

MS Kean

Angelo

Frause

SSB-3065

Local Government

Succeeded By

Ⓢ/HF 2427

SENATE/HOUSE FILE _____

BY (PROPOSED DEPARTMENT OF
PUBLIC SAFETY BILL)

Passed Senate, Date _____

Passed House, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the definition of factory-built structures,
2 the certification of installers of manufactured homes and
3 providing for a fee, an appropriation, and a civil penalty.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 103A.3, subsection 8, Code 1999, is
2 amended to read as follows:

3 8. "Factory-built structure" means any structure which is,
4 wholly or in substantial part, made, fabricated, formed, or
5 assembled in manufacturing facilities for installation or
6 assembly and installation, on a building site. "Factory-built
7 structure" includes the ~~term~~ terms "mobile home" ~~as defined in~~
8 ~~section-435.1~~, "manufactured home", and "modular home".

9 Sec. 2. Section 103A.3, Code 1999, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 15A. "Manufactured home", "mobile home",
12 and "modular home" mean the same as defined in section 435.1.

13 Sec. 3. NEW SECTION. 103A.26 MANUFACTURED HOME
14 INSTALLERS CERTIFICATION -- VIOLATION -- CIVIL ACTION AND
15 PENALTY.

16 1. a. A person who installs a manufactured home for
17 another person shall be certified in accordance with rules
18 adopted by the commissioner pursuant to chapter 17A. The
19 commissioner may assess a fee sufficient to recover the costs
20 of administering the certification of manufactured home
21 installers. The commissioner may suspend or revoke the
22 certification of a manufactured home installer for failure to
23 perform installation of a manufactured home, pursuant to
24 certification standards as provided by rules of the
25 commissioner.

26 b. All fees collected by the commissioner from the
27 certification of manufactured home installers shall be
28 credited to the general fund of the state as provided in
29 section 103A.23 and are appropriated to the commissioner for
30 the purpose of administering this subsection.

31 2. If a provision of this chapter or a rule adopted
32 pursuant to this chapter relating to the manufacture or
33 installation of a manufactured home is violated, the
34 commissioner may assess a civil penalty not to exceed one
35 thousand dollars for each offense. Each violation involving a

1 separate manufactured home, or a separate failure or refusal
 2 to allow or perform an act required by this chapter, or a rule
 3 adopted pursuant to this chapter constitutes a separate
 4 offense. However, the maximum amount of civil penalties which
 5 may be assessed for any series of violations occurring within
 6 one year from the date of the first violation shall not exceed
 7 one million dollars.

8 3. A person who is injured in person or property by
 9 another person violating the standards adopted pursuant to
 10 this chapter for the installation of a manufactured home may
 11 bring a civil action for damages against the violator.

EXPLANATION

12
 13 This bill modifies the definition of a factory-built
 14 structure to specifically include a mobile home, manufactured
 15 home, or a modular home as those terms are defined in Code
 16 section 435.1 and provides for the certification of
 17 manufactured home installers pursuant to rules adopted by the
 18 state building code commissioner. The amendment to the
 19 definition adds modular homes to current law governing
 20 factory-built structures. A person who installs manufactured
 21 homes shall be certified by the state building code
 22 commissioner. The commissioner may establish a fee for
 23 certification of the installers. All fees collected are
 24 credited to the general fund of the state and appropriated to
 25 the commissioner to pay the costs of administering the
 26 certification process.

27 The bill also establishes a civil penalty, not exceeding
 28 \$1,000 per violation, which may be assessed by the state
 29 building code commissioner against a person who violates a
 30 manufacturing or installation standards or fails to allow or
 31 perform an act required by Code chapter 103A or rules of the
 32 commissioner. Each violation involving a separate
 33 manufactured home or a separate failure or refusal to allow or
 34 perform an act required by Code chapter 103A constitutes a
 separate offense. The maximum civil penalties for a series of

1 violations occurring within one year from the date of the
2 first violation shall not exceed \$1,000,000.

3 The bill also authorizes a separate civil action by any
4 person who is injured in person or property by a person
5 violating the standards and requirement for the installation
6 of manufactured homes.

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THOMAS J. VILSACK
GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

E. A. "PENNY" WESTFALL

COMMISSIONER

TO: Members of the General Assembly

FROM: E.A. "Penny" Westfall, Commissioner *E.A. Westfall*

DATE: November 4, 1999

RE: Fire Marshal Legislation

FACTORY-BUILT STRUCTURES AND MANUFACTURED HOMES

The State Fire Marshal's office serves as the administrative agency for the U.S. Department of Housing and Urban Development office for the purpose of enforcing HUD building standards for homes manufactured outside of Iowa and shipped into the State.

While a certification program for installers is referenced in administrative rule, there is no requirement that installers of manufactured homes be certified. The program's purpose has been to act more as a reference for the consumer. The office of the State Fire Marshal receives numerous complaints of improper installation, which adversely affect the structures. In addition, many manufactured home-owners have not been provided with the Installation Certificate from the installer that provides guidelines to the owners on steps that must be taken to maintain proper installation. Consumer complaints indicate that to be effective, the Certification program should be mandatory and that the Fire Marshal's office should have the authority to revoke certification for just cause.

CIVIL PENALTY - HUD PROGRAM

The U.S. Department of Housing and Urban Development requires that participants in the Federal Manufactured Housing Program comply with all program regulations. These regulations include the provision that a state may impose a Civil Penalty for violation of the program standards. Iowa has exceeded the five-year "conditional" authority that HUD had provided to the state and must seek legislation to enact a civil penalty provision.

The Office of the State Fire Marshal believes that these two issues should be enacted in order to have an effective and enforceable manufactured home program. These sections are supported by the Iowa Manufactured Housing Association.

REPRINTED

FILED MAR 13 '00

SENATE FILE 2427
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 3065)
(SUCCESSOR TO SF 2239)

(P. 954) Passed Senate, Date 3-30-00 Passed House, Date 4/25/00
Vote: Ayes 46 Nays 0 Vote: Ayes 74 Nays 20
Approved 5/23/00
revised

A BILL FOR

1 An Act relating to the definition of factory-built structures,
2 the certification of installers of manufactured homes and
3 providing for a fee, an appropriation, and a civil penalty.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 2427

S-5313

- 1 Amend the amendment, S-5133, to Senate file 2427 as
- 2 follows:
- 3 1. Page 1, by striking lines 31 through 45 and
- 4 inserting the following: "generally applied to
- 5 housing."
- 6 2. Page 1, line 47, by striking the word
- 7 "installation" and inserting the following:
- 8 "relocation".

By JOANN JOHNSON

S-5313 FILED MARCH 30, 2000
ADOPTED (P. 953)

SF 2427

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1 Section 1. Section 103A.3, subsection 8, Code 1999, is
2 amended to read as follows:

3 8. "Factory-built structure" means any structure which is,
4 wholly or in substantial part, made, fabricated, formed, or
5 assembled in manufacturing facilities for installation or
6 assembly and installation, on a building site. "Factory-built
7 structure" includes the ~~term~~ terms "mobile home" ~~as defined in~~
8 ~~section-435.1~~, "manufactured home", and "modular home".

9 Sec. 2. Section 103A.3, Code 1999, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 15A. "Manufactured home", "mobile home",
12 and "modular home" mean the same as defined in section 435.1.

13 Sec. 3. NEW SECTION. 103A.26 MANUFACTURED HOME
14 INSTALLERS CERTIFICATION -- VIOLATION -- CIVIL ACTION AND
15 PENALTY.

16 1. a. A person who installs a manufactured home for
17 another person shall be certified in accordance with rules
18 adopted by the commissioner pursuant to chapter 17A. The
19 commissioner may assess a fee sufficient to recover the costs
20 of administering the certification of manufactured home
21 installers. The commissioner may suspend or revoke the
22 certification of a manufactured home installer for failure to
23 perform installation of a manufactured home, pursuant to
24 certification standards as provided by rules of the
25 commissioner.

26 b. Notwithstanding section 103A.23, all fees collected by
27 the commissioner for the administration of the manufactured
28 home program shall be credited to the general fund of the
29 state and are appropriated to the commissioner for the purpose
30 of administering this program including the employment of
31 personnel for the enforcement and administration of this
32 program.

33 2. If a provision of this chapter or a rule adopted
34 pursuant to this chapter relating to the manufacture or
35 installation of a manufactured home is violated, the

1 commissioner may assess a civil penalty not to exceed one
2 thousand dollars for each offense. Each violation involving a
3 separate manufactured home, or a separate failure or refusal
4 to allow or perform an act required by this chapter, or a rule
5 adopted pursuant to this chapter constitutes a separate
6 offense. However, the maximum amount of civil penalties which
7 may be assessed for any series of violations occurring within
8 one year from the date of the first violation shall not exceed
9 one million dollars.

10 3. A person who is injured in person or property by
11 another person violating the standards adopted pursuant to
12 this chapter for the installation of a manufactured home may
13 bring a civil action for damages against the violator.

14 EXPLANATION

15 This bill modifies the definition of a factory-built
16 structure to specifically include a mobile home, manufactured
17 home, or a modular home as those terms are defined in Code
18 section 435.1 and provides for the certification of
19 manufactured home installers pursuant to rules adopted by the
20 state building code commissioner. The amendment to the
21 definition adds modular homes to current law governing
22 factory-built structures. A person who installs manufactured
23 homes shall be certified by the state building code
24 commissioner. The commissioner may establish a fee for
25 certification of the installers. All fees collected are
26 credited to the general fund of the state and appropriated to
27 the commissioner to pay the costs of administering the
28 certification process.

29 The bill also establishes a civil penalty, not exceeding
30 \$1,000 per violation, which may be assessed by the state
31 building code commissioner against a person who violates a
32 manufacturing or installation standard or fails to allow or
33 perform an act required by Code chapter 103A or rules of the
34 commissioner. Each violation involving a separate
35 manufactured home or a separate failure or refusal to allow or

1 perform an act required by Code chapter 103A constitutes a
2 separate offense. The maximum civil penalties for a series of
3 violations occurring within one year from the date of the
4 first violation shall not exceed \$1,000,000.

5 The bill also authorizes a separate civil action by any
6 person who is injured in person or property by a person
7 violating the standard and requirement for the installation of
8 manufactured homes.

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SENATE FILE 2427

S-5245

- 1 Amend Senate File 2427 as follows:
- 2 1. Page 2, by striking line 11 and inserting the
- 3 following: "reason of another person's violation of
- 4 any of the standards adopted pursuant to".
- 5 2. Page 2, line 13, by inserting after the word
- 6 "for" the following: "actual".

*Adopted 3.30.00
(P.953)*

By LARRY MCKIBBEN

S-5245 FILED MARCH 27, 2000

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SENATE FILE 2427

S-5133

1 Amend Senate File 2427 as follows:

2 1. Page 1, by inserting after line 12 the
3 following:

4 "Sec. ____ . Section 103A.9, subsection 4, Code
5 1999, is amended to read as follows:

6 4. All factory-built structures, without regard to
7 manufacture date, shall be installed in accordance
8 with the code in the governmental subdivisions which
9 have adopted the state building code or any other
10 building code. However, a governmental subdivision
11 shall not require that a factory-built structure, that
12 was manufactured in accordance with federally mandated
13 standards, be renovated in accordance with the state
14 building code or any other building code which the
15 governmental subdivision has adopted when the factory-
16 built structure is being moved from one lawful
17 location ~~within-the-state~~ to another unless such
18 required renovation is in conformity with those
19 specifications for the factory-built structure which
20 existed when it was manufactured or the factory-built
21 structure is being rented for occupancy.

22 Existing factory-built structures not constructed
23 to be in compliance with federally mandated standards
24 may be moved from one established mobile home park to
25 another ~~within-the-state~~ and shall not be required to
26 be renovated to comply with the state building code or
27 any other building code which the governmental
28 subdivision has adopted unless the factory-built
29 structure is being rented for occupancy or has been
30 declared a public nuisance according to standards
31 generally applied to housing.

32 Sec. ____ . Section 103A.10, subsection 3, Code
33 1999, is amended to read as follows:

34 3. Provisions of the state building code relating
35 to the manufacture and installation of factory-built
36 structures shall apply throughout the state. Factory-
37 built structures approved by the commissioner shall be
38 deemed to comply with all building regulations
39 applicable to its manufacture and installation and
40 shall be exempt from any local building regulations.
41 Manufactured homes shall be installed using either the
42 manufacturer's instructions, the state administrative
43 rules for manufactured housing installation, or any
44 installation system approved by a registered
45 engineer."

46 2. Title page, line 1, by inserting after the
47 word "structures," the following: "the installation
48 of factory-built structures,".

By JOANN JOHNSON

S-5133 FILED MARCH 13, 2000

3/30 *Division Requested - Div. Request W/D P. 949*

Adopted (P. 953)

3-30-00

1 Section 1. Section 103A.3, subsection 8, Code 1999, is
2 amended to read as follows:

3 8. "Factory-built structure" means any structure which is,
4 wholly or in substantial part, made, fabricated, formed, or
5 assembled in manufacturing facilities for installation or
6 assembly and installation, on a building site. "Factory-built
7 structure" includes the ~~term~~ terms "mobile home" ~~as defined in~~
8 ~~section-435.1~~, "manufactured home", and "modular home".

9 Sec. 2. Section 103A.3, Code 1999, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 15A. "Manufactured home", "mobile home",
12 and "modular home" mean the same as defined in section 435.1.

13 Sec. 3. Section 103A.9, subsection 4, Code 1999, is
14 amended to read as follows:

15 4. All factory-built structures, without regard to
16 manufacture date, shall be installed in accordance with the
17 code in the governmental subdivisions which have adopted the
18 state building code or any other building code. However, a
19 governmental subdivision shall not require that a factory-
20 built structure, that was manufactured in accordance with
21 federally mandated standards, be renovated in accordance with
22 the state building code or any other building code which the
23 governmental subdivision has adopted when the factory-built
24 structure is being moved from one lawful location within-the
25 state to another unless such required renovation is in
26 conformity with those specifications for the factory-built
27 structure which existed when it was manufactured or the
28 factory-built structure is being rented for occupancy.

29 Existing factory-built structures not constructed to be in
30 compliance with federally mandated standards may be moved from
31 one established mobile home park to another within-the-state
32 and shall not be required to be renovated to comply with the
33 state building code or any other building code which the
34 governmental subdivision has adopted unless the factory-built
35 structure is being rented for occupancy or has been declared a

1 public nuisance according to standards generally applied to
2 housing.

3 Sec. 4. NEW SECTION. 103A.26 MANUFACTURED HOME
4 INSTALLERS CERTIFICATION -- VIOLATION -- CIVIL ACTION AND
5 PENALTY.

6 1. a. A person who installs a manufactured home for
7 another person shall be certified in accordance with rules
8 adopted by the commissioner pursuant to chapter 17A. The
9 commissioner may assess a fee sufficient to recover the costs
10 of administering the certification of manufactured home
11 installers. The commissioner may suspend or revoke the
12 certification of a manufactured home installer for failure to
13 perform installation of a manufactured home, pursuant to
14 certification standards as provided by rules of the
15 commissioner.

16 b. Notwithstanding section 103A.23, all fees collected by
17 the commissioner for the administration of the manufactured
18 home program shall be credited to the general fund of the
19 state and are appropriated to the commissioner for the purpose
20 of administering this program including the employment of
21 personnel for the enforcement and administration of this
22 program.

23 2. If a provision of this chapter or a rule adopted
24 pursuant to this chapter relating to the manufacture or
25 installation of a manufactured home is violated, the
26 commissioner may assess a civil penalty not to exceed one
27 thousand dollars for each offense. Each violation involving a
28 separate manufactured home, or a separate failure or refusal
29 to allow or perform an act required by this chapter, or a rule
30 adopted pursuant to this chapter constitutes a separate
31 offense. However, the maximum amount of civil penalties which
32 may be assessed for any series of violations occurring within
33 one year from the date of the first violation shall not exceed
34 one million dollars.

35 3. A person who is injured in person or property by reason

1 of another person's violation of any of the standards adopted
2 pursuant to this chapter for the installation of a
3 manufactured home may bring a civil action for actual damages
4 against the violator.

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SENATE FILE 2427

H-9059

1 Amend Senate File 2427, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 3, line 4, by inserting after the word
4 "violator." the following: "Nothing in this section
5 shall be construed as limiting any cause of action or
6 remedy existing at law before the effective date of
7 this Act."

By KREIMAN of Davis

H-9059 FILED APRIL 24, 2000

Just
4/25/00 (p.1775)

SENATE FILE 2427

H-9060

1 Amend Senate File 2427, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. By striking page 2, line 35, through page 3,
4 line 4.

By KREIMAN of Davis

H-9060 FILED APRIL 24, 2000

W/D
4/25/00 (p.1775)

SENATE FILE 2427

H-9061

1 Amend Senate File 2427, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 3, line 3, by striking the word "actual".

By KREIMAN of Davis

H-9061 FILED APRIL 24, 2000

W/D
4/25/00
(p.1775)



THOMAS J. VILSACK
GOVERNOR

OFFICE OF THE GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

May 23, 2000

The Honorable Chester Culver
Secretary of State of Iowa
State Capitol
LOCAL

RECEIVED

MAY 25 2000

LEGISLATIVE SERVICE
BUREAU

Dear Mr. Secretary:

I hereby transmit Senate File 2427, an act relating to the definition of factory-built structures, the relocation of factory-built structures, the certification of installers of manufactured homes and providing for a fee, an appropriation, and a civil penalty.

I am unable to approve Senate File 2427 and hereby transmit it to you in accordance with Article III, Section 16, of the Constitution of the State of Iowa.

Senate File 2427 amends Iowa Code chapter 103A dealing with the State Building Code. It expands the definition of factory-built structures to include mobile homes, manufactured homes and modular homes and requires installers of these structures to be certified by the Commissioner of Public Safety. It also provided for the assessment of a civil penalty for violations of the act.

The act also contains a provision which reads:

A person who is injured in person or property by reason of another person's violation of any of the standards adopted pursuant to this chapter for the installation of a manufactured home may bring a civil action for actual damages against the violator.

While I am supportive of the provisions requiring certification of installers and enforcement of this process, I am unable to approve the bill as a whole. The above language is ambiguous. Based upon prior court decisions, it is reasonable to believe that a court would interpret this language to preclude an award of punitive damages. This bill was intended to increase consumer protection and I do not want to put consumers at risk of losing the ability to pursue remedies that currently exist under law by signing it into law.

For this reason, I hereby respectfully disapprove Senate File 2427.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Vilsack", written in a cursive style.

Thomas J. Vilsack
Governor

TJV:jo

CC: Secretary of the Senate
Chief Clerk of the House

SENATE FILE 2427

AN ACT

RELATING TO THE DEFINITION OF FACTORY-BUILT STRUCTURES, THE RELOCATION OF FACTORY-BUILT STRUCTURES, THE CERTIFICATION OF INSTALLERS OF MANUFACTURED HOMES AND PROVIDING FOR A FEE, AN APPROPRIATION, AND A CIVIL PENALTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 103A.3, subsection 8, Code 1999, is amended to read as follows:

8. "Factory-built structure" means any structure which is, wholly or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation, on a building site. "Factory-built structure" includes the term terms "mobile home" as defined in section-435-1, "manufactured home", and "modular home".

Sec. 2. Section 103A.3, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 15A. "Manufactured home", "mobile home", and "modular home" mean the same as defined in section 435.1.

Sec. 3. Section 103A.9, subsection 4, Code 1999, is amended to read as follows:

4. All factory-built structures, without regard to manufacture date, shall be installed in accordance with the code in the governmental subdivisions which have adopted the state building code or any other building code. However, a governmental subdivision shall not require that a factory-built structure, that was manufactured in accordance with federally mandated standards, be renovated in accordance with the state building code or any other building code which the governmental subdivision has adopted when the factory-built structure is being moved from one lawful location within the state to another unless such required renovation is in conformity with those specifications for the factory-built structure which existed when it was manufactured or the

factory-built structure is being rented for occupancy.

Existing factory-built structures not constructed to be in compliance with federally mandated standards may be moved from one established mobile home park to another within the state and shall not be required to be renovated to comply with the state building code or any other building code which the governmental subdivision has adopted unless the factory-built structure is being rented for occupancy or has been declared a public nuisance according to standards generally applied to housing.

Sec. 4. NEW SECTION. 103A.26 MANUFACTURED HOME INSTALLERS CERTIFICATION -- VIOLATION -- CIVIL ACTION AND PENALTY.

1. a. A person who installs a manufactured home for another person shall be certified in accordance with rules adopted by the commissioner pursuant to chapter 17A. The commissioner may assess a fee sufficient to recover the costs of administering the certification of manufactured home installers. The commissioner may suspend or revoke the certification of a manufactured home installer for failure to perform installation of a manufactured home, pursuant to certification standards as provided by rules of the commissioner.

b. Notwithstanding section 103A.23, all fees collected by the commissioner for the administration of the manufactured home program shall be credited to the general fund of the state and are appropriated to the commissioner for the purpose of administering this program including the employment of personnel for the enforcement and administration of this program.

2. If a provision of this chapter or a rule adopted pursuant to this chapter relating to the manufacture or installation of a manufactured home is violated, the commissioner may assess a civil penalty not to exceed one thousand dollars for each offense. Each violation involving a separate manufactured home, or a separate failure or refusal to allow or perform an act required by this chapter, or a rule

adopted pursuant to this chapter constitutes a separate offense. However, the maximum amount of civil penalties which may be assessed for any series of violations occurring within one year from the date of the first violation shall not exceed one million dollars.

3. A person who is injured in person or property by reason of another person's violation of any of the standards adopted pursuant to this chapter for the installation of a manufactured home may bring a civil action for actual damages against the violator.

MARY E. KRAMER

President of the Senate

BRENT SIEGRIST

Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2427, Seventy-eighth General Assembly.

MICHAEL E. MARSHALL

Secretary of the Senate

Vilsack
Approved 5/23, 2000

THOMAS J. VILSACK

Governor