

MAR 30 2006
WAYS & MEANS CALENDAR

HOUSE FILE 2781
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 768)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to manufactured or mobile home regulation, and
2 including fee, penalty, and effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2781

1 DIVISION IV

2 MANUFACTURED AND MOBILE HOME REGULATION

3 Section 1. NEW SECTION. 103A.51 DEFINITIONS.

4 As used in this division, unless the context otherwise
5 requires:

6 1. "Ground anchoring system" means any device or
7 combination of devices used to securely anchor a manufactured
8 or mobile home to the ground.

9 2. "Ground support system" means any device or combination
10 of devices placed beneath a manufactured or mobile home and
11 used to provide support.

12 3. "Home" means a manufactured home, mobile home, or
13 modular home.

14 4. "Manufactured home" means a factory-built structure
15 built under the authority of 42 U.S.C. § 5403, that is
16 required by federal law to display a seal required by the
17 United States department of housing and urban development, and
18 was constructed on or after June 15, 1976.

19 5. "Manufactured or mobile home distributor" means a
20 person who sells or distributes manufactured or mobile homes
21 to manufactured or mobile home retailers.

22 6. "Manufactured or mobile home manufacturer" means a
23 person engaged in the business of fabricating or assembling
24 manufactured or mobile homes.

25 7. "Manufactured or mobile home retailer" means a person
26 who, for a commission or other thing of value, sells,
27 exchanges, or offers or attempts to negotiate a sale or
28 exchange of an interest in a home or who is engaged wholly or
29 in part in the business of selling homes, whether or not the
30 homes are owned by the retailer. "Manufactured or mobile home
31 retailer" does not include any of the following:

32 a. A receiver, trustee, administrator, executor, guardian,
33 attorney, or other person appointed by or acting under the
34 judgment or order of a court to transfer an interest in a
35 home.

1 b. A person transferring a home registered in the person's
2 name and used for personal, family, or household purposes, if
3 the transfer is an occasional sale and is not part of the
4 business of the transferor.

5 c. A person who transfers an interest in a home only as an
6 incident to engaging in the business of financing new or used
7 homes.

8 d. A person who exclusively sells modular homes.

9 8. "Mobile home" means a structure, transportable in one
10 or more sections, which exceeds eight feet in width and
11 thirty-two feet in length, and which is built on a permanent
12 chassis and designed to be used as a dwelling with or without
13 a permanent foundation when connected to one or more
14 utilities. A "mobile home" is not built to a mandatory
15 building code, contains no state or federal seals, and was
16 built before June 15, 1976.

17 9. "Modular home" means a factory-built structure which is
18 manufactured to be used as a place of human habitation, is
19 constructed to comply with the Iowa state building code for
20 modular factory-built structures, as adopted pursuant to
21 section 103A.7, and displays a seal issued by the
22 commissioner.

23 10. "New home" means a home that has not been sold at
24 retail.

25 11. "Permanent site" means any lot or parcel of land on
26 which a manufactured or mobile home used as a dwelling or
27 place of business is located for ninety consecutive days,
28 except a construction site when the manufactured or mobile
29 home is used by a commercial contractor as a construction
30 office or storage room.

31 12. "Preowned home" means a home that has been previously
32 sold at retail.

33 13. "Retailer's inventory" means homes offered for sale at
34 the retailer's licensed address or at any mobile home park or
35 land-leased community so long as the title of the home is in

1 the retailer's name and the home is not being occupied.

2 14. "Sell at retail" means to sell a home to a person who
3 will devote it to a consumer use.

4 15. "Tiedown system" means a ground support system and a
5 ground anchoring system used in concert to provide anchoring
6 and support for a manufactured or mobile home.

7 Sec. 2. NEW SECTION. 103A.52 MANUFACTURED OR MOBILE HOME
8 RETAILER LICENSE -- PROCEDURE.

9 1. LICENSE APPLICATION. A manufactured or mobile home
10 retailer shall file with the commissioner an application for
11 license as a manufactured or mobile home retailer as the
12 commissioner may prescribe.

13 2. LICENSE FEE. The license fee for a manufactured or
14 mobile home retailer is an annual fee of one hundred dollars.
15 If the application is denied, the commissioner shall refund
16 the fee.

17 3. SURETY BOND. Before the issuance of a manufactured or
18 mobile home retailer's license, an applicant for a license
19 shall file with the commissioner a surety bond executed by the
20 applicant as principal and executed by a corporate surety
21 company, licensed and qualified to do business within this
22 state, which bond shall run to the state, be in the amount of
23 fifty thousand dollars, and be conditioned upon the faithful
24 compliance by the applicant as a retailer with all of the
25 statutes of this state regulating the business of the retailer
26 and indemnifying any person dealing or transacting business
27 with the retailer in connection with a manufactured or mobile
28 home from a loss or damage occasioned by the failure of the
29 retailer to comply with this division, including but not
30 limited to the furnishing of a proper and valid document of
31 title to the manufactured or mobile home involved in the
32 transaction.

33 4. MANUFACTURED OR MOBILE HOME HOOKUPS. A licensed
34 manufactured or mobile home retailer or an employee of a
35 licensed manufactured or mobile home retailer may perform

1 water, gas, electrical, and other utility service connections
2 in a manufactured or mobile home space, or within ten feet of
3 such space, located in a manufactured home community or mobile
4 home park. The licensed retailer or an employee of the
5 retailer is not required to obtain any additional state or
6 local authorization, permit, or license to perform utility
7 service connections. However, the utility service connections
8 are subject to inspection and approval by the local building
9 department and the manufactured or mobile home retailer shall
10 pay the inspection fee, if any.

11 Sec. 3. NEW SECTION. 103A.53 LICENSE APPLICATION AND
12 FEES.

13 Upon application and payment of a one hundred dollar fee, a
14 person may be licensed as a manufacturer or distributor of
15 manufactured or mobile homes. The application shall be in the
16 form and shall contain information as the commissioner
17 prescribes. The license shall be granted or refused within
18 thirty days after application. The license expires, unless
19 sooner revoked or suspended by the commissioner, on December
20 31 of the calendar year for which the license was granted. A
21 licensee shall have the month of December of the calendar year
22 for which the license was granted and the following month of
23 January to renew the license. A person who fails to renew a
24 license by the end of this time period and desires to hold a
25 license shall file a new license application and pay the
26 required fee.

27 Sec. 4. NEW SECTION. 103A.54 FEES.

28 Notwithstanding section 103A.23, the department of public
29 safety shall retain all fees collected pursuant to this
30 division and the fees retained are appropriated to the
31 commissioner to administer the licensing program and the
32 certification program for manufactured or mobile home
33 installers, including the employment of personnel for the
34 enforcement and administration of such programs.

35 Sec. 5. NEW SECTION. 103A.55 REVOCATION, SUSPENSION, AND

1 DENIAL OF LICENSE.

2 The commissioner may revoke, suspend, or refuse the license
3 of a manufactured or mobile home retailer, manufactured or
4 mobile home manufacturer, or manufactured or mobile home
5 distributor, as applicable, if the commissioner finds that the
6 manufactured or mobile home retailer, manufacturer, or
7 distributor is guilty of any of the following acts or
8 offenses:

- 9 1. Fraud in procuring a license.
- 10 2. Knowingly making misleading, deceptive, untrue, or
11 fraudulent representations in the business of a manufactured
12 or mobile home retailer, manufacturer, or distributor or
13 engaging in unethical conduct or practice harmful or
14 detrimental to the public.
- 15 3. Conviction of a felony related to the business of a
16 manufactured or mobile home retailer, manufacturer, or
17 distributor. A copy of the record of conviction or plea of
18 guilty shall be sufficient evidence for the purposes of this
19 section.
- 20 4. Failing upon the sale or transfer of a manufactured or
21 mobile home to deliver to the purchaser or transferee of the
22 manufactured or mobile home sold or transferred, a
23 manufacturer's or importer's certificate, or a certificate of
24 title duly assigned, as provided in chapter 321.
- 25 5. Failing upon the purchasing or otherwise acquiring of a
26 manufactured or mobile home to obtain a manufacturer's or
27 importer's certificate, a new certificate of title, or a
28 certificate of title duly assigned as provided in chapter 321.
- 29 6. Failing to apply for and obtain from a county treasurer
30 a certificate of title for a used manufactured or mobile home,
31 titled in Iowa, acquired by the retailer within thirty days
32 from the date of acquisition, as required under section
33 321.45, subsection 4.
- 34 A person whose license is revoked or suspended or whose
35 application for a license is denied may appeal the revocation,

1 suspension, or denial in accordance with chapter 17A,
2 including the opportunity for an evidentiary hearing.

3 Sec. 6. NEW SECTION. 103A.56 RULES.

4 The commissioner shall prescribe rules under chapter 17A
5 for the administration and enforcement of this division. The
6 commissioner shall prescribe forms to be used in connection
7 with the licensing of persons under this division.

8 Sec. 7. NEW SECTION. 103A.57 UNLAWFUL PRACTICE --
9 CRIMINAL PENALTY.

10 It is unlawful for a person to engage in business as a
11 manufactured or mobile home retailer, manufactured or mobile
12 home manufacturer, or manufactured or mobile home distributor
13 in this state without first acquiring and maintaining a
14 license in accordance with this division. A person convicted
15 of violating this section is guilty of a serious misdemeanor.

16 Sec. 8. NEW SECTION. 103A.58 MANUFACTURED HOME, MOBILE
17 HOME, AND MODULAR HOME RETAIL INSTALLMENT CONTRACT -- FINANCE
18 CHARGE.

19 1. A retail installment contract or agreement for the sale
20 of a manufactured home, mobile home, or modular home may
21 include a finance charge not in excess of an amount equivalent
22 to one and three-fourths percent per month simple interest on
23 the declining balance of the amount financed.

24 2. For purposes of this section, "amount financed" means
25 the same as defined in section 537.1301.

26 3. The limitations contained in this section do not apply
27 in a transaction referred to in section 535.2, subsection 2.
28 With respect to a consumer credit sale, as defined in section
29 537.1301, the limitations contained in this section supersede
30 conflicting provisions of chapter 537, article 2, part 2.

31 Sec. 9. NEW SECTION. 103A.59 MANUFACTURED OR MOBILE HOME
32 INSTALLERS CERTIFICATION -- VIOLATION -- CIVIL PENALTY.

33 1. A person who installs a manufactured or mobile home for
34 another person shall be certified in accordance with rules
35 adopted by the commissioner pursuant to chapter 17A. The

1 commissioner may assess a fee sufficient to recover the costs
2 of administering the certification of manufactured or mobile
3 home installers. The commissioner may suspend or revoke the
4 certification of a manufactured or mobile home installer for
5 failure to perform installation of a manufactured or mobile
6 home pursuant to certification standards as provided by rules
7 of the commissioner.

8 2. If a provision of this chapter or a rule adopted
9 pursuant to this chapter relating to the manufacture or
10 installation of a manufactured or mobile home is violated, the
11 commissioner may assess a civil penalty not to exceed one
12 thousand dollars for each offense. Each violation involving a
13 separate manufactured or mobile home, or a separate failure or
14 refusal to allow an act to be performed or to perform an act
15 as required by this chapter or a rule adopted pursuant to this
16 chapter, constitutes a separate offense. However, the maximum
17 amount of civil penalties which may be assessed for any series
18 of violations occurring within one year from the date of the
19 first violation shall not exceed one million dollars.

20 Sec. 10. NEW SECTION. 103A.60 APPROVED TIEDOWN SYSTEM --
21 PROVIDED AT SALE -- INSTALLATION.

22 A manufactured or mobile home retailer shall provide an
23 approved tiedown system. The purchaser shall install or have
24 installed such system within one hundred fifty days of
25 locating the manufactured or mobile home on a permanent site.

26 Sec. 11. NEW SECTION. 103A.61 INSTALLER COMPLIANCE AND
27 CERTIFICATION.

28 A person who installs a tiedown system shall comply with
29 the minimum standards for such systems, and shall provide the
30 owner of the manufactured or mobile home on which installation
31 is made and the commissioner with a certification of approved
32 system installation. Such certification shall be in proper
33 form as established by the commissioner.

34 Sec. 12. NEW SECTION. 103A.62 LISTING AND FORM OF
35 CERTIFICATION OF APPROVED SYSTEMS PROVIDED.

1 The commissioner shall provide, upon request, a list of
2 approved tiedown systems and instructions for the completion
3 of proper certification of approved system installation.

4 Sec. 13. NEW SECTION. 103A.63 COMPLIANCE.

5 When it appears that a retailer, purchaser, or other person
6 is in noncompliance with the provisions of sections 103A.60
7 through 103A.62, the commissioner shall prescribe a period of
8 time not to exceed one hundred fifty days within which
9 compliance must be achieved and the commissioner shall so
10 notify the retailer, purchaser, or other person.

11 Sec. 14. Section 103A.3, subsections 10, 11, 21, and 26,
12 Code 2005, are amended by striking the subsections.

13 Sec. 15. Section 103A.3, subsection 16, Code 2005, is
14 amended to read as follows:

15 16. "Manufactured home", "mobile home", and "modular home"
16 mean the same as defined in section ~~435.1~~ 103A.51.

17 Sec. 16. Section 321.45, subsection 4, Code 2005, is
18 amended to read as follows:

19 4. After acquiring a used mobile home or manufactured home
20 to be titled in Iowa, a manufactured or mobile home retailer,
21 as defined in section ~~322B.2~~ 103A.51 shall within thirty days
22 apply for and obtain from the county treasurer of the
23 retailer's county of residence a new certificate of title for
24 the mobile home or manufactured home. In the event that there
25 is a prior lien or encumbrance to be released, as required by
26 section 321.50, subsection 5, the thirty-day time period in
27 this subsection does not begin to run until the lien or
28 encumbrance is released.

29 Sec. 17. Section 321.57, subsection 5, Code 2005, is
30 amended by striking the subsection.

31 Sec. 18. Section 321.58, Code 2005, is amended to read as
32 follows:

33 321.58 APPLICATION.

34 All dealers, transporters, and new motor vehicle
35 wholesalers licensed under chapter 322, ~~and-manufactured-or~~

1 ~~mobile-home-retailers-licensed-under-chapter-322B~~, upon
2 payment of a fee of seventy dollars for two years, one hundred
3 forty dollars for four years, or two hundred ten dollars for
4 six years, may make application to the department upon the
5 appropriate form for a certificate containing a general
6 distinguishing number and for one or more special plates as
7 appropriate to various types of vehicles subject to
8 registration. The applicant shall also submit proof of the
9 applicant's status as a bona fide transporter, new motor
10 vehicle wholesaler licensed under chapter 322, ~~manufactured-or~~
11 ~~mobile-home-retailer-licensed-under-chapter-322B~~, or dealer,
12 as reasonably required by the department. Dealers in new
13 vehicles shall furnish satisfactory evidence of a valid
14 franchise with the manufacturer of the vehicles authorizing
15 the dealership.

16 Sec. 19. Section 322B.3, subsection 5, Code 2005, is
17 amended to read as follows:

18 5. MANUFACTURED OR MOBILE HOME HOOKUPS. A manufactured or
19 mobile home retailer or an employee of a manufactured or
20 mobile home retailer may perform water, gas, electrical, and
21 other utility service connections in a manufactured or mobile
22 home space, or within ten feet of such space, located in a
23 ~~manufactured-home-community-or-mobile-home-park~~, and the
24 ~~retailer-or-an-employee-or-the-retailer-may-install-a-tiedown~~
25 ~~system-on-a-manufactured-or-mobile-home-located-in-a~~
26 manufactured home community or mobile home park. The licensed
27 retailer or an employee of the retailer is not required to
28 obtain any additional state or local authorization, permit, or
29 license to perform utility service connections. However, the
30 utility service connections are subject to inspection and
31 approval by local building code officials and the manufactured
32 or mobile home retailer shall pay the inspection fee, if any.

33 Sec. 20. Section 523H.1, subsection 3, paragraph c, Code
34 2005, is amended to read as follows:

35 c. "Franchise" also does not include any contract under

1 which a petroleum retailer or petroleum distributor is
2 authorized or permitted to occupy leased marketing premises,
3 which premises are to be employed in connection with the sale,
4 consignment, or distribution of motor fuel under a trademark
5 which is owned or controlled by a refiner which is regulated
6 by the federal Petroleum Marketing Practices Act, 15 U.S.C. §
7 2801 et seq. The term "refiner" means any person engaged in
8 the refining of crude oil to produce motor fuel, and includes
9 any affiliate of such person. "Franchise" also does not
10 include a contract entered into by any person regulated under
11 chapter 103A, division IV, or chapter 123, 322, 322A, 322B,
12 322C, 322D, 322F, 522B, or 543B, or a contract establishing a
13 franchise relationship with respect to the sale of
14 construction equipment, lawn or garden equipment, or real
15 estate.

16 Sec. 21. Section 537A.10, subsection 1, paragraph c,
17 subparagraph (3), Code 2005, is amended to read as follows:

18 (3) "Franchise" also does not include any contract under
19 which a petroleum retailer or petroleum distributor is
20 authorized or permitted to occupy leased marketing premises,
21 which premises are to be employed in connection with the sale,
22 consignment, or distribution of motor fuel under a trademark
23 which is owned or controlled by a refiner which is regulated
24 by the federal Petroleum Marketing Practices Act, 15 U.S.C. §
25 2801 et seq. The term "refiner" means any person engaged in
26 the refining of crude oil to produce motor fuel, and includes
27 any affiliate of such person. "Franchise" also does not
28 include a contract entered into by any person regulated under
29 chapter 103A, division IV, or chapter 123, 322, 322A, 322B,
30 322C, 322D, 322F, 522B, or 543B, or a contract establishing a
31 franchise relationship with respect to the sale of
32 construction equipment, lawn or garden equipment, or real
33 estate.

34 Sec. 22. Section 103A.26 and sections 103A.30 through
35 103A.33, Code 2005, are repealed.

1 tiedown systems in Code sections 103A.30 through 103A.33 are
2 also renumbered in the bill as Code sections 103A.60 through
3 103A.63.

4 The bill eliminates a provision for temporary permits
5 whereby a licensed manufactured or mobile home retailer may
6 apply and pay a \$10 fee to obtain a temporary permit to
7 display and offer new manufactured homes for sale and
8 negotiate sales of such homes at fairs, shows, and
9 exhibitions.

10 The bill also eliminates a provision that requires licensed
11 manufactured or mobile home retailers to obtain special plates
12 from the state department of transportation to transport and
13 deliver mobile homes or manufactured homes on the state's
14 highways.

15 The bill includes conforming amendments and a transition
16 provision. The state department of transportation must refund
17 any portion of the retailer licensing fee that remains
18 unexpired as of January 1, 2007, to the licensed manufactured
19 or mobile home retailer that paid the fee.

20 The provision of the bill amending Code section 322B.3,
21 subsection 5, to clarify language regarding utility service
22 connections for the installation of a manufactured or mobile
23 home takes effect upon enactment and the remainder of the bill
24 takes effect on January 1, 2007.

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HOUSE FILE 2781

H-8460

- 1 Amend House File 2781 as follows:
2 1. Page 8, by inserting after line 16 the
3 following:
4 "Sec. ____ Section 103A.10, subsection 3, Code
5 2005, is amended to read as follows:
6 3. Provisions of the state building code relating
7 to the manufacture and installation of factory-built
8 structures shall apply throughout the state. Factory-
9 built structures approved by the commissioner shall be
10 deemed to comply with all building regulations
11 applicable to its manufacture and installation and
12 shall be exempt from any other state or local building
13 regulations."
14 2. Page 11, line 7, by striking the word
15 "section" and inserting the following: "sections".
16 3. Page 11, line 8, by inserting after the word
17 "section" the following: "103A.10, subsection 3, and
18 section".
19 4. Page 11, line 9, by striking the word "takes"
20 and inserting the following: "take".
21 5. By renumbering as necessary.

By PAULSEN of Linn

H-8460 FILED APRIL 4, 2006

Fiscal Services Division
Legislative Services Agency
Fiscal Note

HF 2781 - Manufactured Home Regulation (LSB 5932 HV)
Analyst: Jennifer Acton (Phone: [515] 281-7846) (jennifer.acton@legis.state.ia.us)
Fiscal Note Version - New

Description

House File 2781 transfers administration of the manufactured and mobile home retailer and dealer licensing from the Department of Transportation (DOT) to the Department of Public Safety. The Bill establishes an annual \$100 license fee for manufactured and mobile home retailers and an annual \$100 license fee for manufactured and mobile home dealers. The DOT is required to refund any portion of the retailer licensing fee that remains unexpired as of January 1, 2007, to the licensed manufactured or mobile home retailer that paid the fee. The clarifying language regarding utility service connections takes effect upon enactment and the remainder of the Bill takes effect January 1, 2007.

Background

Currently, the manufactured and mobile home retailer license fee is \$70 for a two-year license, \$140 for a four-year license, or \$210 for a six-year license. The current license fee for a manufacturer or distributor of manufactured mobile homes is \$35.

There have been no convictions for violations of Section 322.B, Code of Iowa, since 1998. The proposed language concerning criminal penalties is identical to Section 322.B, Code of Iowa, which is the Code section being replaced. Criminal convictions for business violations are rare, usually resulting in civil penalties.

Assumptions

1. In calendar year 2005, there were 131 mobile and manufactured home dealers and two manufacturers of mobile homes and manufactured homes licensed in Iowa.
2. Of the 131 dealers, 41 were registered mobile and manufactured home dealers and 90 were unregistered mobile and manufactured home dealers, of which all paid \$70 for a two-year license.
3. The two manufacturers paid \$35 for an annual license.
4. The \$100 annual permit for retailers and for manufacturers is a \$65 per license increase per year.
5. The Bill specifies that all fees collected are appropriated to the Department of Public Safety for administration of the licensing and certification programs for manufactured and mobile home installers.

Correctional Impact

It is not anticipated that HF 2781 will result in a correctional impact.

Fiscal Impact

House File 2781 results in an estimated \$9,300 decrease to the Road Use Tax Fund and an increase of \$26,600 in calendar years 2007 and 2008 to the General Fund, which is appropriated to the Department of Public Safety. The licensing fee change results in an estimated \$17,200 in new net revenue over a two-year period.

Sources

Department of Public Safety

Department of Transportation

Department of Human Rights, Criminal and Juvenile Justice Planning Division (CJJPD)

/s/ Holly M. Lyons

April 3, 2006

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

HOUSE FILE 2780

H-8459

1 Amend House File 2780 as follows:

2 1. Page 10, by inserting after line 23 the
3 following:

4 "DIVISION

5 ALLOWED GROWTH FUNDING

6 Sec. ____ . Section 426B.5, subsection 1, Code
7 Supplement 2005, is amended to read as follows:

8 1. PER CAPITA EXPENDITURE TARGET POOL.

9 a. A per capita expenditure target pool is created
10 in the property tax relief fund. The pool shall
11 consist of the moneys credited to the pool by law.

12 b. For the purposes of this subsection:

13 (1) "Budget year" means the fiscal year for which
14 moneys are appropriated by the general assembly for
15 distribution to the counties meeting eligibility
16 requirements under this subsection.

17 (2) "Ending balance percentage" means the amount
18 of a county's mental health, mental retardation, and
19 developmental disabilities services fund fiscal year
20 ending balance under generally accepted accounting
21 principles expressed as a percentage of the county's
22 actual gross expenditures from the services fund for
23 that fiscal year.

24 (3) "Five-year rolling average ending balance
25 percentage" means the average of a county's ending
26 balance percentages over the five fiscal years
27 immediately preceding the budget year.

28 ~~b-~~ c. A statewide per capita expenditure target
29 amount is established. The statewide per capita
30 expenditure target amount shall be equal to the one-
31 hundredth percentile of all county per capita
32 expenditures in the fiscal year beginning July 1,
33 1997, and ending June 30, 1998.

34 ~~e-~~ d. Moneys available in the per capita
35 expenditure pool for a fiscal year shall be
36 distributed to those counties that meet all of the
37 following eligibility requirements:

38 ~~(1) The county is levying the maximum amount~~
39 ~~allowed for the county's mental health, mental~~
40 ~~retardation, and developmental disabilities services~~
41 ~~fund under section 331.424A.~~

42 ~~-(2)~~ The county's per capita expenditure in the
43 latest fiscal year for which the actual expenditure
44 information is available is equal to or less than the
45 statewide per capita expenditure target amount.

46 ~~-(3)~~ (2) ~~In the fiscal year that commenced two~~
47 ~~years prior to the fiscal year of distribution, the~~
48 ~~county's mental health, mental retardation, and~~
49 ~~developmental disabilities services fund ending~~
50 ~~balance under generally accepted accounting principles~~

H-8459

1 ~~was~~ The county's five-year rolling average ending
2 balance percentage as of the budget year is equal to
3 or less than twenty-five percent of the county's
4 actual gross expenditures for the fiscal year that
5 commenced two years prior to the fiscal year of
6 distribution.

7 ~~(4)~~ (3) The county is in compliance with the
8 filing date requirements under section 331.403.

9 ~~d.~~ e. The distribution amount a county receives
10 from the moneys available in the pool shall be
11 determined based upon the county's proportion of the
12 general population of the counties eligible to receive
13 moneys from the pool for that fiscal year. ~~However, a~~
14 ~~county shall not receive moneys in excess of the~~
15 ~~amount which would cause the county's per capita~~
16 ~~expenditure to exceed the statewide per capita~~
17 ~~expenditure target.~~ Moneys credited to the per capita
18 expenditure target pool which remain unobligated or
19 unexpended at the close of a fiscal year shall remain
20 in the pool for distribution in the succeeding fiscal
21 year.

22 ~~e.~~ f. The department of human services shall
23 annually calculate the amount of moneys due to
24 eligible counties in accordance with this subsection.
25 The department shall authorize the issuance of
26 warrants payable to the county treasurer for the
27 amounts due and the warrants shall be issued in
28 January."

29 2. By renumbering as necessary.

By WHITAKER of Van Buren

HOUSE FILE 2780

H-8477

1 Amend House File 2780 as follows:

2 1. Page 1, lines 13 and 14, by striking the words
3 "restricted uniform availability of this care" and
4 inserting the following: "~~restricted uniform~~
5 ~~availability of this care~~ enabled many counties to
6 exceed minimum state standards for the services
7 resulting in an uneven level of services around the
8 state".

9 2. Page 5, by striking line 20 and inserting the
10 following:

11 "(1) The service system seeks to empower persons
12 to exercise their own choices".

13 3. Page 5, by striking line 25 and inserting the
14 following:

15 "(3) The service system seeks to provide services
16 and other support that are individualized,".

17 4. Page 5, by striking line 27 and inserting the
18 following:

19 "(4) The services system seeks to provide services
20 and other supports in a manner".

21 5. Page 6, line 2, by striking the words "each
22 individual" and inserting the following: "the
23 individuals".

24 6. Page 6, line 4, by striking the word
25 "individual's" and inserting the following:
26 "individuals'".

27 7. Page 6, line 13, by inserting after the word
28 "that" the following: "either meet or".

29 8. Page 7, line 1, by striking the word "wholly".

30 9. Page 7, line 2, by inserting after the word
31 "funding." the following: "However, a county may
32 apply a copayment requirement for a particular
33 disability service to a person with an income equal to
34 or less than one hundred fifty percent of the federal
35 poverty level, provided the disability service and the
36 copayment amount both comply with rules adopted by the
37 commission applying uniform standards with respect to
38 copayment requirements."

39 10. Page 7, line 9, by striking the words "based
40 upon" and inserting the following: "derived from".

41 11. Page 8, line 9, by striking the figure "2008"
42 and inserting the following: "2007".

43 12. Page 8, line 14, by inserting after the word
44 "case." the following: "Such services and other
45 support do not include medical assistance program
46 services or services provided in a state institution."

47 13. By striking page 8, line 15, through page 10,
48 line 23, and inserting the following:

49 "Sec. ____ . Section 331.440, subsection 3, Code
50 2005, is amended to read as follows:

H-8477

1 3. a. An application for services may be made
2 through the central point of coordination process of a
3 an adult person's county of residence. However, if a
4 Effective July 1, 2007, if an adult person who is
5 subject to a central point of coordination process has
6 legal settlement in another county, ~~or the costs of~~
7 ~~services or other support provided to the person are~~
8 ~~the financial responsibility of the state, an~~
9 ~~authorization through the central point of~~
10 ~~coordination process shall be coordinated with the~~
11 ~~person's county of legal settlement or with the state,~~
12 ~~as applicable. The county of residence and county of~~
13 ~~legal settlement of a person subject to a central~~
14 ~~point of coordination process may mutually agree that~~
15 the central point of coordination process functions
16 shall be performed by the central point of
17 coordination process of the person's county of legal
18 ~~settlement~~ residence in accordance with the county of
19 residence's management plan approved under section
20 331.439 and the person's county of legal settlement is
21 responsible for the cost of the services or other
22 support authorized at the rates reimbursed by the
23 county of residence. At the time services or other
24 support are authorized, the county of residence shall
25 send the county of legal settlement a copy of the
26 authorization notice.

27 b. However, if the county of legal settlement
28 applies for and receives a temporary waiver from the
29 risk pool board created in section 426B.5, the county
30 of legal settlement may apply a waiting list
31 requirement in accordance with the waiver to all or a
32 portion of the services or other support approved for
33 the person. The risk pool board's approval of a
34 temporary waiver is subject to the risk pool board's
35 determination that payment for all or a portion of the
36 services or other support approved for the person
37 would create a financial risk for the county of legal
38 settlement. The determination shall be based on an
39 analysis which provides for encumbering of moneys in
40 the county services fund that are anticipated to be
41 expended for the remainder of the fiscal year for the
42 persons receiving services or other support funded by
43 the services fund at the time of the authorization
44 under paragraph "a". The risk pool board shall use
45 the requirements established in section 426B.5 for
46 basic eligibility for risk pool funding or other
47 comparable standards developed by the risk pool board
48 for determining whether a financial risk exists for
49 the county. The term of a waiver shall not extend
50 beyond the end of the fiscal year in which the waiver

1 is granted.

2 Sec. _____. Section 331.440, Code 2005, is amended
3 by adding the following new subsection:

4 NEW SUBSECTION. 3A. Effective July 1, 2007, if an
5 adult person has no established county of legal
6 settlement or the legal settlement is unknown so that
7 the person is deemed to be a state case, the person's
8 eligibility and the authorization for state case
9 services and other support shall be determined by the
10 adult person's county of residence in accordance with
11 that county's management plan approved under section
12 331.439. The costs of the state case services and
13 other support provided for the person shall be the
14 responsibility of the person's county of legal
15 residence. The funding appropriated to the department
16 of human services for purposes of the state case
17 services and other support shall be distributed as
18 provided in the appropriation to the counties of
19 residence responsible for the costs.

20 Sec. _____. EFFECTIVE DATE -- COST PROJECTIONS --
21 LEGISLATIVE INTENT.

22 1. Except for this section, this division of this
23 Act takes effect July 1, 2007. This section, being
24 deemed of immediate importance, takes effect upon
25 enactment.

26 2. Unless a more equitable approach is identified,
27 it is the intent of the general assembly to distribute
28 the appropriation made for state case services and
29 other support, as defined in this division of this
30 Act, for the fiscal year beginning July 1, 2007, on
31 the basis of the actual amount expended for state case
32 services and other support provided to persons who
33 resided in each county during the fiscal year
34 beginning July 1, 2006, as adjusted for any increase
35 made in the appropriation amount. It is further
36 intended that warrants distributing the appropriation
37 made for state case services and other support will be
38 issued to counties in July 2007.

39 3. Each county that would need to amend the
40 county's management plan for services approved under
41 section 331.439 in order to implement the provisions
42 of this division of this Act on July 1, 2007, shall
43 develop and submit projections of the costs to the
44 county to implement the provisions. The projections
45 shall identify costs in the initial and succeeding
46 fiscal years. The projections shall be submitted on
47 December 1, 2006, along with the county's expenditure
48 report submitted pursuant to section 331.439,
49 subsection 1, paragraph "a". The projections, along
50 with any findings and recommendations identified by

1 the county, shall be submitted at the same time to the
2 department of human services, the mental health,
3 mental retardation, developmental disabilities, and
4 brain injury commission, and the general assembly.
5 4. It is the intent of the general assembly to
6 direct the department of human services to renegotiate
7 the contract with the contractor providing managed
8 care for mental health services under the medical
9 assistance program so that any responsibility for the
10 contractor to manage state case services and other
11 support, as defined by this division of this Act, will
12 end effective June 30, 2007."

13 14. Page 10, by striking lines 26 through 28 and
14 inserting the following:

15 "Sec. ____ . IMPLEMENTATION OF ACT. Section 25B.2,
16 subsection 3, shall not apply to this Act."

17 15. By renumbering as necessary.

By CARROLL of Poweshiek
HEDDENS of Story

HOUSE FILE 2780

H-8541

1 Amend House File 2780 as follows:

2 1. Page 10, by inserting before line 24 the
3 following:

4 "DIVISION

5 DIVISION NAME CHANGE

6 Sec. ____ . Section 135C.25, subsection 1, Code
7 2005, is amended to read as follows:

8 1. Each health care facility shall have a resident
9 advocate committee whose members shall be appointed by
10 the director of the department of elder affairs or the
11 director's designee. A person shall not be appointed
12 a member of a resident advocate committee for a health
13 care facility unless the person is a resident of the
14 service area where the facility is located. The
15 resident advocate committee for any facility caring
16 primarily for persons with mental illness, mental
17 retardation, or a developmental disability shall only
18 be appointed after consultation with the administrator
19 of the division of mental health and ~~developmental~~
20 ~~disabilities~~ disability services of the department of
21 human services on the proposed appointments.
22 Recommendations to the director or the director's
23 designee for membership on resident advocate
24 committees are encouraged from any agency,
25 organization, or individual. The administrator of the
26 facility shall not be appointed to the resident
27 advocate committee and shall not be present at
28 committee meetings except upon request of the
29 committee.

30 Sec. ____ . Section 217.6, unnumbered paragraph 2,
31 Code 2005, is amended to read as follows:

32 The department of human services may be initially
33 divided into the following divisions of
34 responsibility: the division of child and family
35 services, the division of mental health and
36 ~~developmental disabilities~~ disability services, the
37 division of administration, and the division of
38 planning, research and statistics.

39 Sec. ____ . Section 217.10, Code 2005, is amended to
40 read as follows:

41 217.10 ADMINISTRATOR OF DIVISION OF MENTAL HEALTH
42 AND ~~DEVELOPMENTAL DISABILITIES~~ DISABILITY SERVICES.

43 The administrator of the division of mental health
44 and ~~developmental disabilities~~ disability services
45 shall be qualified as provided in section 225C.3,
46 subsection 3. The administrator's duties are
47 enumerated in section 225C.4.

48 Sec. ____ . Section 221.2, Code 2005, is amended to
49 read as follows:

50 221.2 ADMINISTRATOR.

H-8541

1 Pursuant to the compact, the administrator of the
2 division of mental health and ~~developmental~~
3 ~~disabilities~~ disability services of the department of
4 human services shall be the compact administrator.
5 The compact administrator may cooperate with all
6 departments, agencies, and officers of this state and
7 its subdivisions in facilitating the proper
8 administration of the compact and of any supplementary
9 agreement entered into by this state under the
10 compact.

11 Sec. _____. Section 225C.2, subsections 1 and 7,
12 Code 2005, is amended to read as follows:

13 1. "Administrator" means the administrator of the
14 ~~division of mental health and developmental~~
15 ~~disabilities of the department of human services.~~

16 7. "Division" means the division of mental health
17 and ~~developmental disabilities~~ disability services of
18 the department ~~of human services.~~

19 Sec. _____. Section 225C.13, subsection 2, Code
20 Supplement 2005, is amended to read as follows:

21 2. The division administrator ~~of the division of~~
22 ~~mental health and developmental disabilities~~ may work
23 with the appropriate administrator of the department's
24 institutions to establish mental health and mental
25 retardation services for all institutions under the
26 control of the director of human services and to
27 establish an autism unit, following mutual planning
28 and consultation with the medical director of the
29 state psychiatric hospital, at an institution or a
30 facility administered by the department to provide
31 psychiatric and related services and other specific
32 programs to meet the needs of autistic persons, and to
33 furnish appropriate diagnostic evaluation services.

34 Sec. _____. Section 230A.1, Code 2005, is amended to
35 read as follows:

36 230A.1 ESTABLISHMENT AND SUPPORT OF COMMUNITY
37 MENTAL HEALTH CENTERS.

38 A county or affiliated counties, by action of the
39 board or boards of supervisors, with approval of the
40 administrator of the division of mental health and
41 ~~developmental disabilities~~ disability services of the
42 department of human services, may establish a
43 community mental health center under this chapter to
44 serve the county or counties. This section does not
45 limit the authority of the board or boards of
46 supervisors of any county or group of counties to
47 continue to expend money to support operation of the
48 center, and to form agreements with the board of
49 supervisors of any additional county for that county
50 to join in supporting and receiving services from or

1 through the center.

2 Sec. _____. Section 230A.13, unnumbered paragraph 2,
3 Code 2005, is amended to read as follows:

4 Release of administrative and diagnostic
5 information, as defined in section 228.1, ~~subsections~~
6 ~~1 and 3~~, and demographic information necessary for
7 aggregated reporting to meet the data requirements
8 established by the department of human services,
9 division of mental health and ~~developmental~~
10 ~~disabilities~~ disability services, relating to an
11 individual who receives services from a community
12 mental health center through the applicable central
13 point of coordination process, may be made a condition
14 of support of that center by any county under this
15 section.

16 Sec. _____. Section 230A.16, unnumbered paragraph 1,
17 Code 2005, is amended to read as follows:

18 The administrator of the division of mental health
19 and ~~developmental disabilities~~ disability services of
20 the department of human services shall recommend and
21 the mental health, mental retardation, developmental
22 disabilities, and brain injury commission shall adopt
23 standards for community mental health centers and
24 comprehensive community mental health programs, with
25 the overall objective of ensuring that each center and
26 each affiliate providing services under contract with
27 a center furnishes high quality mental health services
28 within a framework of accountability to the community
29 it serves. The standards shall be in substantial
30 conformity with those of the psychiatric committee of
31 the joint commission on accreditation of health care
32 organizations and other recognized national standards
33 for evaluation of psychiatric facilities unless in the
34 judgment of the administrator of the division of
35 mental health and ~~developmental disabilities~~
36 disability services, with approval of the mental
37 health, mental retardation, developmental
38 disabilities, and brain injury commission, there are
39 sound reasons for departing from the standards. When
40 recommending standards under this section, the
41 administrator of the division shall designate an
42 advisory committee representing boards of directors
43 and professional staff of community mental health
44 centers to assist in the formulation or revision of
45 standards. At least a simple majority of the members
46 of the advisory committee shall be lay representatives
47 of community mental health center boards of directors.
48 At least one member of the advisory committee shall be
49 a member of a county board of supervisors. The
50 standards recommended under this section shall include

1 requirements that each community mental health center
2 established or operating as authorized by section
3 230A.1 shall:

4 Sec. _____. Section 230A.16, subsection 3, Code
5 2005, is amended to read as follows:

6 3. Arrange for the financial condition and
7 transactions of the community mental health center to
8 be audited once each year by the auditor of state.
9 However, in lieu of an audit by state accountants, the
10 local governing body of a community mental health
11 center organized under this chapter may contract with
12 or employ certified public accountants to conduct the
13 audit, pursuant to the applicable terms and conditions
14 prescribed by sections 11.6 and 11.19 and audit format
15 prescribed by the auditor of state. Copies of each
16 audit shall be furnished by the accountant to the
17 administrator of the division of mental health and
18 ~~developmental disabilities~~, disability services and
19 the board of supervisors supporting the audited
20 community mental health center.

21 Sec. _____. Section 230A.17, Code 2005, is amended
22 to read as follows:

23 230A.17 REVIEW AND EVALUATION.

24 The administrator of the division of mental health
25 and ~~developmental disabilities~~ disability services of
26 the department of human services may review and
27 evaluate any community mental health center upon the
28 recommendation of the mental health, mental
29 retardation, developmental disabilities, and brain
30 injury commission, and shall do so upon the written
31 request of the center's board of directors, its chief
32 medical or administrative officer, or the board of
33 supervisors of any county from which the center
34 receives public funds. The cost of the review shall
35 be paid by the division.

36 Sec. _____. Section 262.70, Code 2005, is amended to
37 read as follows:

38 262.70 EDUCATION, PREVENTION, AND RESEARCH
39 PROGRAMS IN MENTAL HEALTH AND ~~MENTAL RETARDATION~~
40 DISABILITY SERVICES.

41 The division of mental health and ~~developmental~~
42 ~~disabilities~~ disability services of the department of
43 human services may contract with the board of regents
44 or any institution under the board's jurisdiction to
45 establish and maintain programs of education,
46 prevention, and research in the fields of mental
47 health, ~~and~~ mental retardation, developmental
48 disabilities, and brain injury. The board may
49 delegate responsibility for these programs to the
50 state psychiatric hospital, the university hospital,

HOUSE FILE 2780

H-8542

1 Amend the amendment, H-8541, to House File 2780 as
2 follows:

3 1. Page 5, by inserting after line 44 the
4 following:

5 "DIVISION

6 REIMBURSEMENT PROVISIONS

7 Sec. ____ . FY 2006-2007 MEDICAL ASSISTANCE PROGRAM
8 REIMBURSEMENT OF INPATIENT MENTAL HEALTH SERVICES,
9 COMMUNITY MENTAL HEALTH CENTERS, AND PSYCHIATRISTS.

10 In combination with any other reimbursement
11 increases authorized by law for the indicated
12 providers, the department of human services shall seek
13 federal approval to amend the medical assistance
14 program state plan and shall amend the contract with
15 the department's managed care contractor for mental
16 health services under the program, in order to
17 increase medical assistance program reimbursement
18 rates beginning October 1, 2006, to not more than the
19 maximum amounts indicated, for all of the following
20 providers:

21 1. Inpatient mental health services provided at
22 hospitals at the cost of the services, subject to
23 Medicaid program upper payment limit rules.

24 2. Community mental health centers at 100 percent
25 of the reasonable costs for the provision of services
26 to recipients of medical assistance.

27 3. Psychiatrists at the medical assistance program
28 fee for service rate.

29 Implementation of the provisions of this section is
30 contingent upon receipt of federal approval and
31 limited to the funding made available through amending
32 the contract with the managed care contractor."

33 2. Page 5, line 47, by inserting after the word
34 "division," the following: "providing for an increase
35 in the reimbursement of certain service providers,".

36 3. By renumbering as necessary.

By SMITH of Marshall

HEATON of Henry

UPMEYER of Hancock

FOEGE of Linn

CARROLL of Poweshiek

HEDDENS of Story

H-8542 FILED APRIL 12, 2006

ADOPTED

HOUSE FILE 2780

H-8539

1 Amend the amendment, H-8477, to House File 2780 as
2 follows:

3 1. Page 2, line 1, by striking the word "a."

4 2. By striking page 2, line 27, through page 3,
5 line 1.

6 3. Page 4, by inserting after line 4 the
7 following:

8 "3A. The department of human services shall review
9 the funding distribution methodology for state case
10 funding described in this section and the cost
11 projections, findings, and recommendations submitted
12 by counties pursuant to this section and provide
13 departmental findings and recommendations to resolve
14 the issues identified. The department's findings and
15 recommendations shall be submitted to the governor and
16 general assembly on or before January 2, 2007."

17 4. By renumbering as necessary.

By CARROLL of Poweshiek
HEDDENS of Story

H-8539 FILED APRIL 12, 2006

ADOPTED

Paulsen, chair
Kaufmann
Quirk

Succ^{ed} By
SF 2781

HSB 768
WAYS AND MEANS

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON VAN FOSSEN)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to manufactured or mobile home regulation, and
2 including fee, penalty, and effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION IV

MANUFACTURED AND MOBILE HOME REGULATION

Section 1. NEW SECTION. 103A.51 DEFINITIONS.

As used in this division, unless the context otherwise requires:

1. "Ground anchoring system" means any device or combination of devices used to securely anchor a manufactured or mobile home to the ground.

2. "Ground support system" means any device or combination of devices placed beneath a manufactured or mobile home and used to provide support.

3. "Home" means a manufactured home, mobile home, or modular home.

4. "Manufactured home" means a factory-built structure built under the authority of 42 U.S.C. § 5403, that is required by federal law to display a seal required by the United States department of housing and urban development, and was constructed on or after June 15, 1976.

5. "Manufactured or mobile home distributor" means a person who sells or distributes manufactured or mobile homes to manufactured or mobile home retailers.

6. "Manufactured or mobile home manufacturer" means a person engaged in the business of fabricating or assembling manufactured or mobile homes.

7. "Manufactured or mobile home retailer" means a person who, for a commission or other thing of value, sells, exchanges, or offers or attempts to negotiate a sale or exchange of an interest in a home or who is engaged wholly or in part in the business of selling homes, whether or not the homes are owned by the retailer. "Manufactured or mobile home retailer" does not include any of the following:

a. A receiver, trustee, administrator, executor, guardian, attorney, or other person appointed by or acting under the judgment or order of a court to transfer an interest in a home.

1 b. A person transferring a home registered in the person's
2 name and used for personal, family, or household purposes, if
3 the transfer is an occasional sale and is not part of the
4 business of the transferor.

5 c. A person who transfers an interest in a home only as an
6 incident to engaging in the business of financing new or used
7 homes.

8 d. A person who exclusively sells modular homes.

9 8. "Mobile home" means a structure, transportable in one
10 or more sections, which exceeds eight feet in width and
11 thirty-two feet in length, and which is built on a permanent
12 chassis and designed to be used as a dwelling with or without
13 a permanent foundation when connected to one or more
14 utilities. A "mobile home" is not built to a mandatory
15 building code, contains no state or federal seals, and was
16 built before June 15, 1976.

17 9. "Modular home" means a factory-built structure which is
18 manufactured to be used as a place of human habitation, is
19 constructed to comply with the Iowa state building code for
20 modular factory-built structures, as adopted pursuant to
21 section 103A.7, and displays a seal issued by the
22 commissioner.

23 10. "New home" means a home that has not been sold at
24 retail.

25 11. "Permanent site" means any lot or parcel of land on
26 which a manufactured or mobile home used as a dwelling or
27 place of business is located for ninety consecutive days,
28 except a construction site when the manufactured or mobile
29 home is used by a commercial contractor as a construction
30 office or storage room.

31 12. "Preowned home" means a home that has been previously
32 sold at retail.

33 13. "Retailer's inventory" means homes offered for sale at
34 the retailer's licensed address or at any mobile home park or
35 land-leased community so long as the title of the home is in

1 the retailer's name and the home is not being occupied.

2 14. "Sell at retail" means to sell a home to a person who
3 will devote it to a consumer use.

4 15. "Tiedown system" means a ground support system and a
5 ground anchoring system used in concert to provide anchoring
6 and support for a manufactured or mobile home.

7 Sec. 2. NEW SECTION. 103A.52 MANUFACTURED OR MOBILE HOME
8 RETAILER LICENSE -- PROCEDURE.

9 1. LICENSE APPLICATION. A manufactured or mobile home
10 retailer shall file with the commissioner an application for
11 license as a manufactured or mobile home retailer as the
12 commissioner may prescribe.

13 2. LICENSE FEE. The license fee for a manufactured or
14 mobile home retailer is an annual fee of one hundred dollars.
15 If the application is denied, the commissioner shall refund
16 the fee.

17 3. SURETY BOND. Before the issuance of a manufactured or
18 mobile home retailer's license, an applicant for a license
19 shall file with the commissioner a surety bond executed by the
20 applicant as principal and executed by a corporate surety
21 company, licensed and qualified to do business within this
22 state, which bond shall run to the state, be in the amount of
23 fifty thousand dollars, and be conditioned upon the faithful
24 compliance by the applicant as a retailer with all of the
25 statutes of this state regulating the business of the retailer
26 and indemnifying any person dealing or transacting business
27 with the retailer in connection with a manufactured or mobile
28 home from a loss or damage occasioned by the failure of the
29 retailer to comply with this division, including but not
30 limited to the furnishing of a proper and valid document of
31 title to the manufactured or mobile home involved in the
32 transaction.

33 4. PERMITS FOR FAIRS, SHOWS, AND EXHIBITIONS. Licensed
34 manufactured or mobile home retailers, in addition to selling
35 homes at their principal place of business and lots, may, upon

1 receipt of a temporary permit approved by the commissioner,
2 display and offer new manufactured homes for sale and
3 negotiate sales of new manufactured homes at fairs, shows, and
4 exhibitions. Application for temporary permits shall be made
5 upon forms provided by the commissioner and shall be
6 accompanied by a ten dollar permit fee. Temporary permits
7 shall be issued for a period not to exceed fourteen days.

8 5. MANUFACTURED OR MOBILE HOME HOOKUPS. A licensed
9 manufactured or mobile home retailer or an employee of a
10 licensed manufactured or mobile home retailer may perform
11 water, gas, electrical, and other utility service connections
12 in a manufactured or mobile home space, or within ten feet of
13 such space, located in a manufactured home community or mobile
14 home park. The licensed retailer or an employee of the
15 retailer may install a tiedown system on a manufactured or
16 mobile home located in a manufactured home community or mobile
17 home park. The licensed retailer or an employee of the
18 retailer is not required to obtain any additional state or
19 local authorization, permit, or license to perform utility
20 service connections or to install a manufactured or mobile
21 home pursuant to this subsection. However, the utility
22 service connections are subject to inspection and approval by
23 the local building department and the manufactured or mobile
24 home retailer shall pay the inspection fee, if any.

25 Sec. 3. NEW SECTION. 103A.53 LICENSE APPLICATION AND
26 FEES.

27 Upon application and payment of a one hundred dollar fee, a
28 person may be licensed as a manufacturer or distributor of
29 manufactured or mobile homes. The application shall be in the
30 form and shall contain information as the commissioner
31 prescribes. The license shall be granted or refused within
32 thirty days after application. The license expires, unless
33 sooner revoked or suspended by the commissioner, on December
34 31 of the calendar year for which the license was granted. A
35 licensee shall have the month of December of the calendar year

1 for which the license was granted and the following month of
2 January to renew the license. A person who fails to renew a
3 license by the end of this time period and desires to hold a
4 license shall file a new license application and pay the
5 required fee.

6 Sec. 4. NEW SECTION. 103A.54 FEES.

7 Notwithstanding section 103A.23, all fees collected by the
8 commissioner pursuant to this division shall be credited to
9 the general fund of the state and are appropriated to the
10 commissioner for the administration of the licensing program
11 and for the administration of the certification program for
12 manufactured or mobile home installers, including the
13 employment of personnel for the enforcement and administration
14 of such programs.

15 Sec. 5. NEW SECTION. 103A.55 REVOCATION, SUSPENSION, AND
16 DENIAL OF LICENSE.

17 The commissioner may revoke, suspend, or refuse the license
18 of a manufactured or mobile home retailer, manufactured or
19 mobile home manufacturer, or manufactured or mobile home
20 distributor, as applicable, if the commissioner finds that the
21 manufactured or mobile home retailer, manufacturer, or
22 distributor is guilty of any of the following acts or
23 offenses:

24 1. Fraud in procuring a license.
25 2. Knowingly making misleading, deceptive, untrue, or
26 fraudulent representations in the business of a manufactured
27 or mobile home retailer, manufacturer, or distributor or
28 engaging in unethical conduct or practice harmful or
29 detrimental to the public.

30 3. Conviction of a felony related to the business of a
31 manufactured or mobile home retailer, manufacturer, or
32 distributor. A copy of the record of conviction or plea of
33 guilty shall be sufficient evidence for the purposes of this
34 section.

35 4. Failing upon the sale or transfer of a manufactured or

1 mobile home to deliver to the purchaser or transferee of the
2 manufactured or mobile home sold or transferred, a
3 manufacturer's or importer's certificate, or a certificate of
4 title duly assigned, as provided in chapter 321.

5 5. Failing upon the purchasing or otherwise acquiring of a
6 manufactured or mobile home to obtain a manufacturer's or
7 importer's certificate, a new certificate of title, or a
8 certificate of title duly assigned as provided in chapter 321.

9 6. Failing to apply for and obtain from a county treasurer
10 a certificate of title for a used manufactured or mobile home,
11 titled in Iowa, acquired by the retailer within thirty days
12 from the date of acquisition, as required under section
13 321.45, subsection 4.

14 In accordance with chapters 10A and 17A, each person whose
15 license or application is revoked, suspended, or refused shall
16 be provided an opportunity for a hearing before the department
17 of inspections and appeals.

18 Sec. 6. NEW SECTION. 103A.56 RULES.

19 The commissioner shall prescribe rules under chapter 17A
20 for the administration and enforcement of this division. The
21 commissioner shall prescribe forms to be used in connection
22 with the licensing of persons under this division.

23 Sec. 7. NEW SECTION. 103A.57 UNLAWFUL PRACTICE --
24 CRIMINAL PENALTY.

25 It is unlawful for a person to engage in business as a
26 manufactured or mobile home retailer, manufactured or mobile
27 home manufacturer, or manufactured or mobile home distributor
28 in this state without first acquiring and maintaining a
29 license in accordance with this division. A person convicted
30 of violating this section is guilty of a serious misdemeanor.

31 Sec. 8. NEW SECTION. 103A.58 MANUFACTURED HOME, MOBILE
32 HOME, AND MODULAR HOME RETAIL INSTALLMENT CONTRACT -- FINANCE
33 CHARGE.

34 1. A retail installment contract or agreement for the sale
35 of a manufactured home, mobile home, or modular home may

1 include a finance charge not in excess of an amount equivalent
2 to one and three-fourths percent per month simple interest on
3 the declining balance of the amount financed.

4 2. For purposes of this section, "amount financed" means
5 the same as defined in section 537.1301.

6 3. The limitations contained in this section do not apply
7 in a transaction referred to in section 535.2, subsection 2.
8 With respect to a consumer credit sale, as defined in section
9 537.1301, the limitations contained in this section supersede
10 conflicting provisions of chapter 537, article 2, part 2.

11 Sec. 9. NEW SECTION. 103A.59 MANUFACTURED OR MOBILE HOME
12 INSTALLERS CERTIFICATION -- VIOLATION -- CIVIL PENALTY.

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

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 or mobile 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 or mobile home, or a separate failure or
29 refusal to allow an act to be performed or to perform an act
30 as required by this chapter or a rule adopted pursuant to this
31 chapter, constitutes a separate offense. However, the maximum
32 amount of civil penalties which may be assessed for any series
33 of violations occurring within one year from the date of the
34 first violation shall not exceed one million dollars.

35 Sec. 10. NEW SECTION. 103A.60 APPROVED TIEDOWN SYSTEM --

1 PROVIDED AT SALE -- INSTALLATION.

2 A manufactured or mobile home retailer shall provide an
3 approved tiedown system. The purchaser shall install or have
4 installed such system within one hundred fifty days of
5 locating the manufactured or mobile home on a permanent site.

6 Sec. 11. NEW SECTION. 103A.61 INSTALLER COMPLIANCE AND
7 CERTIFICATION.

8 A person who installs a tiedown system shall comply with
9 the minimum standards for such systems, and shall provide the
10 owner of the manufactured or mobile home on which installation
11 is made and the commissioner with a certification of approved
12 system installation. Such certification shall be in proper
13 form as established by the commissioner.

14 Sec. 12. NEW SECTION. 103A.62 LISTING AND FORM OF
15 CERTIFICATION OF APPROVED SYSTEMS PROVIDED.

16 The commissioner shall provide, upon request, a list of
17 approved tiedown systems and instructions for the completion
18 of proper certification of approved system installation.

19 Sec. 13. NEW SECTION. 103A.63 COMPLIANCE.

20 When it appears that a retailer, purchaser, or other person
21 is in noncompliance with the provisions of sections 103A.60
22 through 103A.62, the commissioner shall prescribe a period of
23 time not to exceed one hundred twenty days within which
24 compliance must be achieved and the commissioner shall so
25 notify the retailer, purchaser, or other person.

26 Sec. 14. Section 103A.3, subsections 10, 11, 21, and 26,
27 Code 2005, are amended by striking the subsections.

28 Sec. 15. Section 103A.3, subsection 16, Code 2005, is
29 amended to read as follows:

30 16. "Manufactured home", "mobile home", and "modular home"
31 mean the same as defined in section ~~435.1~~ 103A.51.

32 Sec. 16. Section 321.45, subsection 4, Code 2005, is
33 amended to read as follows:

34 4. After acquiring a used mobile home or manufactured home
35 to be titled in Iowa, a manufactured or mobile home retailer,

1 as defined in section 322B-2 103A.51 shall within thirty days
2 apply for and obtain from the county treasurer of the
3 retailer's county of residence a new certificate of title for
4 the mobile home or manufactured home. In the event that there
5 is a prior lien or encumbrance to be released, as required by
6 section 321.50, subsection 5, the thirty-day time period in
7 this subsection does not begin to run until the lien or
8 encumbrance is released.

9 Sec. 17. Section 321.57, subsection 5, Code 2005, is
10 amended to read as follows:

11. 5. Manufactured or mobile home retailers licensed under
12 chapter 322B 103A may transport and deliver mobile homes or
13 manufactured homes in their inventory upon the highways of
14 this state with a special plate displayed on the mobile home
15 or manufactured home as provided in sections 321.58 to 321.62.

16 Sec. 18. Section 321.58, Code 2005, is amended to read as
17 follows:

18 321.58 APPLICATION.

19 All dealers, transporters, new motor vehicle wholesalers
20 licensed under chapter 322, and manufactured or mobile home
21 retailers licensed under chapter 322B 103A, upon payment of a
22 fee of seventy dollars for two years, one hundred forty
23 dollars for four years, or two hundred ten dollars for six
24 years, may make application to the department upon the
25 appropriate form for a certificate containing a general
26 distinguishing number and for one or more special plates as
27 appropriate to various types of vehicles subject to
28 registration. The applicant shall also submit proof of the
29 applicant's status as a bona fide transporter, new motor
30 vehicle wholesaler licensed under chapter 322, manufactured or
31 mobile home retailer licensed under chapter 322B 103A, or
32 dealer, as reasonably required by the department. Dealers in
33 new vehicles shall furnish satisfactory evidence of a valid
34 franchise with the manufacturer of the vehicles authorizing
35 the dealership.

1 Sec. 19. Section 322B.3, subsection 5, Code 2005, is
2 amended to read as follows:

3 5. Manufactured or mobile home hookups. A manufactured or
4 mobile home retailer or an employee of a manufactured or
5 mobile home retailer may perform water, gas, electrical, and
6 other utility service connections in a manufactured or mobile
7 home space, or within ten feet of such space, located in a
8 manufactured home community or mobile home park, and the
9 retailer or an employee of the retailer may install a tiedown
10 system on a manufactured or mobile home located in a
11 manufactured home community or mobile home park. The licensed
12 retailer or an employee of the retailer is not required to
13 obtain any additional state or local authorization, permit, or
14 license to perform utility service connections or to install a
15 manufactured or mobile home pursuant to this subsection.
16 However, the utility service connections are subject to
17 inspection and approval by local building code officials and
18 the manufactured or mobile home retailer shall pay the
19 inspection fee, if any.

20 Sec. 20. Section 523H.1, subsection 3, paragraph c, Code
21 2005, is amended to read as follows:

22 c. "Franchise" also does not include any contract under
23 which a petroleum retailer or petroleum distributor is
24 authorized or permitted to occupy leased marketing premises,
25 which premises are to be employed in connection with the sale,
26 consignment, or distribution of motor fuel under a trademark
27 which is owned or controlled by a refiner which is regulated
28 by the federal Petroleum Marketing Practices Act, 15 U.S.C. §
29 2801 et seq. The term "refiner" means any person engaged in
30 the refining of crude oil to produce motor fuel, and includes
31 any affiliate of such person. "Franchise" also does not
32 include a contract entered into by any person regulated under
33 chapter 103A, division IV, or chapter 123, 322, 322A, 322B,
34 322C, 322D, 322F, 522B, or 543B, or a contract establishing a
35 franchise relationship with respect to the sale of

1 construction equipment, lawn or garden equipment, or real
2 estate.

3 Sec. 21. Section 537A.10, subsection 1, paragraph c,
4 subparagraph (3), Code 2005, is amended to read as follows:

5 (3) "Franchise" also does not include any contract under
6 which a petroleum retailer or petroleum distributor is
7 authorized or permitted to occupy leased marketing premises,
8 which premises are to be employed in connection with the sale,
9 consignment, or distribution of motor fuel under a trademark
10 which is owned or controlled by a refiner which is regulated
11 by the federal Petroleum Marketing Practices Act, 15 U.S.C. §
12 2801 et seq. The term "refiner" means any person engaged in
13 the refining of crude oil to produce motor fuel, and includes
14 any affiliate of such person. "Franchise" also does not
15 include a contract entered into by any person regulated under
16 chapter 103A, division IV, or chapter 123, 322, 322A, 322B,
17 322C, 322D, 322F, 522B, or 543B, or a contract establishing a
18 franchise relationship with respect to the sale of
19 construction equipment, lawn or garden equipment, or real
20 estate.

21 Sec. 22. Section 103A.26 and sections 103A.30 through
22 103A.33, Code 2005, are repealed.

23 Sec. 23. Chapter 322B, Code 2005, is repealed.

24 Sec. 24. TRANSITION. The state department of
25 transportation shall refund any portion of a license fee paid
26 pursuant to chapter 322B prior to the effective date of this
27 Act that remains unexpired as of January 1, 2007, to the
28 licensee that paid the fee.

29 Sec. 25. EFFECTIVE DATE. The section of this Act amending
30 section 322B.3, subsection 5, being deemed of immediate
31 importance, takes effect upon enactment. The remainder of
32 this Act takes effect on January 1, 2007.

33 EXPLANATION

34 Currently, the state department of transportation
35 administers the manufactured or mobile home retailer licensing

1 Act in Code chapter 322B. This bill transfers administration
2 of the licensing to the state building code commissioner in
3 Code chapter 103A.

4 The bill provides that a manufactured or mobile home
5 retailer shall pay an annual license fee of \$100. Currently,
6 the license fee is \$70 for a two-year license, \$140 for a
7 four-year license, or \$210 for a six-year license.

8 To be licensed as a manufacturer or distributor of
9 manufactured or mobile homes, the fee under the bill is \$100.
10 Currently, the license fee is \$35.

11 The bill provides that the licensing fees collected by the
12 commissioner, including the \$10 temporary permit fees for
13 fairs, shows, and exhibitions, be credited to the general fund
14 of the state and are appropriated to the commissioner for the
15 administration of the licensing program and for the
16 administration of the certification program for manufactured
17 or mobile home installers, including the employment of
18 personnel for the enforcement and administration of such
19 programs.

20 The certification program for manufactured or mobile home
21 installers is currently administered by the state building
22 code commissioner pursuant to Code section 103A.26. This
23 provision is renumbered as new Code section 103A.59 to
24 consolidate the manufactured or mobile home provisions in Code
25 chapter 103A under one division. The existing regulations for
26 tiedown systems in Code sections 103A.30 through 103A.33 are
27 also renumbered in the bill as Code sections 103A.60 through
28 103A.63.

29 The bill includes conforming amendments and a transition
30 provision. The state department of transportation must refund
31 any portion of the retailer licensing fee that remains
32 unexpired as of January 1, 2007, to the licensed manufactured
33 or mobile home retailer that paid the fee.

34 The provision of the bill amending Code section 322B.3,
35 subsection 5, to clarify language regarding utility service

1 connections for the installation of a manufactured or mobile
2 home takes effect upon enactment and the remainder of the bill
3 takes effect on January 1, 2007.

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