2007 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB21)

Received: **03/22/2007**

Received By: **jkreye**

Wanted: **Soon**

Identical to LRB:

For: **John Townsend (608) 266-3156**

By/Representing: **john**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters: **rkite**

Subject: **Tax, Other - miscellaneous**
Buildings/Safety - misc.

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Townsend@legis.wisconsin.gov**

Carbon copy (CC:) to: **joseph.kreye@legis.wisconsin.gov**
robin.kite@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Terminology changes related to mobile homes, manufactured homes, and modular homes

---

Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	jkreye 03/22/2007	lkunkel 03/26/2007		_____ _____			
/P1			rschluet 03/26/2007	_____ _____	lparisi 03/26/2007		
/1	jkreye 03/29/2007	lkunkel 03/29/2007	nnatzke 03/29/2007	_____ _____	cduerst 03/29/2007	cduerst 03/29/2007	

FE Sent For:

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/P1		1 lmk 3/29	rschluet 03/26/2007 nwn 3/29	_____ _____ nwn/pg 3/29	lparisi 03/26/2007		

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Carbon copy (CC:) to: **joseph.kreye@legis.wisconsin.gov**
robin.kite@legis.wisconsin.gov
Sherrie Hotz-Hendris - DOR

Pre Topic:

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Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	jkreye	/pl lmk 3/23	3267	pg			

FE Sent For:

<END>

Kreye, Joseph

From: Walgren, Pamela J - DOR
Sent: Monday, February 19, 2007 7:35 AM
To: Kreye, Joseph
Subject: RE: AB-21/SB-7 ANSI code and dimensions
Attachments: ab21 Technical Memo.doc

Joe,

ANSI Code

I went to the UW engineering library on Friday. The reference librarian told me that "ANSI 119.5" is not a valid cite. ANSI is organized by chapters that range from "A" to "Z". Each of those chapters could have a section 119.5. I did not check to see if they do. Chapter "A" has a section 119.5 that deals with "park trailers."

In addition, ANSI certifies over 10,000 products. It is not clear to me if the certification label on a trailer identifies which code it is certified under.

The reference library did not have a recent version of A119.5 (1998 is the latest), but did have an earlier one (1988). They are ordering the most recent one for me, but it will not be in for a couple of weeks. I do not know if the recent version of A119.5 changed definitions. But, we do know that section ANSI 119.5 in the 66.0435 should say "ANSI A119.5".

Under the **1988** version, park trailer is a subset of recreational vehicle. These are the definitions:

> **Recreational Vehicle**. A vehicular-type unit primarily designed for recreational camping, travel, or seasonal use which has its own motive power or is mounted on or towed by another vehicle. The basic entities are: travel trailer, folding camping trailer, park trailer, truck camper, motor home, and multi-use vehicles.
>
> **Park Trailer.** A recreational vehicle that meets the following criteria:
>
> (a) Built on a single chassis mounted on wheels.
> (b) Primarily designed as temporary living quarters for seasonal or destination camping which may be connected to utilities necessary for operation of installed fixtures and appliances.
> (c) Having a gross trailer area not exceeding 400 square feet in the set up mode.
> (d) Having a gross trailer area not less than 240 square feet and certified by the manufacturer as complying with ANSI A119.5.

It seems to me that it is problematic that the statutes specify a standard that is so difficult to find. We tell owners of these homes, not just dealers and manufacturers, that they have to meet the ANSI standard. Not everyone can travel to an engineering library, nor should they have to purchase a copy of the standards from ANSI. And, the engineering library is only ordering the most recent version for me because I am a state employee and I need it in connection with my job. Otherwise, it would not order something for someone who is not a student or faculty. It may be true, that in a practical sense, people will not understand all of the provisions of the ANSI code. But, some certainly they will understand and all of them should be available to those affected by the standards.

Dimensions

The dimensions in the bill do not match. Gaps exist in the dimensions that make it unclear how some properties should be classified and taxed. Attached is our tech memo.

Let me know if you have questions.

Pam

From: Kreye, Joseph [mailto:Joseph.Kreye@legis.wisconsin.gov]
Sent: Thursday, February 15, 2007 4:10 PM
To: Walgren, Pamela J - DOR
Subject: RE: AB-21/SB-7 & incorrect circular definition in 66.0435(1)(hm).

Pam,

Unfortunately, I don't have a copy of that code either. I was under the impression, with regard to the enactment of 2005 Wisconsin Act 298, that ANSI code 119.5 applies only to a recreational mobile home that is no larger than 400 square feet. So I think the 400 square foot requirement and the reference to the code may be redundant. I looked through the drafting files with regard to Act 298 (SB404) and its companion, AB 801, but I could not fine a recitation of the ANSI code.

I'm not sure I've seen DOR's comments related to the dimensions. If you can send them to me, I'd be happy (?) to weigh in. Thanks.

Joe

Joseph T. Kreye
Senior Legislative Attorney
Legislative Reference Bureau
(608) 266-2263

From: Walgren, Pamela J - DOR
Sent: Thursday, February 15, 2007 3:27 PM
To: Kreye, Joseph
Subject: RE: AB-21/SB-7 & incorrect circular definition in 66.0435(1)(hm).

Joe, do you have the ANSI code 119.5 that is referred to in that section. I do not have a copy of it and would like to read it.

Can you tell me your thoughts on our comments about the dimensions in the bill? They do not seem to present clear definitions to me.

From: Kreye, Joseph [mailto:Joseph.Kreye@legis.wisconsin.gov]
Sent: Thursday, February 15, 2007 3:04 PM
To: Gates-Hendrix, Sherrie L - DOR; Walgren, Pamela J - DOR
Cc: Kite, Robin; luke@housingalliance.us
Subject: RE: AB-21/SB-7 & incorrect circular definition in 66.0435(1)(hm).

Sherrie and Pam,

Thanks for looking at this. I don't think I can take the suggestion below and replace "mobile home" with "temporary living quarters" for purposes of defining "recreational mobile homes." Wouldn't small vacation homes then become recreational mobile homes?

I also don't agree that the definitions are circular. It's appropriate to use a defined term in the definition for another term. Current law uses the term "mobile home" to define "recreational mobile home." In other words, it's appropriate to use the term "mobile home" to define "recreational mobile home", if recreational mobile homes are a subset of mobile homes. I don't understand why that is now a problem. If the two definitions are now in conflict, that is not readily apparent. Regardless, to avoid confusion (or unwanted consequences), I think you have to use the term "mobile home" in the definition of "recreational mobile home."

Joe

Joseph T. Kreye
Senior Legislative Attorney
Legislative Reference Bureau
(608) 266-2263

From: Gates-Hendrix, Sherrie L - DOR
Sent: Thursday, February 15, 2007 2:21 PM
To: Walgren, Pamela J - DOR; Kreye, Joseph
Subject: FW: AB-21/SB-7 & incorrect circular definition in 66.0435(1)(hm).

From: Luke Rollins [mailto:luke@housingalliance.us]
Sent: Thursday, February 15, 2007 2:22 PM
To: 'Kite, Robin'; 'Matthias, Mary'; sgateshe@dor.state.wi.us
Cc: 'Kathi Kilgore'; Ross Kinzler; 'Christianson, Peter C.'; 'Frazier, Carson'
Subject: AB-21/SB-7 & incorrect circular definition in 66.0435(1)(hm).

The WI Assoc. of Campground Owners (WACO) working with the Alliance through our AB-21/SB-7 statutory bill realized that 66.0435(1)(hm) has an incorrect circular definition:

66.0435(1)(hm) "Recreational mobile home" means a mobile home that is no larger than 400 square feet, or that is certified by the manufacturer as complying with the code promulgated by the American National Standards Institute as ANSI 119.5, and that is used primarily as temporary living quarters for recreational, camping, travel, or seasonal purposes.

"mobile home" as a very different meaning, per current statute and AB-21/SB-7.

Would the following be acceptable?

66.0435(1)(hm) "Recreational mobile home" means ~~a mobile home~~ temporary living quarters that is no larger than 400 square feet, or that is certified by the manufacturer as complying with the code promulgated by the American National Standards Institute as ANSI 119.5, and that is used primarily ~~as temporary living quarters~~ for recreational, camping, travel, or seasonal purposes.

DOR/Sherrie is taking a look at the amendment that was drafted to address their concerns. We will use that as a base to do any final tweaking that is necessary, plus the circular definition fix listed above.

Thank you!
Luke

Luke D. Rollins
Director of Government Affairs
Wisconsin Housing Alliance
301 N. Broom Street, Suite 101
Madison, WI 53703
Telephone: 608-255-3131
Fax: 608-255-5595
E-mail: luke@housingalliance.us
Website: http://www.housingalliance.us

Kreye, Joseph

From: Gates-Hendrix, Sherrie L - DOR
Sent: Thursday, March 01, 2007 2:16 PM
To: Groves, Monica; Flynn, John; Kreye, Joseph
Subject: DOR Comments on AB 21/SB 7 + Amendment - Mobile/Manufactured Homes Definitions

Attachments: AB 21 tech comments - mobile&mfg homes.doc

Hello all --

Attached are DOR comments on AB 21 as amended by AA1 -- the mobile and manufactured home bill.

We have written these comments from the perspective of achieving the intent that the bill make no changes with respect to current law tax treatment.

You will see from our review and suggestions that the bill and amendment as drafted resulted in a wide variety of both property tax and sales tax changes, including loss of property tax exemptions as well as the creation of new sales tax exemptions.

If you have technical questions regarding the property tax suggestions, please call Pam Walgren at DOR: 266-7817. Technical questions regarding the sales tax suggestions can be directed to Blair Kruger at DOR: 266-1310.

Thanks for giving us the opportunity to review and comment. Let me know if you need anything else from us.

Sherrie

Sherrie Gates-Hendrix
DOR Legislative Liaison
http://www.revenue.wi.gov
(☎) phone: (608) 267-1262
(☎) fax: (608) 266-5718

AB 21 tech
mments - mobile&mf

Department of Revenue Comments

AB 21 as amended by AA 1: Mobile and Manufactured Home Definitions

The Department of Revenue (DOR) has reviewed AB 21 and AA1 with the understanding that the authors' intent is that the bill make no changes with respect to tax treatment.

All DOR comments and suggestions are meant to achieve the intent that the bill make no changes with respect to current law tax treatment. Comments are addressed to AB 21 as amended by Assembly Amendment 1. The comments are grouped by type of tax.

Property Tax

1. On line 14 of page 14 add recreational vehicles to the exemption under section 66.0435 (9) for improvements that constitute improvements to real property or that are taxed as personal property.

2. To facilitate administration, the definitions should maintain their current law size requirements for purposes of property tax. Some definitions in the bill use 400 square feet, others use 320 square feet.

    - **Recreational Mobile Home and Recreational Vehicle**. The department recommends that the definition of recreational mobile home in section 66.0435((1)(hm) state that it must be 400 square feet or less. Similarly, a definition in section 66.0435 should be created for recreational vehicles that would include a requirement that they be 400 square feet or less. As such, recreational mobile homes and recreational vehicles would be exempt, plus the current law 50 square feet of deck and stairs, under section 66.0435(3)(cm) as amended by AA 1. Also, section 66.0435(3)(c) should be amended to refer to the definition of recreational vehicle in 66.0435.

      The Department suggests that the reference to the ANSI code be deleted. It would seem to place an undue burden on the public to find ANSI provisions that are not readily available free of charge. An alternative would be to incorporate into the law the relevant provisions of the ANSI code. This would make the statutes more informative.

    - **Mobile Home and Manufactured Home.** The Department recommends the following changes regarding mobile and manufactured homes:
        - Define manufactured home in section 66.0435(1)(cm) as it is defined in section 101.91(2), except that that it would be greater than 400 square feet.
        - Reference the definition of manufactured home in section 70.43 to the definition in section 66.0435, rather than to section 101.91(2), so as to incorporate the 400 square feet dimension for property taxes.
        - Define mobile home under section 66.0435(1)(d) as it is defined in section 101.91(10), except that it would be greater than 400 square feet.
        - Continue to reference the definition of mobile home in section 70.43 to the definition in section 66.0435(1)(d), which would pick up the 400 square feet requirement, as stated above.

Sales Tax

The bill makes significant changes to the sales tax treatment of "manufactured homes" (previously referred to as "mobile homes"). Tax treatment changes under the bill, and suggested corrections, are as follows:

1. The bill repeals the exemption for sales of used manufactured homes built after June 15, 1976. Currently, section 77.54 (31) exempts sales of used mobile homes that are primary housing units from sales tax. The amended definition of "mobile home" under section 340.01 (29) narrows the exemption under section 77.54 (31) to sales of used mobile homes manufactured or assembled before June 15, 1976.

   The Department suggests amending section 77.54 (31) to include "used manufactured homes, as defined in s. 101.91 (2), which meet the statutory size under s. 348.07 (2)"** which would expand the exemption to include manufactured homes (i.e., mobile homes under current law) built after June 15, 1976.

2. The amendments to sections 77.51 (4) (b) 7 and (15) (b) 6 create an option for retailers of manufactured homes to reduce their gross receipts by an amount equal to the cost of materials. Current law gives this option only to retailers of "manufactured buildings" (i.e., modular buildings under the bill), but not mobile homes (i.e., manufactured homes under the bill). Retailers of manufactured homes may not know the cost of materials, since the materials were purchased by the manufacturer.

   In addition, a retailer of modular homes that previously chose the cost-of-materials option would be *required* to use this method for its sales of *new* and *used* manufactured homes, unless it received written approval from the Department of Revenue to reduce its gross receipts by 35%.

3. The amendments to sections 77.51 (4) (b) 7 and (15) (b) 6 also create a partial exemption from gross receipts (i.e., 35% or the cost of materials) for leases and rentals of manufactured homes that are (a) leased or rented for less than one month, or (b) leased or rented for more than one month but not used as a residence. Currently, short-term and non-residence receipts are taxed at 100% while section 77.54 (36) exempts the lease or rental of a mobile home for a continuous period of one month or more when the mobile home is used as a residence. Also, current sections 77.51 (4) (b) 6 and (15) (b) 5 do not apply to leases or rentals of mobile homes.

4. Under the bill, the reduction from gross receipts (i.e., 35% or the cost of materials) will apply to more homes under the bill than it applies to under current law. Under current law, to qualify for the 35% reduction in gross receipts, a mobile home (i.e., manufactured home) must meet one of the two following size criteria: (1) exceeds 45 feet in overall length, or (2) is transported in two unattached sections if the total size of the combined sections, not including additions and attachments, is at least 984 square feet measured when the sections are ready for transportation.

   Under this bill, the new size criteria for a "manufactured home" that is specified under existing 42 USC section 5402(6), is that the home is (1) eight body feet or more in width, or (2) forty body feet or more in length, or (3) when erected on site, is three hundred twenty or more square feet. Therefore, certain manufactured homes that do not meet

the size criteria under current law would qualify for the reduction from gross receipts (35% or gross receipts minus cost of materials). For example, manufactured homes that are greater than forty feet in length and up to forty-five feet in length, which previously did not qualify as "mobile homes," would qualify for the reduction from gross receipts under this bill.

The Department recommends the following suggestions to retain current law sales treatment for the items identified in issues #2 through #4 above.

a. Move the language (page 22, line 7 of AB 21) relating to manufactured homes from section 77.51 (4) (b) 7, to section (4) (b) 6, add the qualifier "new", and add the phrase "which meets or exceeds the statutory size under s. 348.07 (2)"** after the reference to section 101.91 (2). Do not repeal section 77.51 (4) (b) 6 as provided in the AA to AB 21 (LRBa0078/1 at page 2, lines 6-7).

b. Move the language (page 22, line 19 of AB 21) relating to manufactured homes from section 77.51 (15) (b) 6, to section (15) (b) 5, add the qualifier "new"**, and add the phrase "which meets or exceeds the statutory size under s. 348.07 (2)" after the reference to section 101.91 (2). Do not repeal section 77.51 (15) (b) 5 as provided in the AA to AB 21 (LRBa0078/1 at page 2, ll. 8-9).

c. On page 24, line 25 of AB 21, revise the language in section 77.54 (36) to add the phrase "which meets or exceeds the statutory size under s. 348.07 (2)"** after the reference to section 101.91 (2).

** The phase "which meets or exceeds the statutory size under s. 348.07 (2)" is included in the definition of "manufactured home" in sec. 45.31 (12), as amended by this bill (page 5, line 9). Adding the phrase to the definition of "manufactured home" minimizes the fiscal effect of the bill and provides consistency between Chapters 45 and 77.

2/28/07

Kreye, Joseph

From: Luke Rollins [luke@housingalliance.us]
Sent: Wednesday, March 07, 2007 9:07 AM
To: Kreye, Joseph
Subject: Joe.....

Joe.....this got bounced back....so I am trying again.....

Joe & Robin:

It is my understanding that Lassa's staff has given you drafting instructions to do all of DOR's memo.....we will have to meet with Lassa to explain why a number of things DOR wants is something we cannot do.

It looks like Townsend/John Flynn will be submitting to you the accurate/correct/appropriate drafting instructions per our e-mail this morning (and see below). Please let me know if you have questions.

And our apologies that it looks like LRB has to draft two different amendments, one for the assembly and one for the senate.

I just spoke with Townsend/John Flynn, and he is going to chat with you directly about whether it would be easier for you to do a substitute amendment, if it is more simple, cleaner, etc. So, let him know your preference there.

Thank you for all of your help, time, etc. Please let me know if you have any questions.

Thanks,
Luke

DRAFTING INSTRUCTIONS FOR ASSEMBLY AMENDMENT 2/SENATE AMENDMENT 1:

After review of all DOR memos and review of Assembly Amendment 1, the Wisconsin Housing Alliance (and WACO) would like to request the assistance of the authors of AB-21/SB 7 to proceed with the following:

- Assembly Amendment 1 will need to be returned to the author.
- Assembly Amendment 2 will need to be drafted.
- Senate Amendment 1 will need to be drafted.

Assembly Amendment 1 should be used as the basis for drafting the new amendment with the following updates:

- Amends Section 55m of AA1 should be amended to:
  Strike under s. 340.01(29) and replace with 101.91(10) and strike 340.01(27m) and replace with 101.91(2).
  *note: reference the central definitions directly as there is no need to have an unnecessary layer of references.

- Section 48m. 77.51(4)(b) 6. per AA1 is repealed. This is inappropriate. Strike Section 48m. 77.51(4)(b)6 needs to stay.
  *note: necessary to remove this repeal to maintain current tax treatment.

- Current law, 77.51(4)(b) 6. needs to be amended to reference "new manufactured homes per 101.91 (2)" and strike "new mobile home that is a primary housing unit under s. 340.01(29)."
  *note: reference back to 340 (29) would change current law, the 35% tax exemption is for new manufactured homes, there is not such thing as a new mobile home, etc.

- Section 49 of AB-21 adds "or a manufactured home, as defined in s. 101.91(2)". This needs to be removed from the bill as it would change current law.

*note: this section is meant only to pertain to modular homes (i.e. manufactured buildings in current law) and not manufactured homes.

- Section 51 of AB-21 adds "or a manufactured home, as defined in s. 101.91(2)". This needs to be removed from the bill as it would change current law.
  *note: this section is meant only to pertain to modular homes (i.e. manufactured buildings in current law) and not manufactured homes.

- Regarding WACO's "recreational mobile home" definition, here is the exact language that needs to be added to AA2 for 66.0435 (1) (hm) with strike-outs.
  66.0435 (1) (hm) of the statutes is amended to read:
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Luke D. Rollins
Director of Government Affairs
Wisconsin Housing Alliance
301 N. Broom Street, Suite 101
Madison, WI 53703
Telephone: 608-255-3131
Fax: 608-255-5595
E-mail: luke@housingalliance.us
Website: http://www.housingalliance.us

Kreye, Joseph

From: Kite, Robin
Sent: Wednesday, March 07, 2007 8:58 AM
To: Kreye, Joseph
Subject: AB-21

Let's talk about how to proceed with the amendments to the manufactured housing bills. I see that you will not be in the office until this afternoon and I will not be in the office this afternoon or Thursday so we will have to chat on Friday. But on first glance, it looks like the amendment for Townsend's bill will be fairly simple. The amendment for Lassa's version is another matter.

Robin

Robin Kite, Senior Legislative Attorney
Wisconsin Legislative Reference Bureau
1 East Main Street, Suite 200
Madison, WI 53703
(608) 266-7291

Kreye, Joseph

From: Flynn, John
Sent: Wednesday, March 07, 2007 8:47 AM
To: Kite, Robin; Kreye, Joseph; Matthias, Mary
Subject: FW: AB-21/SB-7 AMENDMENT DRAFTING INSTRUCTIONS.

We have spoken with Luke Rollins and feel comfortable with the drafting instructions, but would prefer a substitute amendment over AA2.

From: Luke Rollins [mailto:luke@housingalliance.us]
Sent: Wednesday, March 07, 2007 7:36 AM
To: Groves, Monica; Flynn, John
Cc: Kite, Robin; Kreye, Joseph; Matthias, Mary
Subject: AB-21/SB-7 AMENDMENT DRAFTING INSTRUCTIONS.

TO: Monica & John
CC: LRB/Robin, LRB/Joe, LC/Mary

After careful review of all three DOR memos, additional Alliance and WACO review, and review of Assembly Amendment 1, we would like to request the assistance of the authors for AB-21/SB-7 to draft Assembly Amendment 2 per the drafting instructions below.

I will have a longer e-mail responding in detail to the DOR memos that will go out to the universe of interested parties.

Thank you! Luke
****

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Luke D. Rollins
Director of Government Affairs
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Telephone: 608-255-3131
Fax: 608-255-5595
E-mail: luke@housingalliance.us
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Kreye, Joseph

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Sent: Wednesday, March 07, 2007 7:36 AM
To: Groves, Monica; Flynn, John
Cc: Kite, Robin; Kreye, Joseph; Matthias, Mary
Subject: AB-21/SB-7 AMENDMENT DRAFTING INSTRUCTIONS.

TO: Monica & John
CC: LRB/Robin, LRB/Joe, LC/Mary

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- Assembly Amendment 1 will need to be returned to the author.
- Assembly Amendment 2 will need to be drafted.
- Senate Amendment 1 will need to be drafted.

Assembly Amendment 1 should be used as the basis for drafting the new amendment with the following updates:

- Amends Section 55m of AA1 should be amended to:
  Strike under s. 340.01(29) and replace with 101.91(10) and strike 340.01(27m) and replace with 101.91(2).
  *note: reference the central definitions directly as there is no need to have an unnecessary layer of references.

- Section 48m. 77.51(4)(b) 6. per AA1 is repealed. This is inappropriate. Strike Section 48m. 77.51(4)(b)6 needs to stay.
  *note: necessary to remove this repeal to maintain current tax treatment.

- Current law, 77.51(4)(b) 6. needs to be amended to reference "new manufactured homes per 101.91 (2)" and strike "new mobile home that is a primary housing unit under s. 340.01(29)."
  *note: reference back to 340 (29) would change current law, the 35% tax exemption is for new manufactured homes, there is not such thing as a new mobile home, etc.

- Section 49 of AB-21 adds "or a manufactured home, as defined in s. 101.91(2)". This needs to be removed from the bill as it would change current law.
  *note: this section is meant only to pertain to modular homes (i.e. manufactured buildings in current law) and not manufactured homes.

- Section 51 of AB-21 adds "or a manufactured home, as defined in s. 101.91(2)". This needs to be removed from the bill as it would change current law.
  *note: this section is meant only to pertain to modular homes (i.e. manufactured buildings in current law) and not

manufactured homes.

- Regarding WACO's "recreational mobile home" definition, here is the exact language that needs to be added to AA2 for 66.0435 (1) (hm) with strike-outs.

  66.0435 (1) (hm) of the statutes is amended to read:

  66.0435 (1) (hm) "Recreational mobile home" means a ~~mobile home that is~~ prefabricated structure no larger than 400 square feet, which is designed to be towed and used primarily as temporary living quarters for recreational, camping, travel or seasonal purposes, or that is certified by the manufacturer as complying with the code promulgated by the American National Standards Institute as ANSI A119.5 ~~, and that is used primarily as temporary living quarters for recreational, camping, travel, or seasonal purposes~~.

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Kreye, Joseph

From: Luke Rollins [luke@housingalliance.us]
Sent: Friday, March 09, 2007 9:01 AM
To: Kreye, Joseph
Cc: Flynn, John; Kite, Robin
Subject: Assembly Substitute addition.....

In my drafting instructions we had:

- Current law, 77.51(4)(b) 6. needs to be amended to reference "new manufactured homes per 101.91 (2)" and strike "new mobile home that is a primary housing unit under s. 340.01(29)."
  *note: reference back to 340 (29) would change current law, the 35% tax exemption is for new manufactured homes, there is not such thing as a new mobile home, etc.

We also need to change the same a few pages later (DOT catch):

- Current law, 77.51(15) 5. needs to be amended to reference "new manufactured homes per 101.91 (2)" and strike "new mobile home that is a primary housing unit under s. 340.01(29)."
  *note: reference back to 340 (29) would change current law, the 35% tax exemption is for new manufactured homes, there is not such thing as a new mobile home, etc.

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-----Original Message-----
From: Kreye, Joseph [mailto:Joseph.Kreye@legis.wisconsin.gov]
Sent: Thursday, February 15, 2007 3:04 PM
To: Gates-Hendrix, Sherrie L - DOR; Walgren, Pamela J - DOR
Cc: Kite, Robin; Luke Rollins
Subject: RE: AB-21/SB-7 & incorrect circular definition in 66.0435(1)(hm).

Sherrie and Pam,

Thanks for looking at this. I don't think I can take the suggestion below and replace "mobile home" with "temporary living quarters" for purposes of defining "recreational mobile homes." Wouldn't small vacation homes then become recreational mobile homes?

I also don't agree that the definitions are circular. It's appropriate to use a defined term in the definition for another term. Current law uses the term "mobile home" to define "recreational mobile home." In other words, it's appropriate to use the term "mobile home" to define "recreational mobile home", if recreational mobile homes are a subset of mobile homes. I don't understand why that is now a problem. If the two definitions are now in conflict, that is not readily apparent. Regardless, to avoid confusion (or unwanted consequences), I think you have to use the term "mobile home" in the definition of "recreational mobile home."

Joe

Joseph T. Kreye
Senior Legislative Attorney
Legislative Reference Bureau
(608) 266-2263

From: Gates-Hendrix, Sherrie L - DOR
Sent: Thursday, February 15, 2007 2:21 PM
To: Walgren, Pamela J - DOR; Kreye, Joseph
Subject: FW: AB-21/SB-7 & incorrect circular definition in 66.0435(1)(hm).

From: Luke Rollins [mailto:luke@housingalliance.us]
Sent: Thursday, February 15, 2007 2:22 PM
To: 'Kite, Robin'; 'Matthias, Mary'; sgateshe@dor.state.wi.us
Cc: 'Kathi Kilgore'; Ross Kinzler; 'Christianson, Peter C.'; 'Frazier, Carson'
Subject: AB-21/SB-7 & incorrect circular definition in 66.0435(1)(hm).

The WI Assoc. of Campground Owners (WACO) working with the Alliance through our AB-21/SB-7 statutory bill realized that 66.0435(1)(hm) has an incorrect circular definition:

66.0435(1)(hm) "Recreational mobile home" means a mobile home that is no larger than 400 square feet, or that is certified by the manufacturer as complying with the code promulgated by the American National Standards Institute as ANSI 119.5, and that is used primarily as temporary living quarters for recreational, camping, travel, or seasonal purposes.

"mobile home" as a very different meaning, per current statute and AB-21/SB-7.

Would the following be acceptable?

66.0435(1)(hm) "Recreational mobile home" means ~~a mobile home~~ temporary living quarters that is no larger than 400 square feet, or that is certified by the manufacturer as complying with the code promulgated by the American National Standards Institute as ANSI 119.5, and that is used primarily ~~as temporary living quarters~~ for recreational, camping, travel, or seasonal purposes.

DOR/Sherrie is taking a look at the amendment that was drafted to address their concerns. We will use that as a base to do any final tweaking that is necessary, plus the circular definition fix listed above.

Thank you!
Luke

Luke D. Rollins
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Kreye, Joseph

From: Luke Rollins [luke@housingalliance.us]
Sent: Friday, March 16, 2007 3:17 PM
To: Kreye, Joseph
Cc: Flynn, John
Subject: Another note on factory-built housing language modernization bill.....

Joe:

77.54(31) needs to be amended for "used mobile home" to reference 101.91(10) directly (per our effort to reference referencing what we mean to reference) and there needs to be an addition to maintain the current exemption to add "used manufactured home per 101.91(2)".

Thanks, Luke

Luke D. Rollins
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6-787 — Ron Wolpert

Kathy - 608-286 9579
Kilgore →

MEMORANDUM

February 13, 2007

TO: Robin Kite
Legislative Reference Bureau

FROM: Paul Ziegler
Department of Revenue

SUBJECT: Technical Memorandum on AB 21: Mobile and Manufactured Home Definitions

The Department has the following technical comments and concerns regarding the bill that are organized by tax type:

Property Tax

The proposed definitions of mobile homes and manufactured homes do not mention additions, attachments, annexes, foundations, and appurtenances. Many mobile homes (as defined under current law) include additions, attachments, annexes, foundations, and appurtenances that are taxable as real or personal property under current law, or subject to monthly parking permit fees. Without language referencing the additions and attachments, the assessor may not be able to assess and tax the structures. It is not clear how additions, attachments, annexes, foundations, and appurtenances are intended to be treated under the bill. The following examples illustrate the potential issue:

- Section 70.112(7) exempts property from taxation because it is subject to a special tax, in particular, the monthly municipal permit fee. In this bill, it appears that the additions, attachments, annexes, foundations and appurtenances would not be considered part of the mobile home subject to the fee. As a result, it appears that they would become classified and taxed as personal property, increasing the administrative burden for municipalities and requiring owners to pay property tax through an annual property tax bill rather than as part of their monthly mobile home fee that is spread over a 12-month period.

- Section 66.0435(3)(c)1.a requires the assessor to value each mobile and manufactured home that is subject to the monthly municipal permit fee. In this bill, it appears that additions, attachments, annexes, foundations, and appurtenances would not be considered part of the mobile or manufactured home subject to the fee and included in the value determined by the assessor for fee purposes. As with property under section 70.112(7), it appears that these structures would become classified and taxed as personal property, increasing the administrative burden for municipalities and requiring owners to pay property tax through an annual property tax bill rather than as part of their monthly mobile home fee that is spread over a 12-month period.

- Section 70.043(1) defines mobile and manufactured homes as improvements to real property if they are set on land which is owned by the mobile home owner. Without the reference to additions, attachments, annexes, foundations, and appurtenances, it is not clear if they would still be considered improvements to real property.

- Section 70.043(2) defines mobile and manufactured homes as personal property if they are set on land which is not owned by the mobile home owner. Without the reference to additions, attachments, annexes, foundations, and appurtenances, it is not clear if they would still be considered personal property.

Under current law, section 66.0435(3)(cm) exempts recreational mobile homes and a platform and steps not exceeding 50 square feet from the mobile home parking fee. The bill does not include recreational vehicles in that exemption. If it is the author's intent to exempt recreational vehicles, then section 66.0435(3)(cm) should be amended to include a reference to recreational vehicles.

The bill uses different dimensions in defining types of mobile, manufactured or recreational mobile homes that could result in confusion when trying to apply the correct definition and corresponding tax treatment to a particular property. Some definitions use a 40-foot length, others a 45-foot length. Similarly, some use 400 square feet and others use 320 square feet.

- The definition of a mobile home under the bill would refer to section 101.91(10) of the Wisconsin statutes which limits its application to vehicles manufactured before June 15, 1976, with an overall length in excess of 45 feet.

- A recreational mobile home under 66.0435(1)(hm) incorporates the definition of mobile home. As a result, it would apply to mobile homes assembled before June 15, 1976 with an overall length in excess of 45 feet that meet the ANSI 119.5 requirements and which are no larger than 400 square feet.

- A manufactured home is defined under the bill in section 101.91(2) of the statutes and would include a mobile home or a structure complying with federal standards contained in 42 USC 5401 to 5425. 42 USC 5402 defines a manufactured home as one in traveling mode that has a width of eight feet or more and a length of 40 feet or more, or when erected on the site is 320 or more square feet.

- A recreational vehicle under section 340.01(48r) of the bill may not exceed 45 feet in length.

Section 101.91(2) requires a manufactured home to be certified by HUD under 42 USC 5401 to 5425. It is unclear how amendments to the size requirements under 42 USC 5402 would apply to property taxes. An older manufactured home certified under previous size requirements would allow it different treatment than a property of the same size that does not meet the current size requirements. At one time, the applicable dimensions were 32 feet in length.

Current law exempts recreational mobile homes and steps or a platform not exceeding 50 square feet from the monthly parking fee, but the bill does not include recreational vehicles in that exemption. If this exemption is intended to also apply to recreational vehicles, then a reference should be included in section 66.0435(3)(cm).

The bill would amend section 66.0435(9) of the statutes to include references to recreational vehicles in most instances covered by that section. However the bill does not add recreational vehicles to the exception that constitutes improvements to real property under section 70.043. If the exemption for real property improvements is intended to also apply to recreational vehicles, then a reference in section 66.0435(9) should be included to that effect. The title of section 66.0435(9) should be amended to include "recreational mobile homes" rather than "mobile homes," since the section applies to recreational mobile homes and not to mobile homes.

Sales Tax

Section 77.54(31) exempts sales of used mobile homes that are primary housing from tax. Since the amendment to section 341.01(29) would limit the exemption to mobile homes built before June 15, 1976, language is needed to exempt sales of used mobile homes built after 1976 (i.e., used manufactured housing) from tax to maintain the exemption under current law.

Under current section 77.995(2), certain mobile homes are subject to State Vehicle Rental Fees ("limo taxes") regardless of their length. Mobile homes subject to limo taxes are rented for 30 days or less and without drivers by a company primarily in such a business. Under the bill, the range of vehicles subject to the tax is narrowed. If the intent is to maintain the taxability of mobile homes as under the current law, language is needed to impose limo taxes on certain manufactured homes to include mobile homes greater than 45 feet long or manufactured after June 15, 1976.

Under current law, sections 77.51(4)(b)6. and 77.51(15)(b)5. exempt 35 percent of the price of a new mobile home as defined in section 340.01(29) from sales tax. Current section 77.51(4)(b)6. also exempts 35 percent of the sales price of a new mobile home that is transported in two sections and meets other conditions. Since "mobile home" refers to certain housing built before January 15, 1976, the exemption for sales of new "mobile homes" is no longer needed under the bill. Repealing sections 77.51(4)(b)6. and 77.51(15)(b)5. would not have a fiscal effect because sections 77.51(4)(b)7. and 77.51(15)(b)6., as amended by the bill, would provide replacement exemptions for purchases of new modular homes and new manufactured homes.

Effective Date

The bill would be effective 18 months after publication. Generally, law changes that affect the treatment of taxable property, including the monthly permit fee, are set to be effective for assessments as of the annual statutory assessment date of January 1 following publication of the act, or the next subsequent January 1. The January 1 date allows the Department to train assessors and eliminates a change in treatment during the year.

If you have any questions regarding this technical memorandum, please contact Pam Walgren at 266-7817.

cc: Rep. Townsend

WISCONSIN HOUSING ALLIANCE
THE VOICE OF FACTORY-BUILT HOUSING

MEMORANDUM

RE: SB-7/AB-21: DEVELOPMENT OF SUBSTITUTE AMENDMENT DRAFTING INSTRUCTIONS

ASSEMBLY AMENDMENT 1 AS DRAFTED PER PREVIOUS INSTRUCTION:

1. Page 6, line 8: after "s. 101.91 (2)" insert "and includes any additions, attachments, annexes, foundations, and appurtenances".

2. Page 6, line 13: delete lines 13 and 14 and substitute "~~to be so used;~~ has the meaning given in s. 101.91 (10) and includes any additions, attachments, annexes, foundations, and appurtenances".

3. Page 12, line 12: after "homes" insert "and recreational vehicles, as defined in s. 340.01 (48r),".

4. Page 12, line 15: after "home" insert "or recreational vehicle".

5. Page 14, line 8: after "ON" insert "RECREATIONAL".

6. Page 17, line 3: delete lines 3 and 4 and substitute:
"SECTION 42m. 70.111 (19) (b) of the statutes is amended to read:
70.111 (19) (b) Recreational mobile homes, as defined in s. 66.0435 (1) (hm), and recreational vehicles, as defined in s. 340.01 (48r). The exemption under this paragraph also applies to steps and a platform, not exceeding 50 square feet, that lead to a doorway of a recreational mobile home or a recreational vehicle, but does not apply to any other addition, attachment, deck, or patio.".

7. Page 22, line 4: after that line insert:
"SECTION 48m. 77.51 (4) (b) 6. of the statutes is repealed.".

8. Page 22, line 16: after that line insert:
"SECTION 50m. 77.51 (15) (b) 5. of the statutes is repealed.".

9. Page 24, line 21: after that line insert:
"SECTION 55m. 77.54 (31) of the statutes is amended to read:
77.54 (31) The gross receipts from the sale of and the storage, use or other consumption in this state, but not the lease or rental, of used mobile homes that are primary housing units under s. 340.01 (29) and used manufactured homes under s. 340.01 (27m).".

10. Page 26, line 22: delete lines 22 and 23 and substitute "vehicle of Type 1 automobiles, as defined in s. 340.01 (4) (a); of ~~mobile homes, as defined in s. 340.01 (29)~~ recreational vehicles, as defined in s. 340.01 (48r); of".

11. Page 51, line 10: delete "day of the 18th month" and substitute "January 1".

ADDITIONAL DRAFTING INSTRUCTIONS BASED UPON CHANGES AND ADDITIONS TO ASSEMBLY AMENDMENT 1 FOR PENDING SUBSTITUTE AMENDMENT:

Assembly Amendment 1 with the following changes and additions:

- Amends Section 55m of AA1 should be amended to:
  Strike under s. 340.01(29) and replace with 101.91(10) and strike 340.01(27m) and replace with 101.91(2).
  *note: reference the central definitions directly as there is no need to have an unnecessary layer of references.

- Section 48m. 77.51(4)(b) 6. per AA1 is repealed. This is inappropriate. Strike Section 48m. 77.51(4)(b)6 needs to stay.
  *note: necessary to remove this repeal to maintain current tax treatment.

- Current law, 77.51(4)(b) 6. needs to be amended to reference "new manufactured homes per 101.91 (2)" and strike "new mobile home that is a primary housing unit under s. 340.01(29)."
  *note: reference back to 340 (29) would change current law, the 35% tax exemption is for new manufactured homes, there is not such thing as a new mobile home, etc.

- Current law, 77.51(15)(5. needs to be amended to reference "new manufactured homes per 101.91 (2)" and strike "new mobile home that is a primary housing unit under s. 340.01(29)."
  *note: reference back to 340 (29) would change current law, the 35% tax exemption is for new manufactured homes, there is not such thing as a new mobile home, etc.

- Section 49 of AB-21 adds "or a manufactured home, as defined in s. 101.91(2)". This needs to be removed from the bill as it would change current law.
  *note: this section is meant only to pertain to modular homes (i.e. manufactured buildings in current law) and not manufactured homes.

- Section 51 of AB-21 adds "or a manufactured home, as defined in s. 101.91(2)". This needs to be removed from the bill as it would change current law.
  *note: this section is meant only to pertain to modular homes (i.e. manufactured buildings in current law) and not manufactured homes.

- Section 2 of AB-21 needs to strike: "~~which meets or exceeds the statutory size under s. 348.07(2)~~." As this section just refers to manufactured homes and not recreational vehicles.

- Regarding WACO's "recreational mobile home" definition, here is the exact language that needs to be added to AA2 for 66.0435 (1) (hm) with strike-outs.
  66.0435 (1) (hm) of the statutes is amended to read:
  66.0435 (1) (hm) "Recreational mobile home" means a ~~mobile home that is~~ prefabricated structure no larger than 400 square feet, which is designed to be towed and used primarily as temporary living quarters for recreational, camping, travel or seasonal purposes, or that is certified by the manufacturer as complying with the code promulgated by the American National Standards Institute as ANSI A119.5 ~~, and that is used primarily as temporary living quarters for recreational, camping, travel, or seasonal purposes~~.

- 77.54(31) needs to be amended for "used mobile home" to reference 101.91(10) directly (per our effort to reference referencing what we mean to reference) and there needs to be an addition to maintain the current exemption to add "used manufactured home per 101.91(2)".

Remaining Points of Concern: ANSI:

WACO and Alliance argument on not changing the ANSI reference in 66.0435(1)(hm):

> Current law regarding the definition of "recreational mobile home" in 66.0435(1)(hm) cites ANSI code. The ANSI code reference has been in current law for some time now, and was a definition component agreed upon as necessary by WACO and LRB. The label affixed to recreational mobile homes references the ANSI code. ANSI code, like NFPA codes as an example, are referenced in Wisconsin statutes, administrative code and in federal regulation. This should not be changed.

Remaining Points of Concern: Size Limits of Chapter 348:

DOR Argument on referencing Chapter 348 for size limits:

> On page 23, line 25, revise the language in section 77.54(36) to add the phrase "which meets or exceeds the statutory size under x. 348.07(2)" after the reference to section 101.91(2).
>
> The phrase "which meets or exceeds the statutory size under x. 348.07(2)" is included in the definition of "manufactured home" in section 45.31(12), as amended by this bill (page 5, line 9). Adding the phrase "which meets or exceeds the statutory size under x. 348.07(2)" to the definition of "manufactured home" minimizes the fiscal effect of the bill and provides consistency between Chapters 45 and 77.

Alliance argument on why not to reference Chapter 348 for size limits:

> The definition of manufactured home is contained in 101.91(2) which is current law in Wisconsin. This definition references federal requirements for what is certified and labeled as a manufactured home. This is where manufactured home size limitations exist.
>
> References to 348.07(2) in relation to the definition of manufactured home are inappropriate as 348.07(2) does not reference manufactured homes, rather recreational vehicles per the bill.
>
> Given 45.31(12) is meant to reference a manufactured home, additional reference to 348.07(2) is inappropriate. And the Alliance suggests the following amendment be added to the drafting instructions per the substitute amendment:

Alliance proposed substitute amendment to: SB-7/AB-21: Section 2: 45.31(12):
45.31(12) "Manufactured home" means a ~~structure, as defined by the Federal Home Loan Mortgage Corporation~~ manufactured home, as defined in s. 101.91(2).~~, which meets or exceeds the statutory size under s. 348.07(2).~~

*note: section 348.07(2) does not reference a manufactured home, rather a recreational vehicle per the bill.
*note: referencing the correct reference to manufactured home in statute is a key component to this bill.