of 16-foot wide homes on two-lane roads.

The transportation of oversize loads, such as a manufactured home that exceeds 14- feet in width, requires an escort vehicle ahead of and behind the load.

The second escort vehicle (generally the escort behind the home) is often separated from transported homes because of intervening traffic. The escort is immediately ineffective. Many other states do not require second escorts.

No evidence was discovered or presented which could correlate vehicular and traffic safety to a particular number of escort vehicles. In the absence of compelling safety or other data justification, the Task Force recommends elimination of the costly second escort vehicle.

3.1.5 Create an annual 16-foot wide, multi-trip permit process for manufacturers and transporters that use routes repetitively on a daily basis such as from a Wisconsin-based manufacturing plant to the state border.

Currently, Wisconsin law provides for a single trip permit for loads exceeding 14 feet wide or 13 feet, 6 inches high.

Multiple trip permits, sometimes called annual permits, allow the movement of loads under those dimensions without restriction.

Manufacturers indicate, however, that additional cost and personnel savings could be realized if the DOT created a third type of permit. The new permit would authorize load movement normally subject to a single trip permit to be moved under multiple trip permit conditions, provided such movement was along a fixed route.

For example, the new permit would extend to daily movement of multiple homes from a factory location to the state line. Currently, the manufacturer and the DOT process several permits every day for the same type of load along the identical route. The result is an immense and inefficient use of state and industry resources.

4.0 Strengthen Resources

4.1 Create an industry and consumer web portal to assist consumers and local officials regarding all aspects of construction codes, transportation, installation, land use, leasing, landlord-tenant law and other applicable issues to be operated by the Department of Commerce with assistance from UW-Extension and the Department of E-Government.

While disparate resources are available for both consumers and the industry to access information about manufactured home living, there is no consolidated single access point. The new Department of E-Government working in concert with the Department of Commerce and the UW-Extension can use this opportunity to show the citizens of Wisconsin how state government can be both a resource and regulator of an important industry.

4.2 Create a study group to research and evaluate demographic characteristics of the manufactured housing industry and its consumers.

Statistical information about manufactured housing at the federal, state and local level is woefully inadequate or confusing. The Task Force discovered that simple data such as the number of manufactured home communities with private utility systems was non-existent.

The study group should identify statistical information needed for policy makers, the industry and its consumers. It should create a tracking system that will enable the development of benchmarking. Results should be available through the web portal recommended under 4.1 and should be reported by the Department of Commerce to the Governor at least biennially.

4.3 Create a UW-Extension based, zoning education program for local officials and consumers. Authorize 2.0 FTE's to support the program and authorize programmatic material to be included in the web portal.

Zoning and land use consistently were mentioned as keys to consumer access to manufactured housing as a housing choice. Consumers and local officials need more information about the applicability of zoning and land use controls to manufactured housing as an affordable housing option.

4.4 Create a new single chapter of the state statutes to encompass manufactured housing statutory provisions, or create a cross-reference table at a minimum.

The Task Force noted that it was difficult to identify all statutes applicable to manufactured housing. Some of this is due to prior integration of industry regulation with other unrelated industries such as auto retailers. In concert with recommendation 1.5.1 calling for simplification of definitions, this recommendation will provide consumers, industry members and government officials with more clarity in state statutes.

Executive Actions of the Task Force

Amend Both Statutes and Administrative Rules

1. Create a permanent council for manufactured housing within Commerce to recommend ongoing code revisions on an as needed basis and to provide peer review in matters of discipline. (input the cross reference sections of report eg. 1.2.4)
2. Create a permanent manufactured housing council to study and adopt rules related to a manufactured home eviction process, information resources for community owners and residents, long-term leases and dispute resolution.
3. Include consumer protection interests in the tasks of the permanent manufactured housing council.
4. Transfer to Commerce the program and regulatory authority related to business practices of manufactured home communities.
5. Department of Financial Institutions to explore a universal license for manufactured housing retailers that designates any or all of 4 licenses (possibly on a limited license basis): Sales Finance, Mortgage Broker, or Mortgage Banker, or Loan Company license.
6. Department of Financial Institutions to review prohibitions or limitations on payment of fees to brokers or other parties, the elimination of such limitations on manufactured housing loans, and the prohibition on prepayment penalties on loans used to finance the purchase or refinance manufactured housing within conscionable rates and terms.
7. Departments of Commerce and Financial Institutions to study the separation of the license for manufactured home retailers into two licenses and the process for better enforcement of rules.
8. Governor and Legislature should explore how to make available to the owners and residents of mobile/manufactured home parks financial assistance to repair or replace failing water and/or sewer systems.

Amend Administrative Rules

1. DOT shall work with the industry to study creation of an annual multi-trip permit process for manufacturers and transporters of 16-foot wide homes that use routes repetitively on a daily basis such as from a Wisconsin based manufacturing plant to the state border.
2. DOT shall work with the industry to study elimination of the second escort vehicle on the movement of a 16-foot wide home on a two-lane road.
3. All appropriate state agencies shall include in their internal training information about manufactured housing.
4. Commerce shall establish a process using building inspectors to provide 'alternative construction' certification inspections as required by HUD.
5. Recommend that PSC 186 be amended to simplify the establishment of 'reasonable rates'. This process should include an advisory committee of affected parties.
6. Department of Commerce amend its administrative code definition to conform to the definition used by the Department of Natural Resources regarding what constitutes a 'large system'.
7. Department of Natural Resources allow replacement septic systems in existing mobile/manufactured housing communities to be regulated and permitted through Department of Commerce policies, procedures and codes and not subjected to DNR-WPDES permitting requirements.
8. PSC establish by rule limitations on fixed user fees such that a public utility can charge a fixed user fee to a manufactured home community only for service(s) it provides.
9. Recommend the Department study and adopt procedures for suspending, revoking or rejecting an applicant for a retailer license based on a criminal background check or conviction.
10. The Department of Commerce shall study and adopt strengthened qualifications for licensing a manufactured housing retailer and shall include educational standards of retailers and salespersons.

11. The Department of Commerce to study and adopt strengthened qualifications to be licensed as a manufactured home retailer by increasing minimum financial responsibility standards.
12. The Department of Revenue shall assure that local assessments are performed as required in the statutes and to report to Commerce what the fiscal impact of manufactured housing is in the state.

Amend State Statutes

1. Amend 66.0435, stats., to require the clerk of a municipality to prosecute a small claims action to collect the parking fee or excise fee against the homeowner prior to liening the community owner's property.
2. Allow the same exemption from parking fees for lender/financial institutions under merchant's stock-in-trade for a vacant repossessed home already located in a community.
3. Amend s. 101.9203 Stats, which requires a title for all manufactured homes, to eliminate the need for a title when the security interest is perfected by a recorded mortgage with an underlying deed.
4. Permit the Department to establish a fixed fee cycle for salespersons with no pro-ration of partial years.
5. A new single chapter of the state statutes be created to encompass manufactured housing statutory provisions, or a cross-reference table be created.
6. Commerce shall work with the industry to develop authority for licensed manufactured home installers to do limited hook ups of water and sewer service to a manufactured home.
7. Definitions of manufactured home, mobile home, manufactured home park, recreational vehicle and similar terms associated with the industry shall be coordinated throughout the Wisconsin Statutes and that the drafting instructions for administrative rules reflect those changes.
8. No restrictive deed provision, restrictive covenant, or agreement may be applied nor enforced on property prohibiting the erection of a factory built home. This prohibition does not however limit a developer's right to adopt reasonable aesthetic compatibility criteria.
9. Spending and position authority for the titling of mobile/manufactured homes currently contained in an SEG appropriation backed by the Transportation fund be transferred to Safety and Buildings Operations, an annual, PR appropriation.

10. State and local zoning laws shall be examined to be certain that non-conforming zoning status is not used to eliminate existing land lease communities.
11. State law to specify fees for the regulation of water and sewer service in manufactured home communities shall be repealed and the manufactured home community licensing fee shall absorb those costs.
12. Department of Financial Institutions provide to the Governor statutory language recommendations to clarify the law as it relates to sales finance companies and manufactured home retailers given the recent statutory amendments to chapter 218 and chapter 101.
13. The guiding principal of state regulation of the industry be that the Department of Commerce should be the primary agency for all manufactured housing related programs and regulations.
14. Authorize Commerce to adopt rules implementing the federal Manufactured Housing Improvement Act including licensing of installers, inspection of installations, and resolution of installation disputes.
15. Transfer from the PSC to Commerce responsibility for regulation of water and sewer service issues in manufactured home parks.
16. Amend the Smart Growth law to clarify that affordable housing specifically includes owner occupied single-family detached homes.
17. Smart Growth law should include a requirement that local planners consider manufactured housing as a component of affordable housing.
18. Adopt the model legislation of the American Legislative Exchange Council that provides that factory-built homes be treated for zoning purposes like all other single-family homes.
19. The statutes should require that a public utility provide metered service to all residential housing units if the public utility has service reaching the property. Such service in a licensed manufactured home community may be master and sub-metered with the community owner required to make up the difference between the master meter and the sub-meter readings. However, the manufactured home community shall only pay for water losses that exceed the rate of water loss of the public system generally.
20. Those portions of the home title fee not used for Commerce program administration and currently used for non-point pollution abatement should be used for rehabilitation or recycling of uninhabitable mobile homes.
21. The State of Wisconsin through appropriate means should prevent local governments from imposing new setback standards on existing manufactured home communities.
22. Remove the statutory fee structures as it relates to certificates of title, retailer licenses, and salesperson licenses and allow the Department to establish fees by rule.

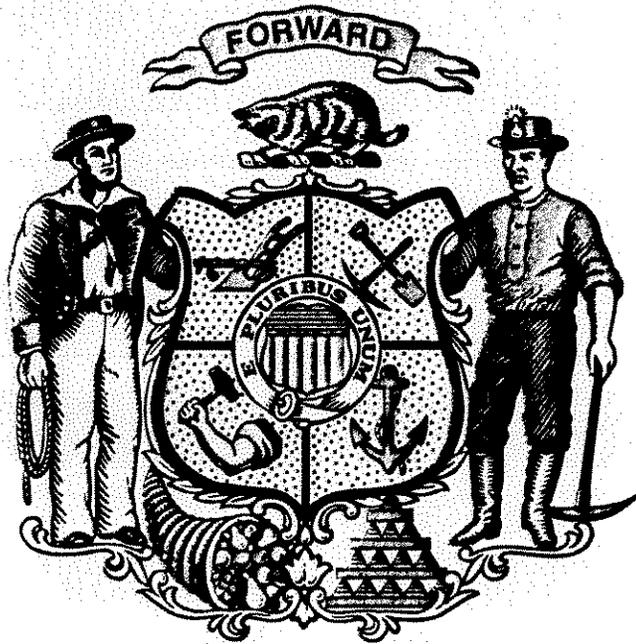
23. Require the Department of Revenue to create a single use tax on the sale of all new homes.
24. Create an industry and consumer web portal to assist consumers and local officials pursuant to all aspects of construction codes, transportation, installation, land use, leasing, landlord-tenant law and other applicable issues operated by the Department of Commerce with assistance from UW-Extension and the Department of E-Government.
25. Create a UW-Extension based, zoning education program for local officials and consumers. Authorize 2.0 FTE's to support the program and authorize programmatic material to be included in the web portal.
26. Create a new single chapter of the state statutes to encompass manufactured housing statutory provisions, or create a cross-reference table at a minimum.

Studies Recommended

1. Study by the PSC of whether residents of manufactured home communities are being equitably treated by public water and sewer utilities.
2. Governor and Legislature should explore how to make available to the owners and residents of mobile/manufactured homes parks financial assistance to make repairs or energy saving improvements.
3. WHEDA should explore with the industry and the U.S. Department of the Treasury avenues to make WHEDA's tax-exempt bond backed low interest loans available to homebuyers who are purchasing a home on leased or tax-exempt lands.
4. Create a study group to research and evaluate demographic characteristics of the manufactured housing industry and its consumers.
5. Create a study to evaluate state level consumer tax credits for manufactured home development.

Position Statements of the Task Force

1. Oppose repeal of section 348.26 (4), Stats., that makes the state the sole authority for single trip authority to move homes on all Wisconsin roads.
2. Urge DOT to complete local roads database so that key information needed to route manufactured homes is available.
3. Urge prompt DOT completion of amendments to Trans 260 and 261 to reduce the reliance on single trip permits for the movement of manufactured homes.



compliance with the rules promulgated by Commerce relating to the manufacture of manufactured homes.

Regulation of manufactured home installations

Federal law requires licensing of manufactured home installers, inspections and installation standards. This bill conforms Wisconsin laws to the Federal regulation. With limited exceptions, this bill requires every manufactured home installation in this state to be performed by, or under the general supervision of, an individual licensed by Commerce as a manufactured home installer. The bill also specifies certain minimum criteria applicable to license applicants. In addition, the bill requires Commerce to make rules for the safe installation of manufactured homes in this state and for the enforcement of those installation standards. Commerce must require third-party inspections as part of its enforcement scheme.

Regulatory fees

This bill requires Commerce, by rule, to establish fees for providing various services related to the titling of manufactured homes. This bill also requires Commerce to assess a new fee to fund a manufactured housing rehabilitation and recycling grant program. This bill provides that fees related to the titling of manufactured homes are deposited into the general fund and credited to the program revenue appropriation account that generally funds the safety and buildings operations of Commerce.

Manufactured housing rehabilitation and recycling

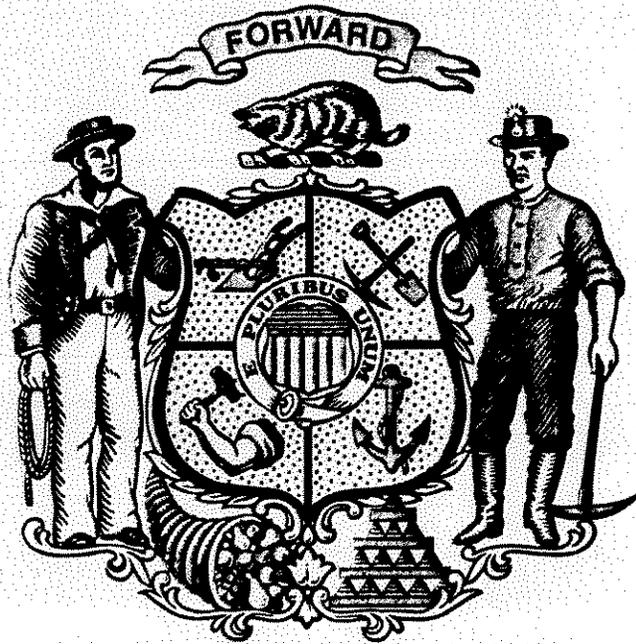
This bill requires Commerce to establish a grant program to promote the proper disposal of abandoned manufactured homes and to promote the rehabilitation and use of manufactured homes that are in need of critical repairs. To the extent feasible, Commerce must coordinate the program with the state's housing strategy plan. The bill also requires Commerce to contract with private, nonprofit entities for the administration of the grant program.

Titling of manufactured homes

With certain exceptions, any person who acquires a manufactured home must apply to Commerce for a certificate of title to the manufactured home. This requirement does not apply if the owner of the manufactured home intends, upon acquiring the manufactured home, to permanently affix the manufactured home to land that the owner of the manufactured home owns. In such a case, the manufactured home becomes a part of the land and its ownership is evidenced by the deed applicable to that land. This bill creates a similar exception that applies if the owner of the manufactured home intends, upon acquiring the manufactured home, to affix the manufactured home to land in which the owner has a leasehold interest of sufficient duration.

Other

The bill establishes a Manufactured Housing Code Council for the purpose of advising Commerce concerning the regulation of the manufactured housing industry. The bill also requires Commerce, by rule, to establish an alternative dispute resolution program designed to facilitate the timely, informal resolution of certain disputes concerning defective manufactured homes and manufactured home installations.





Stephen L. Nass
Wisconsin State Representative

**Testimony on 2003 Assembly Bill 897
Manufactured Housing Industry
February 26, 2004**

Thank you Chairman Wieckert and committee members for this opportunity to testify on Assembly Bill 897. The language of AB 897 is the result of nearly two years of work by the Governor's Blue Ribbon Task Force on Manufactured Housing.

My testimony will briefly explain the key elements of this bill. Mr. Ross Kinzler of the Wisconsin Housing Alliance will testify in a moment on the specific details of AB 897. I want to publicly thank Mr. Kinzler and his alliance for their hard work on this important issue.

AB 897 will bring state statutes into compliance with federal requirements in several ways:

- 1.) The bill requires that installers of manufactured homes be licensed.
- 2.) That after installation all manufactured homes be inspected.
- 3.) That installation of manufactured homes must, at a minimum, meet federal standards. The state may also implement standards that are stricter than the federal regulations.

The bill achieves this compliance without creating more bureaucracy or undue burden on the private sector. If AB 897 is enacted into law, the Department of Commerce will promulgate an administrative rule establishing state standards for this industry based on the federal regulations.

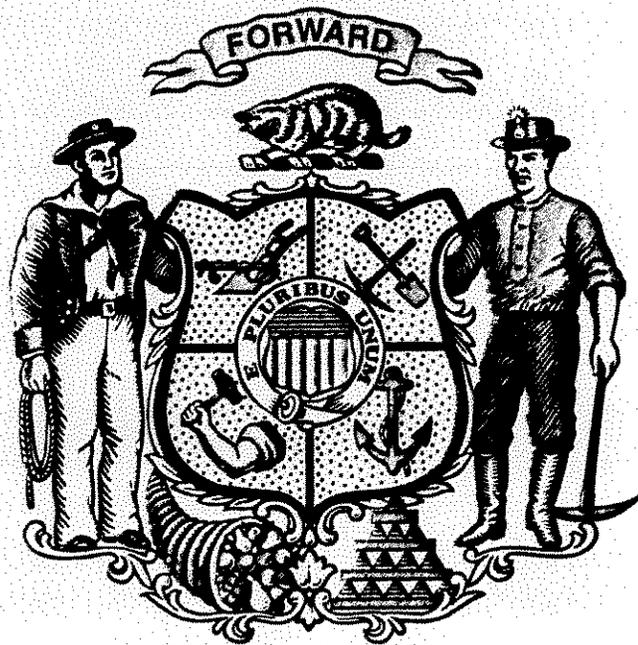
It should be noted that the Department of Commerce already licenses dealers of manufactured homes, sales personnel, mobile home parks and manufacturers. The only new licensure activity in the bill relates to installers, a minimal increase in the duties of the department. Also, the inspection provision for newly installed manufactured homes should not be a problem, since communities are already required to have such a process in place to inspect all site built homes.

AB 897 also complies with federal law by requiring a non-judicial dispute resolution system to resolve installation complaints. The bill requires all licensed installers to participate in the dispute resolution system that will be operated through existing organizations such as the Better Business Bureau and the American Arbitration Association.

Another major feature of AB 897 relates to titling fees for manufactured homes. Currently, those fees are collected by the Department of Transportation and sent to the Department of Commerce, which ultimately forwards the funds to DNR for the operation of a non-point pollution abatement program. The Governor's task force determined this to be an inefficient way of achieving an important goal. The bill includes their recommendation that the Department of Commerce retain these funds for the purpose of developing an environmentally sound recycling and rehabilitation program for manufactured housing.

Finally, AB 897 creates the Manufactured Housing Council, which would mirror the Dwelling Code Council and advise the Department of Commerce on issues relating to the manufactured housing industry. The creation of this council is an important aspect of the bill because it provides for equal treatment of the manufactured housing sector in comparison to other elements of the housing industry.

I encourage the members of this committee to support 2003 AB 897 and advance it to the full Assembly for passage.



Testimony of Ross Kinzler – Executive Director, Wisconsin Housing Alliance (formerly the Wisconsin Manufactured Housing Association) (608 255-3131)

AB 897 follows almost two years work by the Governor's Blue Ribbon Task Force on Manufactured Housing. The Task Force met for over 80 hours. They heard testimony from numerous state agencies and affected parties. Their recommendations included 25 statutory recommendations and an equal number of regulatory items.

The Task Force Chairman Richard Rand asked the Wisconsin Housing Alliance to pursue legislation to implement their recommendation so that the task forces' work would not just sit on a shelf.

A draft bill was prepared that exceeded 80 pages. Some of the items are very time sensitive. The bill before you addresses what we think are those items.

On Dec 27, 2000, President Clinton signed the Manufactured Housing Improvement Act as one of his final acts. That law requires states to do certain things related to manufactured housing. License installers, establish standards and inspect homes. We must have those items in place by the end of 2005. This legislation has been delayed in some respect while we wanted for HUD to flesh out exactly what the requirements of the standards and the inspection system would be. We can't wait any longer.

As was pointed out by others, this bill does as little as is necessary to put Wisconsin in compliance but it does it in a way that maximizes protection for consumers. By that I mean, every home will be inspected, the standards will meet the tough federal standards and licensees will be held accountable. But we don't expand the bureaucracy nor unduly "make work."

The federal law also calls for a non-judicial dispute resolution system to resolve installation complaints. The bill requires each of the licensees to participate, but the system will be operated by the private sector through existing organizations such as the Better Business Bureau and the American Arbitration Association.

In moving these issues forward, we respect the process that Commerce uses for doing rule making of utilizing advisory councils. Since manufactured housing was moved to Commerce several sessions ago, we have become accustomed to this process. AB 897 creates a Manufactured Housing Council which would mirror the Dwelling Code Council and other Commerce advisory panels for rule-making. Rather than ad hoc councils, the advisory process should be standardized like it is for other industries.

Finally, the Governor's Task Force spent some time following the money related to the regulation of manufactured homes. Years ago, a manufactured home was titled just like a car, in fact, the same title forms were used. Imagine a three bedroom, two bathroom home and being asked for the odometer reading on the title application. The legislature corrected that by transferring titles to Commerce. But, some of the auto title process remained such as supplemental fees. The Governor's task force suggests that fees such as this be used to retain the environmental aspects but instead be set aside by Commerce for a recycling and rehab grant.