

# HOUSE BILL No. 5835

May 29, 1990, Introduced by Rep. Saunders and referred to the Committee on Urban Affairs.

A bill to amend the title and sections 1, 2, 3, 24, 30a, 30c, and 30e of Act No. 96 of the Public Acts of 1987, entitled "The mobile home commission act," being sections 125.2301, 125.2302, 125.2303, 125.2324, 125.2330a, 125.2330c, and 125.2330e of the Michigan Compiled Laws; and to add sections 24b and 51.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 1, 2, 3, 24, 30a, 30c,  
2 and 30e of Act No. 96 of the Public Acts of 1987, being sections  
3 125.2301, 125.2302, 125.2303, 125.2324, 125.2330a, 125.2330c, and  
4 125.2330e of the Michigan Compiled Laws, are amended and sections  
5 24b and 51 are added to read as follows:

## TITLE

1  
2 An act to create a ~~mobile home~~ MANUFACTURED HOUSING com-  
3 mission; to prescribe its powers and duties and those of local  
4 governments; to provide for a ~~mobile home~~ MANUFACTURED HOUSING  
5 code and the licensure, regulation, construction, operation, and  
6 management of ~~mobile~~ MANUFACTURED home parks, the licensure and  
7 regulation of retail sales dealers, warranties of ~~mobile~~  
8 MANUFACTURED homes, and service practices of dealers; to provide  
9 for the titling of ~~mobile~~ MANUFACTURED homes; to prescribe the  
10 powers and duties of certain agencies and departments; to provide  
11 remedies and penalties; to declare the act to be remedial; ~~to~~  
12 ~~repeal this act on a specific date~~ TO PROVIDE FOR AN  
13 APPROPRIATION; and to repeal certain acts and parts of acts.

14 Sec. 1. This act shall be known and may be cited as "the  
15 ~~mobile home~~ MANUFACTURED HOUSING commission act".

16 Sec. 2. As used in this act:

17 (a) "Campground" means a campground as defined in section  
18 12501 of the public health code, Act No. 368 of the Public Acts  
19 of 1978, being section 333.12501 of the Michigan Compiled Laws.

20 (b) "Code" means all or a part of the mobile home code  
21 promulgated pursuant to section 5.

22 (c) "Commission" means the ~~mobile home~~ MANUFACTURED  
23 HOUSING code commission.

24 (d) "Department" means the department of commerce.

25 (e) "Installer and repairer" means a person, including a  
26 ~~mobile~~ MANUFACTURED home dealer, who for compensation installs  
27 or repairs ~~mobile~~ MANUFACTURED homes.

(f) "Local government" means a county or municipality.

(g) ~~"Mobile"~~ "MANUFACTURED HOME", "MANUFACTURED HOUSING",

OR "MOBILE home" means a structure, transportable in 1 or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

(h) ~~"Mobile"~~ "MANUFACTURED home dealer" OR "MOBILE HOME

DEALER" means a person other than a manufacturer engaged in the business of buying ~~mobile~~ MANUFACTURED homes for resale, exchange, lease, or rent or offering ~~mobile~~ MANUFACTURED homes for sale, lease, rent, or exchange to customers.

(i) ~~"Mobile"~~ "MANUFACTURED HOME PARK" OR "MOBILE home park"

means a parcel or tract of land under the control of a person upon which 3 or more ~~mobile~~ MANUFACTURED homes are located on a continual, nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a ~~mobile~~ MANUFACTURED home.

(j) "Municipality" means a city, village, or township.

(k) "Person" means an individual, partnership, association, trust, or corporation, or any other legal entity or combination of legal entities.

(l) "RECOVERY FUND" MEANS THE MOBILE HOME RECOVERY FUND CREATED IN SECTION 24A.

1 (M) ~~(M)~~ "Recreational vehicle" means a vehicle primarily  
2 designed and used as temporary living quarters for recreational,  
3 camping, or travel purposes, including a vehicle having its own  
4 motor power or a vehicle mounted on or drawn by another vehicle.

5 (N) ~~(M)~~ "Seasonal MANUFACTURED HOME PARK" OR "SEASONAL  
6 mobile home park" means a parcel or tract of land under the con-  
7 trol of a person upon which 3 or more ~~mobile~~ MANUFACTURED homes  
8 are located on a continual or temporary basis but occupied on a  
9 temporary basis only, and which is offered to the public for that  
10 purpose regardless of whether a charge is made therefor, together  
11 with any building, enclosure, street, equipment, or facility used  
12 or intended for use incident to the occupancy of a ~~mobile~~  
13 MANUFACTURED home. Seasonal ~~mobile~~ MANUFACTURED home park does  
14 not include a campground licensed pursuant to sections 12501 to  
15 12516 of the public health code, Act No. 368 of the Public Acts  
16 of 1978, being sections 333.12501 to 333.12516 of the Michigan  
17 Compiled Laws.

18 (O) ~~(M)~~ "Security interest", "security agreement",  
19 "secured party", and "termination statement" have the same mean-  
20 ings as in the uniform commercial code, Act No. 174 of the Public  
21 Acts of 1962, being sections 440.1101 to 440.11102 of the  
22 Michigan Compiled Laws.

23 Sec. 3. (1) The ~~mobile~~ MANUFACTURED home commission is  
24 created within the department of commerce.

25 (2) The commission consists of 11 members appointed by the  
26 governor with the advice and consent of the senate, each of whom  
27 shall be a citizen of this state.

1 (3) The members of the commission shall include each of the  
2 following:

3 (a) A representative of an organization whose membership  
4 consists of ~~mobile~~ MANUFACTURED home residents.

5 (b) A representative of financial institutions.

6 (c) Two operators of a licensed ~~mobile~~ MANUFACTURED home  
7 park having 100 or more sites and 1 operator of a licensed  
8 ~~mobile~~ MANUFACTURED home park having ~~less~~ FEWER than 100  
9 sites.

10 (d) A representative of organized labor.

11 (e) An elected official of a local government.

12 (f) A licensed ~~mobile~~ MANUFACTURED home dealer.

13 (g) One resident of a licensed ~~mobile~~ MANUFACTURED home  
14 park having 100 or more sites and 1 resident of a licensed  
15 ~~mobile~~ MANUFACTURED home park having less than 100 sites.

16 (h) A manufacturer of ~~mobile~~ MANUFACTURED homes.

17 (4) A person appointed to be a member under subsection  
18 (3)(a), (d), (e), (g), or a member of that person's immediate  
19 family shall not have more than a 1% ownership interest in or  
20 income benefit from a manufacturer of ~~mobile~~ MANUFACTURED  
21 homes, a retail seller of ~~mobile~~ MANUFACTURED homes, a licensed  
22 ~~mobile~~ MANUFACTURED home park, or a supplier of ancillary prod-  
23 ucts or services to the ~~mobile~~ MANUFACTURED home industry.

24 (5) The term of each member shall be for 3 years. A vacancy  
25 in the office of a member shall be filled by the governor for the  
26 remainder of the unexpired term, not more than 1 month after the

1 vacancy is created, in the same manner as the original  
2 appointment.

3 (6) The per diem compensation of the commission and the  
4 schedule for reimbursement of expenses shall be established annu-  
5 ally by the legislature.

6 (7) Six members of the commission constitute a quorum for  
7 all purposes, notwithstanding the existence of a vacancy in the  
8 commission's membership. Action may be taken by the commission  
9 by a vote of a majority of the members appointed and serving.  
10 Meetings of the commission may be called by the chairperson or by  
11 3 members on 3 business days' actual notice. At least 1 meeting  
12 shall be held each calendar quarter. The commission may hold  
13 meetings anywhere in this state.

14 (8) The commission shall elect a member of the commission as  
15 its chairperson and another member as its vice-chairperson. The  
16 duties and powers of the chairperson and vice-chairperson shall  
17 be as prescribed in the commission's rules.

18 (9) A member of the commission may be removed from office by  
19 the governor for inefficiency, neglect of duty, or misconduct or  
20 malfeasance in office. A member of the commission who has a  
21 direct pecuniary interest in a matter before the commission shall  
22 disclose that interest before the commission taking action with  
23 respect to the matter, which disclosure shall become a part of  
24 the record of the commission's official proceedings.

25 Sec. 24. A ~~mobile~~ MANUFACTURED home dealer shall not:

26 (a) Advertise or represent a ~~mobile~~ MANUFACTURED home as  
27 other than calendar or model year.

1 (b) Misapply consumer deposits on a ~~mobile~~ MANUFACTURED  
2 home or a ~~mobile~~ MANUFACTURED home park.

3 (c) Fail to place deposits, down payments, or similar pay-  
4 ments for the purchase or right to purchase a ~~mobile~~ BROKERED  
5 MANUFACTURED home in a separate escrow account subject to return  
6 upon cancellation of the ~~purchase order~~ OFFER TO PURCHASE by  
7 the prospective purchaser under the rules or orders as the com-  
8 mission promulgates or issues. ~~unless the dealer shall post a~~  
9 ~~bond or a deposit of cash or securities for protection of these~~  
10 ~~payments in an amount acceptable to the commission.~~

11 (d) Fail to disclose to the department any direct or indi-  
12 rect business relationships with financial and loan institutions,  
13 banks, and insurance companies.

14 SEC. 24B. THE RECOVERY FUND SHALL BE CAPITALIZED AT  
15 \$1,000,000.00. THE RECOVERY FUND SHALL BE FUNDED PURSUANT TO  
16 SECTIONS 30A AND 30C. A CLAIM SHALL NOT BE PAID FROM THE FUND  
17 UNTIL THE FUND CONTAINS AT LEAST \$500,000.00.

18 Sec. 30a. (1) An owner of a ~~mobile home which~~  
19 MANUFACTURED HOME THAT is subject to the certificate of title  
20 provisions of this act shall make application to the department  
21 for the issuance of a certificate of title for the ~~mobile~~  
22 MANUFACTURED home upon the appropriate form furnished by the  
23 department, accompanied by a fee of ~~\$45.00~~ \$60.00 or any lesser  
24 amount established pursuant to section 9(5). OF THIS FEE, \$15.00  
25 SHALL BE DEPOSITED IN THE RECOVERY FUND CREATED IN SECTION 24A.  
26 AFTER THE RECOVERY FUND IS CAPITALIZED AS PROVIDED IN  
27 SECTION 24B, \$15.00 SHALL BE CREDITED TO THE MOBILE HOME FUND.

1 WHEN THE RECOVERY FUND BALANCE DROPS BELOW \$500,000.00 AT THE END  
2 OF A FISCAL YEAR, THE \$15.00 SHALL BE CREDITED TO THE RECOVERY  
3 FUND UNTIL THE RECOVERY FUND REACHES ITS CAPITALIZED LEVEL AND  
4 THEN IT SHALL BE CREDITED TO THE MOBILE HOME FUND. The applica-  
5 tion shall bear the signature of the owner written in ink, shall  
6 be acknowledged by the owner before a person authorized to take  
7 acknowledgments, and shall contain:

8 (a) The name and address of the owner.

9 (b) A description of the ~~mobile~~ MANUFACTURED home, includ-  
10 ing the name of the manufacturer, the year and model, and the  
11 manufacturer's serial number or, in the absence of a serial  
12 number, a number assigned by the department. A number assigned  
13 by the department shall be permanently placed on the ~~mobile~~  
14 MANUFACTURED home in the manner and place designated by the  
15 department.

16 (c) A statement of the names and addresses of the holders of  
17 any security interests in the ~~mobile~~ MANUFACTURED home, in the  
18 order of their priority.

19 (d) Further information as may reasonably be required by the  
20 department to enable it to determine whether the owner of the  
21 ~~mobile~~ MANUFACTURED home is entitled to a certificate of title  
22 for the ~~mobile~~ MANUFACTURED home.

23 (2) If the department is not satisfied as to the ownership  
24 of the ~~mobile~~ MANUFACTURED home, before issuing a certificate  
25 of title for it, the department may require the applicant to file  
26 a properly executed surety bond in a form prescribed by the  
27 department, executed by the applicant and a company authorized to



1 conduct a surety business in this state. The bond shall be in an  
2 amount equal to twice the value of the ~~mobile~~ MANUFACTURED home  
3 as determined by the department and shall be conditioned to  
4 indemnify or reimburse the department, any prior owner, any  
5 holder of a security interest in the ~~mobile~~ MANUFACTURED home,  
6 and any subsequent purchaser of the ~~mobile~~ MANUFACTURED home,  
7 and their successors in interest, against any expense, loss, or  
8 damage, including reasonable attorney's fees, by reason of the  
9 issuance of a certificate of title to the ~~mobile~~ MANUFACTURED  
10 home or on account of any defect in the right, title, or interest  
11 of the applicant in and to the ~~mobile~~ MANUFACTURED home. Each  
12 interested person has a right of action to recover on the bond  
13 for a breach of its conditions, but the aggregate liability of  
14 the surety to all persons shall not exceed the amount of the  
15 bond. The bond shall be returned at the end of 5 years, or  
16 before 5 years if the currently valid certificate of title is  
17 surrendered to the department, unless the department has received  
18 notification of the pendency of an action to recover on the  
19 bond.

20 (3) The department shall examine and determine the genuine-  
21 ness, regularity, and legality of an application for a certifi-  
22 cate of title for a ~~mobile~~ MANUFACTURED home and of any other  
23 application lawfully made to the department, and may in all cases  
24 make investigation or require additional information as may be  
25 considered necessary, and shall reject any application if not  
26 satisfied of the genuineness, regularity, or legality of it or

1 the truth of any statement contained in it, or for any other  
2 reason, when authorized by law.

3 (4) The fee for obtaining a duplicate, replacement, or cor-  
4 rected title, for placing or terminating a lien on the title, or  
5 for placing a name on the title is ~~-\$15.00-~~ \$25.00 or any other  
6 lesser amount established pursuant to section 9(5).

7 Sec. 30c. (1) If the owner of a ~~mobile~~ MANUFACTURED home  
8 transfers or assigns the owner's title or interest to the  
9 ~~mobile~~ MANUFACTURED home, the owner shall indorse on the back  
10 of the certificate of title an assignment of the ~~mobile~~  
11 MANUFACTURED home with warranty of title with a statement of all  
12 security interests in the ~~mobile~~ MANUFACTURED home, and shall  
13 cause the certificate to be mailed or delivered to the department  
14 or to the purchaser or transferee at the time of the delivery to  
15 the purchaser or transferee of the ~~mobile~~ MANUFACTURED home.

16 (2) Upon the delivery of a ~~mobile~~ MANUFACTURED home and  
17 the transfer, sale, or assignment of the title or interest in a  
18 ~~mobile~~ MANUFACTURED home, the effective date of the transfer of  
19 title or interest shall be the date of execution of either the  
20 application for title or the certificate of title.

21 (3) The purchaser or transferee, unless the purchaser or  
22 transferee is a licensed dealer, shall ~~cause to be presented~~  
23 PRESENT to the department the certificate of title accompanied by  
24 the applicable fee, as follows:

25 (a) Except as provided in subdivision (b) or (c), ~~-\$45.00-~~  
26 \$60.00.

1 (b) Except as provided in subdivision (c), ~~-\$15.00~~ \$25.00,  
2 if the sale, assignment, or other transfer will require the  
3 addition or deletion from the certificate of title of any of the  
4 following:

5 (i) The owner's spouse.

6 (ii) A person related to the owner within the fourth degree  
7 of consanguinity as computed by the civil law method.

8 (iii) A person related to the owner's spouse within the  
9 fourth degree of consanguinity as computed by the civil law  
10 method.

11 (c) Any other lesser amount established pursuant to  
12 section 9(5).

13 (4) Upon presentation of the certificate of title accom-  
14 panied by the applicable fee, a new certificate of title shall be  
15 issued. A certificate of title issued under subsection (3) and  
16 this subsection shall be mailed or delivered to the owner or any  
17 other person the owner may direct in a separate instrument in a  
18 form as prescribed by the department.

19 (5) If a security interest is reserved or created at the  
20 time of the transfer, the parties shall comply with section 30d.

21 (6) If the transferee of a ~~mobile~~ MANUFACTURED home is a  
22 ~~mobile~~ MANUFACTURED home dealer who holds the ~~mobile~~  
23 MANUFACTURED home for resale, the dealer shall not be required to  
24 forward the certificate of title to the department, but the  
25 dealer shall retain possession of the assigned certificate of  
26 title. Upon transfer of the dealer's title or interest to  
27 another person, the dealer shall execute and acknowledge an

1 assignment and warranty of title upon the certificate of title  
2 and deliver it to the person to whom the transfer is made if the  
3 person is a licensed dealer; otherwise application for a new  
4 title shall be made by the transferor as provided in section  
5 30a(1).

6       Sec. 30e. (1) If the interest of the owner in a ~~mobile~~  
7 MANUFACTURED home is terminated by the enforcement of a security  
8 agreement, the transferee of the owner's interest shall promptly  
9 mail or deliver to the department the last certificate of title,  
10 if the transferee has possession of it, an application for a new  
11 certificate in the form prescribed by the department, and an  
12 affidavit made by or on behalf of the holder of the ENFORCED  
13 security interest ~~so enforced~~ that the ~~mobile~~ MANUFACTURED  
14 home was repossessed. ~~—~~ THE AFFIDAVIT SHALL STATE that the  
15 interest of the owner was lawfully terminated by enforcement of  
16 the security agreement, and whether the holder has delivered the  
17 last certificate of title to the transferee of the owner's inter-  
18 est, naming the transferee, or if not, the reason delivery was  
19 not made and the ~~then~~ location of the certificate of title so  
20 far as known to the holder. If the holder of the security inter-  
21 est succeeds to the interest of the owner and holds the ~~mobile~~  
22 MANUFACTURED home for resale, the holder shall not be required to  
23 secure a new certificate of title but, upon transfer to another  
24 person, shall promptly mail or deliver to the transferee or to  
25 the department the certificate, if in the holder's possession,  
26 the affidavit, and other documents required to be sent to the  
27 department by the transferee.

1 (2) If the interest of the owner in a ~~mobile~~ MANUFACTURED  
2 home is terminated by sale pursuant to a levy of execution,  
3 attachment, or other process of a court, OR BY ENFORCEMENT OF A  
4 MANUFACTURED HOME WAREHOUSER LIEN, the transferee of the owner's  
5 interest shall promptly mail or deliver to the department the  
6 last certificate of title, if the transferee has possession of  
7 it, an application for a new certificate of title in the form  
8 prescribed by the department and an affidavit, upon a form pre-  
9 scribed by the department, made by the officer of the court who  
10 conducted the sale, setting forth the date of the sale, and the  
11 name of the purchaser and whether the officer has delivered the  
12 certificate of title to the purchaser and if not, the reason  
13 delivery was not made and the ~~then~~ location of the certificate  
14 of title so far as known to the officer.

15 (3) A person holding a certificate of title where the inter-  
16 est of the owner named in the certificate has been terminated in  
17 the manner provided by subsection (1) or (2) shall mail or  
18 deliver the certificate to the department upon its request. The  
19 delivery of the certificate pursuant to the request of the  
20 department does not affect the rights of the person surrendering  
21 the certificate, and the action of the department in issuing a  
22 new certificate of title is not conclusive upon any rights of an  
23 owner or holder of a security interest named in the old  
24 certificate.

25 (4) The department, upon receipt of an application for a new  
26 certificate of title by a transferee in the manner provided by  
27 subsection (1) or (2), with proof of the transfer, the required

1 fee, and any other documents required by law, shall issue a new  
2 certificate of title in the name of the transferee as owner, set-  
3 ting forth all security interests noted on the last certificate  
4 of title as having priority over the ENFORCED security agreement  
5 ~~so enforced~~ and shall mail or deliver the new certificate to  
6 the owner. If the outstanding certificate of title is not deliv-  
7 ered, the department shall make demand for the outstanding cer-  
8 tificate of title from the holder.

9 SEC. 51. FIVE HUNDRED THOUSAND DOLLARS FROM THE MOBILE HOME  
10 FUND IS APPROPRIATED TO THE RECOVERY FUND.

11 Section 2. This amendatory act shall not take effect unless  
12 all of the following bills of the 85th Legislature are enacted  
13 into law:

14 (a) Senate Bill No. \_\_\_\_ or House Bill No. 5836 (request  
15 no. 05414'90).

16 (b) Senate Bill No. \_\_\_\_ or House Bill No. 5834 (request  
17 no. 05416'90).