

104TH CONGRESS
2D SESSION

H. R. 3406

To amend the Housing and Community Development Act of 1974 to establish a consensus committee for development, revision, and interpretation of manufactured housing construction standards.

IN THE HOUSE OF REPRESENTATIVES

MAY 7, 1996

Mr. ROEMER (for himself, Mr. ROYCE, Mr. CALVERT, Mr. GONZALEZ, Mr. HEINEMAN, Mr. VENTO, Mr. BAKER of California, Mr. KING, Mr. LEWIS of California, Mr. MCCOLLUM, Mr. KANJORSKI, Mr. ROHRBACHER, Mr. STEARNS, Mr. BONO, Mr. DOOLEY of California, Mr. BENTSEN, Mr. LARGENT, Mr. MINGE, Mr. BARRETT of Wisconsin, Mr. BILIRAKIS, and Mr. LINDER) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Housing and Community Development Act of 1974 to establish a consensus committee for development, revision, and interpretation of manufactured housing construction standards.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “National Manufactured Housing Construction and Safe-
6 ty Standards Act of 1996”.

1 (b) REFERENCE.—Whenever in this Act an amend-
2 ment is expressed in terms of an amendment to, or repeal
3 of, a section or other provision, the reference shall be con-
4 sidered to be made to that section or other provision of
5 the Housing and Community Development Act of 1974.

6 **SEC. 2. STATEMENT OF PURPOSE.**

7 Section 602 (42 U.S.C. 5401) is amended by striking
8 the first sentence and inserting the following: “The Con-
9 gress declares that the purposes of this title are to reduce
10 the number of personal injuries and deaths and property
11 damage resulting from manufactured home accidents and
12 to establish a balanced consensus process for the develop-
13 ment, revision, and interpretation of Federal construction
14 and safety standards for manufactured homes.”.

15 **SEC. 3. DEFINITIONS.**

16 (a) IN GENERAL.—Section 603 (42 U.S.C. 5402) is
17 amended—

18 (1) in paragraph (2), by striking “dealer” and
19 inserting “retailer”;

20 (2) in paragraph (12), by striking “and” at the
21 end;

22 (3) in paragraph (13), by striking the period at
23 the end and inserting a semicolon; and

24 (4) by adding at the end the following new
25 paragraphs:

1 “(14) ‘consensus committee’ means the commit-
2 tee established under section 604(a)(7); and

3 “(15) ‘consensus standards development proc-
4 ess’ means the process by which additions and revi-
5 sions to the Federal manufactured home construc-
6 tion and safety standards shall be developed and rec-
7 ommended to the Secretary by the consensus com-
8 mittee.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) OCCURRENCES OF “DEALER”.—The Act
11 (42 U.S.C. 5401 et seq.) is amended by striking
12 “dealer” and inserting “retailer” in each of the fol-
13 lowing provisions:

14 (A) In section 613, each place such term
15 appears.

16 (B) In section 614(f), each place such term
17 appears.

18 (C) In section 615(b)(1).

19 (D) In section 616.

20 (2) OTHER AMENDMENTS.—The Act (42
21 U.S.C. 5401 et seq.) is amended—

22 (A) in section 615(b)(3), by striking “deal-
23 er or dealers” and inserting “retailer or retail-
24 ers”; and

- 1 (B) by striking “dealers” and inserting
2 “retailers” each place such term appears—
3 (i) in section 615(d);
4 (ii) in section 615(f); and
5 (iii) in section 623(e)(9).

6 **SEC. 4. FEDERAL MANUFACTURED HOME CONSTRUCTION**
7 **AND SAFETY STANDARDS.**

8 Section 604 (42 U.S.C. 5403) is amended—

9 (1) by striking subsections (a) and (b) and in-
10 sserting the following new subsections:

11 “(a) ESTABLISHMENT.—

12 “(1) AUTHORITY.—The Secretary shall estab-
13 lish, by order, appropriate Federal manufactured
14 home construction and safety standards. Each such
15 Federal manufactured home standard shall be rea-
16 sonable and shall meet the highest standards of pro-
17 tection, taking into account existing State and local
18 laws relating to manufactured home safety and con-
19 struction. The Secretary shall issue all such orders
20 pursuant to the consensus standards development
21 process under this subsection. The Secretary may
22 issue orders which are not part of the consensus
23 standards development process only in accordance
24 with subsection (b).

1 “(2) CONSENSUS STANDARDS DEVELOPMENT
2 PROCESS.—Not later than 180 days after the date
3 of enactment of the National Manufactured Housing
4 Construction and Safety Standards Act of 1996, the
5 Secretary shall enter into a cooperative agreement or
6 establish a relationship with a qualified technical or
7 building code organization to administer the consen-
8 sus standards development process and establish a
9 consensus committee under paragraph (7). Periodi-
10 cally, the Secretary shall review such organization’s
11 performance and may replace the organization upon
12 a finding of need.

13 “(3) REVISIONS.—The consensus committee es-
14 tablished under paragraph (7) shall consider revi-
15 sions to the Federal manufactured home construc-
16 tion and safety standards and shall submit revised
17 standards to the Secretary at least once during every
18 2-year period, the first such 2-year period beginning
19 upon the appointment of the consensus committee
20 under paragraph (7). Before submitting proposed re-
21 vised standards to the Secretary, the consensus com-
22 mittee shall cause the proposed revised standards to
23 be published in the Federal Register, together with
24 a description of the consensus committee’s consider-
25 ations and decisions under subsection (e), and shall

1 provide an opportunity for public comment. Public
2 views and objections shall be presented to the con-
3 sensus committee in accordance with American Na-
4 tional Standards Institute procedures. After such
5 notice and opportunity public comment, the consen-
6 sus committee shall cause the recommended revi-
7 sions to the standards and notice of its submission
8 to the Secretary to be published in the Federal Reg-
9 ister. Such notice shall describe the circumstances
10 under which the proposed revised standards could
11 become effective.

12 “(4) REVIEW BY SECRETARY.—The Secretary
13 shall either adopt, modify, or reject the standards
14 submitted by the consensus committee. A final order
15 adopting the standards shall be issued by the Sec-
16 retary not later than 12 months after the date the
17 standards are submitted to the Secretary by the con-
18 sensus committee, and shall be published in the Fed-
19 eral Register and become effective pursuant to sub-
20 section (c). If the Secretary—

21 “(A) adopts the standards recommended
22 by the consensus committee, the Secretary may
23 issue a final order directly without further rule-
24 making;

1 “(B) determines that any portion of the
2 standards should be rejected because it would
3 jeopardize health or safety or is inconsistent
4 with the purposes of this title, a notice to that
5 effect, together with this reason for rejecting
6 the proposed standard, shall be published in the
7 Federal Register no later than 12 months after
8 the date the standards are submitted to the
9 Secretary by the consensus committee;

10 “(C) determines that any portion of the
11 standard should be modified because it would
12 jeopardize health or safety or is inconsistent
13 with the purposes of this title—

14 “(i) such determination shall be made
15 no later that 12 months after the date the
16 standards are submitted to the Secretary
17 by the consensus committee;

18 “(ii) within such 12-month period, the
19 Secretary shall cause the proposed modi-
20 fied standard to be published in the Fed-
21 eral Register, together with an explanation
22 of the reason for the Secretary’s deter-
23 mination that the consensus committee
24 recommendation needs to be modified, and
25 shall provide an opportunity for public

1 comment in accordance with the provisions
2 of section 553 of title 5, United States
3 Code; and

4 “(iii) the final standard shall become
5 effective pursuant to subsection (c).

6 “(5) FAILURE TO ACT.—If the Secretary fails
7 to take final action under paragraph (4) and publish
8 notice of the action in the Federal Register within
9 the 12-month period under such paragraph, the rec-
10 ommendations of the consensus committee shall be
11 considered to have been adopted by the Secretary
12 and shall take effect upon the expiration of the 180-
13 day period that begins upon the conclusion of the
14 12-month period. Within 10 days after the expira-
15 tion of the 12-month period, the Secretary shall
16 cause to be published in the Federal Register notice
17 of the Secretary’s failure to act, the revised stand-
18 ards, and the effective date of the revised standards.
19 Such notice shall be deemed an order of the Sec-
20 retary approving the revised standards proposed by
21 the consensus committee.

22 “(6) INTERPRETIVE BULLETINS.—The Sec-
23 retary may issue interpretive bulletins to clarify the
24 meaning of any Federal manufactured home con-

1 struction and safety standards, subject to the follow-
2 ing requirements:

3 “(A) REVIEW BY CONSENSUS COMMIT-
4 TEE.—Before issuing an interpretive bulletin,
5 the Secretary shall submit the proposed bulletin
6 to the consensus committee and the consensus
7 committee shall have 90 days to provide written
8 comments thereon to the Secretary. If the con-
9 sensus committee fails to act or if the Secretary
10 rejects any significant views recommended by
11 the consensus committee, the Secretary shall
12 explain in writing to the consensus committee,
13 before the bulletin becomes effective, the rea-
14 sons for such rejection.

15 “(B) PROPOSALS.—The consensus commit-
16 tee may, from time to time, submit to the Sec-
17 retary proposals for interpretive bulletins under
18 this subsection. If the Secretary fails to issue or
19 rejects a proposed bulletin within 90 days of its
20 receipt, the Secretary shall be considered to
21 have approved the proposed bulletin and shall
22 immediately issue the bulletin.

23 “(C) EFFECT.—Interpretative bulletins is-
24 sued under this paragraph shall become binding
25 without rulemaking.

1 “(7) CONSENSUS COMMITTEE.—

2 “(A) PURPOSE.—The consensus committee
3 referred to in paragraph (2) shall have as its
4 purpose providing periodic recommendations to
5 the Secretary to revise and interpret the Fed-
6 eral manufactured home construction and safe-
7 ty standards and carrying out such other func-
8 tions assigned to the committee under this title.
9 The committee shall be organized and carry out
10 its business in a manner that guarantees a fair
11 opportunity for the expression and consider-
12 ation of various positions.

13 “(B) MEMBERSHIP.—The consensus com-
14 mittee shall be composed of 25 members who
15 shall be appointed as follows:

16 “(i) APPOINTMENT BY PROCESS AD-
17 MINISTRATOR.—Members shall be ap-
18 pointed by the qualified technical or build-
19 ing code organization that administers the
20 consensus standards development process
21 pursuant to paragraph (2), subject to the
22 approval of the Secretary.

23 “(ii) BALANCED MEMBERSHIP.—
24 Members shall be appointed in a manner
25 designed to include all interested parties

1 without domination by any single interest
2 category.

3 “(iii) SELECTION PROCEDURES AND
4 REQUIREMENTS.—Members shall be ap-
5 pointed in accordance with selection proce-
6 dures for consensus committees promul-
7 gated by the American National Standards
8 Institute, except that the American Na-
9 tional Standards Institute interest cat-
10 egories shall be modified to ensure rep-
11 resentation on the committee by individ-
12 uals representing the following fields, in
13 equal numbers under each of the following
14 subclauses:

15 “(I) Manufacturers.

16 “(II) Retailers, insurers, suppli-
17 ers, lenders, community owners and
18 private inspection agencies which have
19 a financial interest in the industry.

20 “(III) Homeowners and
21 consumer representatives.

22 “(IV) Public officials, such as
23 those from State or local building
24 code enforcement and inspection agen-
25 cies.

1 “(V) General interest, including
2 academicians, researchers, architects,
3 engineers, private inspection agencies,
4 and others.

5 Members of the consensus committee shall
6 be qualified by background and experience
7 to participate in the work of the commit-
8 tee, but members by reason of subclauses
9 (III), (IV), and (V), except the private in-
10 spection agencies, may not have a financial
11 interest in the manufactured home indus-
12 try, unless such bar to participation is
13 waived by the Secretary. The number of
14 members by reason of subclause (V) who
15 represent private inspection agencies may
16 not constitute more than 20 percent of the
17 total number of members by reason of sub-
18 clause (V). Notwithstanding any other pro-
19 vision of this paragraph, the Secretary
20 shall appoint a member of the consensus
21 committee, who shall not have voting privi-
22 leges.

23 “(C) MEETINGS.—The consensus commit-
24 tee shall cause advance notice of all meetings to
25 be published in the Federal Register and all

1 meetings of the committee shall be open to the
2 public.

3 “(D) AUTHORITY.—Sections 203, 205,
4 207, and 208 of title 18, United States Code,
5 shall not apply to the members of the consensus
6 committee. Members shall not be considered to
7 be special government employees for purposes
8 of part 2634 of title 5, Code of Federal Regula-
9 tions. The consensus committee shall not be
10 considered an advisory committee for purposes
11 of the Federal Advisory Committee Act.

12 “(E) ADMINISTRATION.—The consensus
13 committee and the administering organization
14 shall operate in conformance with American
15 National Standards Institute procedures for the
16 development and coordination of American Na-
17 tional Standards and shall apply to such Insti-
18 tute to obtain accreditation.

19 “(F) STAFF.—The consensus committee
20 shall be provided reasonable staff resources by
21 the administering organization. Upon a showing
22 of need and subject to the approval of the Sec-
23 retary, the administering organization shall fur-
24 nish technical support to any of the various in-
25 terest categories on the consensus committee.

1 “(b) OTHER ORDERS.—The Secretary may issue or-
2 ders that are not developed under the procedures set forth
3 in subsection (a) in order to respond to an emergency
4 health or safety issue, or to address issues on which the
5 Secretary determines the consensus committee will not
6 make timely recommendations, but only if the proposed
7 order is first submitted by the Secretary to the consensus
8 committee for review and the committee is afforded 90
9 days to provide its views on the proposed order to the Sec-
10 retary. If the consensus committee fails to act within such
11 period or if the Secretary rejects any significant change
12 recommended by the consensus committee, the public no-
13 tice of the order shall include an explanation of the rea-
14 sons for the Secretary’s action. The Secretary may issue
15 such orders only in accordance with the provisions of sec-
16 tion 553 of title 5, United States Code.”;

17 (2) by striking subsection (e);

18 (3) in subsection (f), by striking the matter pre-
19 ceding paragraph (1) and inserting the following:

20 “(e) CONSIDERATIONS IN ESTABLISHING AND IN-
21 TERPRETING STANDARDS.—The consensus committee, in
22 recommending standards and interpretations, and the Sec-
23 retary, in establishing standards or issuing interpretations
24 under this section, shall—”;

25 (4) by striking subsection (g);

1 (5) in the first sentence of subsection (j), by
2 striking “subsection (f)” and inserting “subsection
3 (e)”; and

4 (6) by redesignating subsections (h), (i), and (j)
5 as subsections (f), (g), and (h), respectively.

6 **SEC. 5. ABOLISHMENT OF NATIONAL MANUFACTURED**
7 **HOME ADVISORY COUNCIL.**

8 Section 605 (42 U.S.C. 5404) is hereby repealed.

9 **SEC. 6. PUBLIC INFORMATION.**

10 Section 607 (42 U.S.C. 5406) is amended—

11 (1) in subsection (a)—

12 (A) by inserting “to the Secretary” after
13 “submit”; and

14 (B) by adding at the end the following new
15 sentence: “Such cost and other information
16 shall be submitted to the consensus committee
17 by the Secretary for its evaluation.”;

18 (2) in subsection (d), by inserting “, the con-
19 sensus committee,” after “public,”; and

20 (3) by striking subsection (c) and redesignating
21 subsections (d) and (e) as subsections (c) and (d),
22 respectively.

23 **SEC. 7. INSPECTION FEES.**

24 Section 620 (42 U.S.C. 5419) is amended to read as
25 follows:

1 “SEC. 620. (a) AUTHORITY TO ESTABLISH FEES.—
2 In carrying out the inspections required under this title
3 and in developing standards pursuant to section 604, the
4 Secretary may establish and impose on manufactured
5 home manufacturers, distributors, and retailers such rea-
6 sonable fees as may be necessary to offset the expenses
7 incurred by the Secretary in conducting such inspections
8 and administering the consensus standards development
9 process and for developing standards pursuant to section
10 604(b), and the Secretary may use any fees so collected
11 to pay expenses incurred in connection therewith. Such
12 fees shall only be modified pursuant to rulemaking in ac-
13 cordance with the provisions of section 553 of title 5, Unit-
14 ed States Code.

15 “(b) DEPOSIT OF FEES.—Fees collected pursuant to
16 this title shall be deposited in a fund, which is hereby es-
17 tablished in the Treasury for deposit of such fees.
18 Amounts in the fund are hereby available for use by the
19 Secretary pursuant to subsection (a). The use of these fees
20 by the Secretary shall not be subject to general or specific
21 limitations on appropriated funds unless use of these fees
22 is specifically addressed in any future appropriations legis-
23 lation. The Secretary shall provide an annual report to
24 Congress indicating expenditures under this section. The
25 Secretary shall also make available to the public, in ac-

1 cordance with all applicable disclosure laws, regulations,
2 orders, and directives, information pertaining to such
3 funds, including information pertaining to amounts col-
4 lected, amounts disbursed, and the fund balance.”.

5 **SEC. 8. ELIMINATION OF ANNUAL REPORT REQUIREMENT.**

6 Section 626 (42 U.S.C. 5425) is hereby repealed.

7 **SEC. 9. EFFECTIVE DATE.**

8 The amendments made by this Act shall take effect
9 on the date of enactment, except that the amendments
10 shall have no effect on any order or interpretative bulletin
11 that is published as a proposed rule pursuant to the provi-
12 sions of section 553 of title 5, United States Code, on or
13 before that date.

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