# State of Wisconsin
**2005 – 2006 LEGISLATURE**

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D-Note

# ASSEMBLY SUBSTITUTE AMENDMENT ,

# TO 2005 ASSEMBLY BILL 39

Today, if possible.

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Regen

AN ACT ***to repeal*** 20.143 (3) (sa), 25.40 (1) (fm), 25.40 (2) (b) 19g., 101.19 (1) (e), 101.92 (1), 101.92 (1m), 101.92 (2), 101.92 (5), 101.9208 (1) (b), 101.9208 (2), 101.925, 101.93, 101.94 (3), 101.94 (4), 101.94 (5), 101.94 (6), 101.951 (2) (c), 101.951 (2) (d), 101.952 (2) (c) and 101.952 (2) (d); ***to renumber and amend*** 101.9208 (1) (intro.), 101.9208 (1) (a), 101.9208 (1) (c), 101.9208 (1) (d), 101.9208 (1) (dm), 101.9208 (1) (f), 101.9208 (1) (f), 101.9208 (1) (h) and 101.9208 (1) (i); ***to consolidate, renumber and amend*** 101.91 (2) (a) and (b); ***to amend*** 20.143 (3) (j), 20.855 (4) (f), 25.46 (19), 85.037, 100.20 (2) (b), 101.125 (1) (a), 101.19 (1) (f), 101.91 (5m), 101.91 (6m), 101.91 (7), 101.91 (8), 101.92 (6), 101.92 (9), 101.9203 (4), 101.9204 (1m), 101.9205 (3), 101.9213 (8), 101.935 (title), 101.935 (2) (a), 101.935 (2) (c) 2., 101.935 (2) (d), 101.935 (2m), 101.937 (title), (1) and (2), 101.937 (3) (a), 101.94 (2), 101.95, 101.951 (2) (a) and 101.952 (2) (a); and ***to create*** 15.157 (13), 20.143 (1) (jp), 66.1019 (2m), 101.91 (1i), 101.91 (1j),

101.91 (1t), 101.91 (1v), 101.9208 (2m), 101.933, 101.951 (2) (bm), 101.952 (2) (bm), 101.957, 101.96, 101.965 (1p), 101.965 (1t) and 560.285 of the statutes; **relating to:** regulating the manufactured housing industry and manufactured home installations; promoting rehabilitation and recycling of manufactured housing; requiring the exercise of rule–making authority; providing a penalty; and making appropriations.

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This substitute amendment makes numerous changes relating to manufactured housing. The changes primarily include the following:

***Regulation of manufacturers of manufactured homes***

Current law regulates manufacturers of manufactured homes, manufactured home dealers, and manufactured home salespersons. Under current law, the Department of Commerce (Commerce) is responsible for licensing all manufacturers desiring to sell or distribute for sale manufactured homes in this state. Among other things, current law also requires Commerce to do all of the following:

1. Adopt, administer, and enforce rules for the safe and sanitary design and construction of manufactured homes that are manufactured, distributed, sold, or offered for sale in this state, including rules relating to plumbing in the design and construction of manufactured homes.

2. Review typical construction plans and specifications that manufacturers are required to submit to Commerce for approval, including plans and specifications of plumbing systems used in manufactured homes.

3. Inspect manufacturing facilities, processes, fabrication, and assembly of manufactured homes to ensure compliance with the rules promulgated by Commerce relating to the manufacture of manufactured homes.

4. Issue a label for display on a manufactured home that indicates that the manufactured home meets the requirements of the statutes and rules.

5. Establish standards for certification of inspection and testing agencies that inspect manufacturing facilities, processes, fabrication, and assembly of manufactured homes and plumbing systems in manufactured homes and that issue labels of approval.

6. Provide for the inspection of manufactured homes that are manufactured in other states and that are to be sold or intended to be sold in this state.

This substitute amendment eliminates the requirements that Commerce perform the duties listed in items 1, 2, 4, 5, and 6.

Currently, state law requires the manufacturer of a manufactured home to install a functional smoke detector in each manufactured home it manufactures. This substitute amendment deletes this requirement. Federal law contains a similar requirement and requires smoke detectors to be installed in additional locations within each manufactured home.

***Regulation of manufactured home installations***

Generally, a manufactured home is entirely constructed in a factory and, after it is purchased by a consumer, is transported, either as a single unit or in sections, to the home site for installation upon a foundation. Current law generally does not regulate installers of manufactured homes, although current law does require Commerce to make rules governing certain foundations upon which manufactured homes are installed.

With limited exceptions, this substitute amendment 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 substitute amendment specifies that a licensed installer is liable for all acts and omissions of each individual who performs an installation under the licensed installer's general supervision. The substitute amendment also specifies certain minimum criteria applicable to license applicants. In addition, the substitute amendment 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. The substitute amendment provides that any city, village, or town ordinance or resolution regulating a matter governed by these provisions of the substitute amendment must conform with these provisions.

***Regulatory fees***

Current law establishes specific fees that Commerce must charge for conducting a file search, for providing various services related to the titling of manufactured homes, and for providing certain notices related to security interests in manufactured homes. This substitute amendment requires Commerce, by rule, to establish fees for these services. This substitute amendment also requires Commerce to assess a new fee to fund a manufactured housing rehabilitation and recycling grant program (see below).

Under current law, fees related to the titling of manufactured homes are generally deposited into the transportation fund and then a specified amount is appropriated from the transportation fund for Commerce's administration of the manufactured housing statutes. This substitute amendment provides, instead, that the fees are deposited into the general fund and credited to the program revenue appropriation account that generally funds the safety and buildings operations of Commerce.

Generally, under current law, the fee for a manufactured home dealer license is $50 multiplied by the number of years in the license period. The fee for a manufactured home salesperson license generally is $4 multiplied by the number of years in the license period. Current law requires Commerce, by rule, to determine the license period applicable to each of these licenses. Currently, these fees must be prorated if the license period is not evenly divisible into years. This substitute amendment repeals the statutory fee amount and proration requirement and requires, instead, that these fees be determined by Commerce by rule.

***Manufactured housing rehabilitation and recycling***

This substitute amendment 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 substitute amendment 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 substitute amendment 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 substitute amendment establishes a Manufactured Housing Code Council for the purpose of advising Commerce concerning the regulation of the manufactured housing industry. The council is similar to advisory councils that currently advise Commerce with regard to other aspects of housing market regulation, except that members of the Manufactured Housing Code Council are appointed by the secretary of Commerce rather than the governor.

The substitute amendment 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. The program applies to disputes among manufactured home manufacturers, salespersons, dealers, and installers. The program does not apply to disputes with consumers.

Current law contains numerous references to manufactured home parks. This substitute amendment changes the term "park" in these references to the term "community."

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**SECTION 1.** 15.157 (13) of the statutes is created to read:

15.157 **(13)** MANUFACTURED HOUSING CODE COUNCIL. (a) There is created in the department of commerce a manufactured housing code council consisting of the following members appointed by the secretary of commerce for 3–year terms:

1. Two members representing manufacturers of manufactured homes.

2. Two members representing manufactured home dealers.

3. Two members representing owners of manufactured home communities.

4. Two members representing installers of manufactured homes.

5. One member representing an association of the manufactured housing industry in Wisconsin.

6. One member representing suppliers of materials or services to the manufactured housing industry.

7. One member representing the public.

(b) The council shall meet at least twice a year. An employee of the department designated by the secretary of the department shall serve as nonvoting secretary of the council.

**SECTION 2.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

| | | | | **2005–06** | **2006–07** |
|---|---|---|---|---|---|
| **20.143 Commerce, department of** | | | | | |
| (1) ECONOMIC AND COMMUNITY DEVELOPMENT | | | | | |
| (jp) | Manufactured housing rehabilitation and recycling; program revenue | PR | A | 70,000 | 70,000 |

**SECTION 3.** 20.143 (1) (jp) of the statutes is created to read:

20.143 **(1)** (jp) *Manufactured housing rehabilitation and recycling; program revenue.* The amounts in the schedule for the administration of and for grants under s. 560.285. All moneys received under s. 101.9208 (2m) shall be credited to this appropriation.

**SECTION 4.** 20.143 (3) (j) of the statutes is amended to read:

20.143 **(3)** (j) *Safety and building operations.* The amounts in the schedule for the purposes of chs. 101, 145, and 168 and ss. 236.12 (2) (a), 236.13 (1) (d) and (2m), and 236.335. All moneys received under ch. 145, ss. 101.177 (4) (a) 4., 101.178, 101.19, 101.63 (9), 101.654 (3), 101.73 (12), 101.82 (4), ~~101.9205 (3), 101.9208 (1) (b), 101.9213 (8), 101.935, 101.951 (2), 101.952 (2),~~ 101.955 (2), 101.973 (7), and 236.12 (7), ~~and 2001 Wisconsin Act 16, section 9110 (3z),~~ except moneys received under s. 101.9208 (2m), and all moneys transferred under 2005 Wisconsin Act .... (this act), section 76 (5), shall be credited to this appropriation.

**SECTION 5.** 20.143 (3) (sa) of the statutes is repealed.

**SECTION 6.** 20.855 (4) (f) of the statutes is amended to read:

20.855 **(4)** (f) *Supplemental title fee matching.* From the general fund, a sum sufficient equal to the amount of supplemental title fees collected under ~~ss. 101.9208 (1) (dm) and~~ s. 342.14 (3m), as determined under s. 85.037, less $555,000, to be transferred to the environmental fund on October 1 annually.

**SECTION 7.** 25.40 (1) (fm) of the statutes is repealed.

**SECTION 8.** 25.40 (2) (b) 19g. of the statutes is repealed.

**SECTION 9.** 25.46 (19) of the statutes is amended to read:

25.46 **(19)** The environmental impact fees imposed under ~~ss. 101.9208 (1) (b) and~~ s. 342.14 (1r) for environmental management.

**SECTION 10.** 66.1019 (2m) of the statutes is created to read:

66.1019 **(2m)** MANUFACTURED HOMES. (a) Ordinances enacted, or resolutions adopted, by any county, city, village, or town relating to manufactured home installation shall conform to s. 101.96.

(b) If a city, village, town, or county has in effect on the effective date of this paragraph .... [revisor inserts date], an ordinance or resolution that is inconsistent with par. (a), the ordinance or resolution does not apply and may not be enforced.

**SECTION 11.** 85.037 of the statutes is amended to read:

**85.037 Certification of fees collected.** Annually, no later than October 1, the secretary of transportation shall certify to the secretary of administration the amount of fees collected under ~~ss. 101.9208 (1) (dm) and~~ s. 342.14 (3m) during the previous fiscal year, for the purpose of determining the amounts to be transferred under s. 20.855 (4) (f) during the current fiscal year.

**SECTION 12.** 100.20 (2) (b) of the statutes is amended to read:

100.20 **(2)** (b) Notwithstanding par. (a), the department may not issue any order or promulgate any rule that regulates the provision of water or sewer service by a manufactured home ~~park~~ community operator, as defined in s. 101.91 (8), or manufactured home ~~park~~ community contractor, as defined in s. 101.91 (6m), or enforce any rule to the extent that the rule regulates the provision of such water or sewer service.

**SECTION 13.** 101.125 (1) (a) of the statutes is amended to read:

101.125 **(1)** (a) "Building" means a place of employment or a public building and includes, without limitation because of enumeration, wholesale and retail stores, storerooms, office buildings, factories, warehouses, governmental buildings, hotels, hospitals, motels, dormitories, sanatoriums, nursing homes, retirement homes, theaters, stadiums, gymnasiums, amusement park buildings, schools and other

buildings used for educational purposes, places of worship and other places of public assembly and all residences including mobile homes, manufactured ~~or~~ homes, industrialized housing, lodging homes, and any other building used as a dwelling for one or more persons.

**SECTION 14.** 101.19 (1) (e) of the statutes is repealed.

**SECTION 15.** 101.19 (1) (f) of the statutes is amended to read:

101.19 **(1)** (f) ~~Defraying the cost~~ Administration of the manufactured dwelling program, the one– and two–family dwelling programs, the manufactured home and mobile home program, and the multifamily dwelling program.

**SECTION 16.** 101.91 (1i) of the statutes is created to read:

101.91 **(1i)** "Installation standards" means specifications for the proper installation of manufactured homes at their place of occupancy to ensure proper siting, the joining of all sections of the manufactured home, connection to existing utility services and the installation of stabilization, support, or anchoring systems.

**SECTION 17.** 101.91 (1j) of the statutes is created to read:

101.91 **(1j)** "Installer" means a person who is in the business of installing new manufactured homes.

**SECTION 18.** 101.91 (1t) of the statutes is created to read:

101.91 **(1t)** "Licensed installer" means an installer licensed under s. 101.96 (2) (b).

**SECTION 19.** 101.91 (1v) of the statutes is created to read:

101.91 **(1v)** "Licensed manufacturer" means a manufactured home manufacturer licensed under s. 101.95.

**SECTION 20.** 101.91 (2) (a) and (b) of the statutes are consolidated, renumbered 101.91 (2) (am) and amended to read:

federal department of housing and urban development

101.91 **(2)** (am) A structure~~, transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site is 320 or more square feet, and which is built on a permanent chassis and~~ that is designed to be used as a dwelling with or without a permanent foundation ~~when connected to the required utilities. (b) A structure which meets all the requirements of par. (a) except the size requirements, and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development~~ and ~~complies~~ that is certified by the department as complying with the standards established under 42 USC 5401 to 5425.

**SECTION 21.** 101.91 (5m) of the statutes is amended to read:

101.91 **(5m)** "Manufactured home ~~park~~ community" means any plot or plots of ground upon which 3 or more manufactured homes that are occupied for dwelling or sleeping purposes are located. "Manufactured home ~~park~~ community" does not include a farm where the occupants of the manufactured homes are the father, mother, son, daughter, brother or sister of the farm owner or operator or where the occupants of the manufactured homes work on the farm.

**SECTION 22.** 101.91 (6m) of the statutes is amended to read:

101.91 **(6m)** "Manufactured home ~~park~~ community contractor" means a person, other than a public utility, as defined in s. 196.01 (5) (a), who, under a contract with a manufactured home ~~park~~ community operator, provides water or sewer service to a manufactured home ~~park~~ community occupant or performs a service related to providing water or sewer service to a manufactured home ~~park~~ community occupant.

**SECTION 23.** 101.91 (7) of the statutes is amended to read:

101.91 **(7)** "Manufactured home ~~park~~ community occupant" means a person who rents or owns a manufactured home in a manufactured home ~~park~~ community.

**SECTION 24.** 101.91 (8) of the statutes is amended to read:

101.91 **(8)** "Manufactured home ~~park~~ community operator" means a person engaged in the business of owning or managing a manufactured home ~~park~~ community.

**SECTION 25.** 101.92 (1) of the statutes is repealed.

**SECTION 26.** 101.92 (1m) of the statutes is repealed.

**SECTION 27.** 101.92 (2) of the statutes is repealed.

**SECTION 28.** 101.92 (5) of the statutes is repealed.

**SECTION 29.** 101.92 (6) of the statutes is amended to read:

101.92 **(6)** May enter into reciprocal agreements with other states regarding the ~~design, construction,~~ inspection, installation, and labeling of manufactured homes where the laws or rules of other states meet the intent of this subchapter and where the laws or rules are actually enforced.

**SECTION 30.** 101.92 (9) of the statutes is amended to read:

101.92 **(9)** Shall promulgate rules and establish standards necessary to carry out the purposes of ss. ~~101.953~~ 101.951 and ~~101.954~~ 101.952.

**SECTION 31.** 101.9203 (4) of the statutes is amended to read:

101.9203 **(4)** The owner of a manufactured home that is situated in this state or intended to be situated in this state is not required to make application for a certificate of title under s. 101.9209 if the owner of the manufactured home intends, upon acquiring the manufactured home, to ~~permanently affix~~ make the manufactured home a fixture to land ~~that~~ in which the owner of the manufactured home ~~owns~~ has an ownership or leasehold interest subject to ch. 706.

**SECTION 32.** 101.9204 (1m) of the statutes is amended to read:

101.9204 **(1m)** On the form or in the automated format for application for a certificate of title, the department may show the fee under s. 101.9208 ~~(1) (dm)~~ (4m) separately from the fee under s. 101.9208 (1) ~~(a)~~ or ~~(d)~~ (4).

**SECTION 33.** 101.9205 (3) of the statutes is amended to read:

101.9205 **(3)** The department shall ~~charge~~ establish, by rule under s. 101.19, a fee of not less than $2 for conducting a file search of manufactured home title records.

**SECTION 34.** 101.9208 (1) (intro.) of the statutes is renumbered 101.9208 (intro.) and amended to read:

**101.9208 Fees.** (intro.) ~~The department shall be paid the~~ The following fees shall be determined by the department by rule under s. 101.19:

**SECTION 35.** 101.9208 (1) (a) of the statutes is renumbered 101.9208 (1) and amended to read:

101.9208 **(1)** For filing an application for the first certificate of title~~, $8.50~~, to be paid by the owner of the manufactured home.

**SECTION 36.** 101.9208 (1) (b) of the statutes is repealed.

**SECTION 37.** 101.9208 (1) (c) of the statutes is renumbered 101.9208 (3) and amended to read:

101.9208 **(3)** For the original notation and subsequent release of each security interest noted upon a certificate of title, a single fee ~~of $4~~ to be paid by the owner of the manufactured home.

**SECTION 38.** 101.9208 (1) (d) of the statutes is renumbered 101.9208 (4) and amended to read:

101.9208 **(4)** For a certificate of title after a transfer~~, $8.50~~, to be paid by the owner of the manufactured home.

**SECTION 39.** 101.9208 (1) (dm) of the statutes is renumbered 101.9208 (4m) and amended to read:

101.9208 **(4m)** Upon filing an application under ~~par. (a) or (d)~~ sub. (1) or (4), a supplemental title fee ~~of $7.50~~ to be paid by the owner of the manufactured home, except that this fee shall be waived with respect to an application under ~~par. (d)~~ for transfer of a decedent's interest in a manufactured home to his or her surviving spouse. The fee ~~specified~~ required under this ~~paragraph is~~ subsection shall be paid in addition to any other fee specified in this section.

**SECTION 40.** 101.9208 (1) (f) of the statutes is renumbered 101.9208 (5) and amended to read:

101.9208 **(5)** For each assignment of a security interest noted upon a certificate of title, ~~$1~~ to be paid by the assignee.

**SECTION 41.** 101.9208 (1) (f) of the statutes is renumbered 101.9208 (6) and amended to read:

101.9208 **(6)** For a replacement certificate of title~~, $8~~, to be paid by the owner of the manufactured home.

**SECTION 42.** 101.9208 (1) (h) of the statutes is renumbered 101.9208 (7) and amended to read:

101.9208 **(7)** For processing applications for certificates of title that have a special handling request for fast service~~, a fee established by the department by rule~~, which fee shall approximate the cost to the department for providing this special handling service to persons so requesting.

**SECTION 43.** 101.9208 (1) (i) of the statutes is renumbered 101.9208 (8) and amended to read:

101.9208 **(8)** For the reinstatement of a certificate of title previously suspended or revoked~~, $25~~.

**SECTION 44.** 101.9208 (2) of the statutes is repealed.

**SECTION 45.** 101.9208 (2m) of the statutes is created to read:

101.9208 **(2m)** Upon filing an application under sub. (1) or (4), a manufactured housing rehabilitation and recycling fee, to be paid by the person filing the application.

**SECTION 46.** 101.9213 (8) of the statutes is amended to read:

101.9213 **(8)** Upon request of a person who has perfected a security interest under this section, as shown by the records of the department, in a manufactured home titled in this state, whenever the department receives information from another state that the manufactured home is being titled in the other state and the information does not show that the security interest has been satisfied, the department shall notify the person. The ~~person shall pay the~~ department shall establish, by rule under s. 101.19, a fee of not less than $2 ~~fee~~ for each notification.

**SECTION 47.** 101.925 of the statutes is repealed.

**SECTION 48.** 101.93 of the statutes is repealed.

**SECTION 49.** 101.933 of the statutes is created to read:

**101.933 Manufactured housing code council duties.** The manufactured housing code council shall review this subchapter and rules promulgated under this subchapter and recommend a statewide manufactured housing code for promulgation by the department. The council shall consider and make recommendations to the department pertaining to rules and any other matter

related to this subchapter, including recommendations with regard to licensure and professional discipline of manufacturers of manufactured homes, manufactured home dealers, manufactured home salespersons, and installers, and with regard to consumer protection applicable to consumers of manufactured homes. In making recommendations, the council shall consider the likely costs of any proposed rules to consumers in relation to the benefits that are likely to result therefrom.

**SECTION 50.** 101.935 (title) of the statutes is amended to read:

**101.935** (title) **Manufactured home ~~park~~ community regulation.**

**SECTION 51.** 101.935 (2) (a) of the statutes is amended to read:

101.935 **(2)** (a) The department or a village, city or county granted agent status under par. (e) shall issue permits to and regulate manufactured home ~~parks~~ communities. No person, state or local government who has not been issued a permit under this subsection may conduct, maintain, manage or operate a manufactured home ~~park~~ community.

**SECTION 52.** 101.935 (2) (c) 2. of the statutes is amended to read:

101.935 **(2)** (c) 2. The department shall establish, by rule under s. 101.19, the permit fee and renewal fee for a permit issued under this subsection. ~~Beginning in fiscal year 2002–03, the~~ The department may ~~increase the fees to recover~~ establish a fee that defrays the cost of administering s. 101.937. An additional penalty fee, as established by the department by rule under s. 101.19, is required for each permit if the biennial renewal fee is not paid before the permit expires.

**SECTION 53.** 101.935 (2) (d) of the statutes is amended to read:

101.935 **(2)** (d) A permit may not be issued under this subsection until all applicable fees have been paid. If the payment is by check or other draft drawn upon an account containing insufficient funds, the permit applicant shall, within 15 days

after receipt of notice from the department of the insufficiency, pay by cashier's check or other certified draft, money order or cash the fees to the department, late fees and processing charges that are specified by rules promulgated by the department. If the permit applicant fails to pay all applicable fees, late fees and the processing charges within 15 days after the applicant receives notice of the insufficiency, the permit is void. In an appeal concerning voiding of a permit under this paragraph, the burden is on the permit applicant to show that the entire applicable fees, late fees and processing charges have been paid. During any appeal process concerning a payment dispute, operation of the manufactured home ~~park~~ community in question is considered to be operation without a permit.

**SECTION 54.** 101.935 (2m) of the statutes is amended to read:

101.935 **(2m)** (a) The department shall inspect a manufactured home ~~park~~ community in the following situations:

1. Upon completion of the construction of a manufactured home ~~park~~ community.

2. Whenever a manufactured home ~~park~~ community is modified, as defined by the department by rule.

3. Whenever the department receives a complaint about a manufactured home ~~park~~ community.

(b) The department may, with notice, inspect a manufactured home ~~park~~ community whenever the department determines an inspection is appropriate.

**SECTION 55.** 101.937 (title), (1) and (2) of the statutes are amended to read:

**101.937** (title) **Water and sewer service to manufactured home ~~parks~~ communities.** **(1)** RULES. The department shall promulgate rules that establish standards for providing water or sewer service by a manufactured home ~~park~~

community operator or manufactured home ~~park~~ community contractor to a manufactured home ~~park~~ community occupant, including requirements for metering, billing, depositing, arranging deferred payment, installing service, refusing or discontinuing service, and resolving disputes with respect to service. Rules promulgated under this subsection shall ensure that any charge for water or sewer service is reasonable and not unjustly discriminatory, that the water or sewer service is reasonably adequate, and that any practice relating to providing the service is just and reasonable.

**(2)** PERMANENT IMPROVEMENTS. A manufactured home ~~park~~ community operator may make a reasonable recovery of capital costs for permanent improvements related to the provision of water or sewer service to manufactured home ~~park~~ community occupants through ongoing rates for water or sewer service.

**SECTION 56.** 101.937 (3) (a) of the statutes is amended to read:

101.937 **(3)** (a) On its own motion or upon a complaint filed by a manufactured home ~~park~~ community occupant, the department may issue an order or commence a civil action against a manufactured home ~~park~~ community operator or manufactured home ~~park~~ community contractor to enforce this section, any rule promulgated under sub. (1), or any order issued under this paragraph.

**SECTION 57.** 101.94 (2) of the statutes is amended to read:

101.94 **(2)** No person may manufacture, assemble, distribute or sell a manufactured home unless the manufactured home complies with 42 USC 5401 to 5425 and applicable regulations ~~as in effect on June 15, 1976. The department may establish, by rule, standards for the safe and sanitary design and construction of manufactured homes for the purpose of enforcement of this subchapter, and those~~

~~standards may include standards in addition to any standards established by the secretary of housing and urban development under 42 USC 5401 to 5425~~.

**SECTION 58.** 101.94 (3) of the statutes is repealed.

**SECTION 59.** 101.94 (4) of the statutes is repealed.

**SECTION 60.** 101.94 (5) of the statutes is repealed.

**SECTION 61.** 101.94 (6) of the statutes is repealed.

**SECTION 62.** 101.95 of the statutes is amended to read:

**101.95 Manufactured home manufacturers regulated.** The department shall by rule prescribe the manner by which a manufacturer shall be licensed for the manufacture, distribution or selling of manufactured homes in this state, including fees for the licensing of manufacturers.

**SECTION 63.** 101.951 (2) (a) of the statutes is amended to read:

101.951 **(2)** (a) Application for a license or a renewal license shall be made to the department on forms prescribed and furnished by the department, accompanied by the license fee required under par. ~~(c) or (d)~~ (bm).

**SECTION 64.** 101.951 (2) (bm) of the statutes is created to read:

101.951 **(2)** (bm) Fees for licensing of persons under this section shall be established by the department by rule under s. 101.19.

**SECTION 65.** 101.951 (2) (c) of the statutes is repealed.

**SECTION 66.** 101.951 (2) (d) of the statutes is repealed.

**SECTION 67.** 101.952 (2) (a) of the statutes is amended to read:

101.952 **(2)** (a) Applications for a manufactured home salesperson's license and renewals thereof shall be made to the department on such forms as the department prescribes and furnishes and shall be accompanied by the license fee required under par. ~~(c) or (d)~~ (bm). The application shall include the applicant's social security

number. In addition, the application shall require such pertinent information as the department requires.

**SECTION 68.** 101.952 (2) (bm) of the statutes is created to read:

101.952 **(2)** (bm) Fees for licensing of manufactured home salespersons shall be established by the department by rule under s. 101.19.

**SECTION 69.** 101.952 (2) (c) of the statutes is repealed.

**SECTION 70.** 101.952 (2) (d) of the statutes is repealed.

**SECTION 71.** 101.957 of the statutes is created to read:

**101.957 Nonjudicial resolution of manufactured housing industry disputes.** The department, by rule, shall establish an alternative dispute resolution program for the timely resolution of any dispute that concerns a defect in a manufactured home, or in the installation of a manufactured home, reported to the department within one year of the date on which the manufactured home was installed and that occurs between parties, each of which is a manufacturer of manufactured homes, manufactured home salesperson, manufactured home dealer, or installer. The rules may require the parties to submit to an alternative dispute resolution program before bringing an action in another forum. This section does not affect the rights of any consumer to commence an action or the rights of any person to commence an action against a consumer.

**SECTION 72.** 101.96 of the statutes is created to read:

**101.96 Manufactured home installation regulated. (1)** INSTALLATION STANDARDS. (a) *Promulgation of standards.* The department shall, by rule, establish installation standards for the safe installation of manufactured homes in this state. In promulgating rules under this paragraph, the department shall consider the recommendations of the manufactured housing code council under s. 101.933.

(b) *Enforcement of standards.* The department shall, by rule, establish a method for ensuring compliance with the rules promulgated under par. (a). The department shall require inspections of manufactured home installations by 3rd–party inspectors licensed by the department. The department shall, by rule, establish criteria for the licensure of 3rd–party inspectors that include a requirement that an individual may not serve as a 3rd–party inspector if the individual is, is employed by, or is an independent contractor of any of the following:

1. A manufactured home manufacturer who was directly involved in the sale of the particular manufactured home.

2. A manufactured home salesperson who was directly involved in the sale of the particular manufactured home.

3. An installer who was directly involved in the sale of the particular manufactured home.

**(2)** MANUFACTURED HOME INSTALLERS. (a) *License required; exceptions; liability.* Except as otherwise provided in this paragraph, beginning on July 1, 2006, no person may act as an installer in this state unless the person is a licensed installer or employs one or more licensed installers to generally supervise each of the person's installations of manufactured homes in this state. This requirement does not apply to an individual who installs a manufactured home on his or her own property for his or her personal use or to an individual who installs a manufactured home under the general supervision of a licensed installer. A licensed installer is liable for all acts and omissions related to the installation of each individual who performs an installation under the licensed installer's general supervision.

(b) *License eligibility.* The department may issue an installer's license only to an individual to whom all of the following apply:

1. The individual is at least 18 years old.

2. The individual files with the department a license application on a form prescribed by the department.

3. The individual completes, to the satisfaction of the department, an examination approved by the department that tests the skills necessary to properly install manufactured homes and knowledge of the laws applicable to manufactured home installation.

4. The individual has not been found responsible in any judicial or administrative forum for any violation of this section during the 2 years before the date on which the individual's license application is submitted.

5. The individual has not been found responsible in any judicial or administrative forum during the 2 years before the date on which the individual's license application is submitted for any failure to perform an installation of a manufactured home as required under contract or for defrauding any person with regard to the provision of installation services.

6. The individual meets the standards of financial responsibility established by rule of the department.

(br) *Examination waiver.* The department shall, by rule, establish a procedure under which it may waive the examination requirement under par (b) 3. for individuals that demonstrate sufficient experience installing manufactured homes including active participation in the installation of at least 10 manufactured homes. This paragraph does not apply after December 1, 2006.

(c) *License term and fee.* The department, by rule shall establish the term of installers' licenses and the conditions under which the department may revoke or

suspend installers' licenses. The department shall establish an initial installer's license fee and license renewal fee by rule under s. 101.19.

**SECTION 73.** 101.965 (1p) of the statutes is created to read:

101.965 **(1p)** Any person who violates s. 101.96 or any rule promulgated under that section may be required to forfeit not less than $25 nor more than $500 for each violation. Each day of continued violation constitutes a separate violation.

**SECTION 74.** 101.965 (1t) of the statutes is created to read:

101.965 **(1t)** Upon request of the department, the attorney general may commence an action in a court of competent jurisdiction to enjoin any installer from installing a manufactured home in violation of s. 101.96 (2).

**SECTION 75.** 560.285 of the statutes is created to read:

**560.285 Manufactured housing rehabilitation and recycling. (1)** DEFINITION. In this section, "manufactured home" has the meaning given in s. 101.91 (2).

**(2)** GRANT PROGRAM. (a) The department may make grants under this section to provide financial assistance to persons engaged in the disposal of abandoned manufactured homes and to municipalities, for the purpose of supporting environmentally sound disposal practices.

(b) The department may make grants under this section to provide financial assistance to individuals who reside in manufactured homes that are in need of critical repairs. An individual is eligible for a grant under this paragraph only if the individual is otherwise unable to finance the critical repairs.

**(3)** ADMINISTRATION. The department shall contract with one or more entities that are exempt from taxation under section 501 (a) of the Internal Revenue Code and that employ individuals with technical expertise concerning manufactured

housing for the administration of the grant program under this section. The department shall promulgate rules to establish the grant program under this section. To the extent feasible, the department shall coordinate the program under this section with the state housing strategy plan under s. 560.9802.

**SECTION 76. Nonstatutory provisions.**

(1) PROPOSED RULES. No later than the first day of the 12th month beginning after the effective date of this subsection, the department of commerce shall submit in proposed form the rules required under sections 101.9205 (3), 101.9208, 101.9213 (8), 101.951 (2) (bm), 101.952 (2) (bm), and 101.96 of the statutes, as affected by this act, to the legislative council staff under section 227.15 (1) of the statutes unless the secretary of administration requires the department to prepare an economic impact report under section 227.137 of the statutes for the proposed rules.

(2) INITIAL MEMBERS OF MANUFACTURED HOUSING CODE COUNCIL. Notwithstanding the length of terms specified for the manufactured housing code council under section 15.157 (13) (a) of the statutes, as created by this act, the initial members appointed under section 15.157 (13) (a) 1. and 2. of the statutes, as created by this act, shall be appointed for terms that expire on July 1, 2006; the initial members appointed under section 15.157 (13) (a) 3. and 4. of the statutes, as created by this act, shall be appointed for terms that expire on July 1, 2007; and the remaining initial members appointed under section 15.157 (13) (a) 5. to 7. of the statutes, as created by this act, shall be appointed for terms that expire on July 1, 2008.

(3) DEPARTMENT OF COMMERCE POSITION DECREASE. The authorized FTE positions for the department of commerce are decreased by 1.6 SEG positions, funded from the appropriation under section 20.143 (3) (sa) of the statutes, as affected by this act, for

the performance of duties primarily related to the administration of subchapter V of chapter 101 of the statutes.

(4) DEPARTMENT OF COMMERCE POSITION INCREASE. The authorized FTE positions for the department of commerce are increased by 1.6 PR positions, funded from the appropriation under section 20.143 (3) (j) of the statutes, as affected by this act, for the performance of duties primarily related to the administration of subchapter V of chapter 101 of the statutes.

(5) APPROPRIATION TRANSFER. Immediately before the effective date of this subsection, the unencumbered balance in the account for the appropriation to the department of commerce under section 20.143 (3) (sa) of the statutes, as affected by this act, is transferred to the appropriation account under section 20.143 (3) (j) of the statutes, as affected by this act.

**SECTION 77. Effective dates.** This act takes effect on December 1, 2005, except as follows:

(1) PROPOSED RULES. SECTION 76 (1) of this act takes effect on the day after publication.

(2) MANUFACTURED HOUSING CODE COUNCIL. The treatment of sections 15.157 (13) and 101.933 of the statutes and SECTION 76 (2) of this act take effect on the day after publication.

**(END)**

**INSERT 22–12**

A.R. (B)

(1m) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes, the department of commerce shall promulgate rules required under sections 101.9205 (3), 101.9208, 101.9213 (8), 101.935 (2) (c) 2., 101.95, 101.951 (2) (bm), 101.952 (2) (bm), and 101.96 (2) (c) of the statutes, as affected by this act, within 30 days after the effective date of this subsection. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this subsection shall remain in effect until December 31, 2007 or the date on which permanent rules take effect, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

# DRAFTER'S NOTE
## FROM THE
## LEGISLATIVE REFERENCE BUREAU

LRBs0016/2dn
RNK:...:...

This redraft includes a nonstatutory provision requiring the Department of Commerce to promulgate emergency rules. I have assumed that you intended to require emergency rule–making for all of statutory sections listed in this provision but please review that list to make sure that it is consistent with your intent. I have also specified that the emergency rules must be promulgated within 30 days after publication to prevent a period of time during which no fees are in place. However, I am not certain as a practical matter whether it is possible for the Department of Commerce to promulgate emergency rules in such a short time period. Finally, the nonstatutory provision states that the emergency rules will remain in effect until December 31, 2007, or the date on which permanent rules take effect, whichever is sooner. Is this deadline O.K.?

Robin N. Kite
Legislative Attorney
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E–mail: robin.kite@legis.state.wi.us

# DRAFTER'S NOTE
## FROM THE
## LEGISLATIVE REFERENCE BUREAU

LRBs0016/2dn
RNK:wlj:pg

April 12, 2005

This redraft includes a nonstatutory provision requiring the Department of Commerce to promulgate emergency rules. I have assumed that you intended to require emergency rule making for all of statutory sections listed in this provision but please review that list to make sure that it is consistent with your intent. I have also specified that the emergency rules must be promulgated within 30 days after publication to prevent a period of time during which no fees are in place. However, I am not certain as a practical matter whether it is possible for the Department of Commerce to promulgate emergency rules in such a short time period. Finally, the nonstatutory provision states that the emergency rules will remain in effect until December 31, 2007, or the date on which permanent rules take effect, whichever is sooner. Is this deadline O.K.?

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