

March 31, 2005

West Virginia Housing Institute does well in legislative session

Members of the factory-built housing industry in West Virginia did well during the 2005 legislative session, avoiding a major punitive bill aimed at the trade, a tax increase, and a yearlong legislative study to see if enough is being done for customers.

They successfully supported Gov. Joe Manchin's "cure" bill, which should help remedy problems before they turn into litigation and backed legislation to clarify last year's law dealing with tenancy removal rights.

A bill to end restrictions against the placement of factory-built homes failed because the clock ran out on the session, but it will be introduced again when lawmakers meet in 2006.

The Institute sought to have a vacancy filled on the Board of Manufactured Housing Construction and Safety, but it did not happen.

"The session should serve as a wake-up call to all of us that we need to make sure we are providing the best products in a way that is pleasing to our customers," said Kevin Wilfong, co-president of the West Virginia Housing Institute Inc., which is the legislative arm of the industry.

"We did well this year and will build upon that good start in the future," agreed Steve Brown, co-president of the Institute.

House Bill 2826

Because of the complaints of a resident of Shady Springs, Raleigh County, legislative leaders introduced a bill (House Bill 2826) that would have placed severe new restrictions on the industry.

Fines limited to a maximum of \$1,000 now would have been set at a minimum of that amount and allowed to go up to \$1 million. Restrictions against using bond funds for punitive damages, personal injury or inconvenience, reimbursement for alternative housing or attorneys fees and other items would have been lifted under the bill.

The measure would have reduced from 60 to 30 days the time when the Division of Labor's Manufactured Housing Construction and Safety Board would have to make an inspection based on a complaint; and proposed to reduce from 90 to 30 days the time the board would have to order corrective action.

It would have outlined in law a whole table of potential defects, including cracks, bows to walls, misaligned corners, swags, improperly installed carpets "and any other defect that may impair the cosmetic appearance of the manufactured home."

Senate Bill 194

Working with officials at the Housing Development Fund in Charleston, the industry removed a proposed \$20 tax on all factory-built home sales envisioned in another bill (Senate Bill 194).

The Institute then supported provisions of the same bill that would give it a place on the board of directors of the West Virginia Affordable Housing Trust Fund.

The fund is designed to help provide housing for low- to moderate-income West Virginians.

"Industry representatives should consider whether to support the \$20 fee in the future since it could help raise \$1 million to match \$3 million in federal assistance for

housing, much of which would be expected to come back to the factory-built housing industry,” said A.V. Gallagher, executive director of the Institute.

House Concurrent Resolution 101

The legislative study (House Concurrent Resolution 101), put together at the behest of Delegate Linda Sumner, R-Raleigh, was co-sponsored by 96 of the 100 members in the House of Delegates. It also was in response to the same complaint that resulted in HB2826 and erupted when HB 2826 was not acted on by the Legislature.

The study was “to determine whether there is a need to provide additional remedies to purchasers and owners of manufactured housing for latent defects, substandard installation and breach of warranties.”

If approved by the House, which it was not, the measure would have required a report and proposed legislation to be provided to the Legislature in 2006.

Senate Bill 456

Administration-backed legislation (Senate Bill 456) aimed at giving retailers adequate time to correct, or “cure” defects, was supported by the Institute and should help all members.

Under the bill, the consumer is barred from filing a lawsuit over a defect unless he or she notifies the seller or lessor in writing and gives the person 20 days in which to make a “cure” offer. If the offer is made and accepted, then the cure must be done.

“Where an action is brought pursuant to the provisions of this section, it shall be a complete defense that a cure offer was made, accepted and the agreed upon cure was performed,” it said. The seller or lessor then might be able to recover his or her attorney fees.

Senate Bill 691

A separate bill (Senate Bill 691) was written to clarify a law enacted last year dealing with tenant rights and evictions at factory-built home sites.

The state Supreme Court interpreted the 2004 law to effectively give a tenant six months in which to vacate the site and court officials had instructed magistrates around the state as to those time limits.

The bill said either side may terminate the tenancy of a site “by giving at least three months’ notice in writing.” It clarified the termination period is 90 days.

House Bill 3088

The Institute worked with officials from the Municipal League and county officials to craft a bill to end discrimination by counties and cities in the placement of factory-built homes.

Introduced March 17, the measure was approved by two committees in the House of Delegates, but did not have sufficient time to pass the House this year.

The bill sought to end zoning discrimination simply on the fact a dwelling was a factory-built home.

House Bill 2718

The Legislature approved minor rule changes (House Bill 2718) submitted by the Board of Manufactured Housing Construction and Safety in August 2004.

House Bill 2449

Lawmakers overwhelmingly continued the life of the Board of Manufactured Housing until 2011 in another bill (House Bill 2449).

Nominee

The Institute nominated Judy Ritchie of Elkins, with the Home Show of Elkins, to be its replacement on the five-member regulatory Board of Manufactured Housing to replace Delegate Tim Manchin, D-Marion, and a Fairmont lawyer, whose term expired June 30, 2004.

Steve Solomon of Morgantown, co-owner of Solomon Homes, doing business as American Homes, submitted his own name for nomination.

Gov. Manchin did not act on either, but the Institute hopes the governor can be persuaded to support Solomon's nomination if the Legislature meets in special session this fall.