

PROPOSED RULEMAKING

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

[12 PA. CODE CH. 149]

Manufactured Housing Improvement Program

The Department of Community and Economic Development (Department), under section 5 of the Manufactured Housing Improvement Act (act) (35 P. S. § 1658.5), proposes to add Chapter 149 (relating to manufactured housing improvement program). This proposed rulemaking establishes an installation standard for new manufactured homes being installed in this Commonwealth; certifies manufactured home installers; provides training to manufactured home installers and installation inspectors; ensures the construction, installation and completion of new manufactured homes is consistent with the manufacturer's Design Approval Primary Inspection Agency (DAPIA) approved designs; establishes a mechanism to verify that manufactured homes are completed and installed by a Department certified installer and are compliant with the Manufactured Home Construction and Safety Standards and applicable building codes; establishes appropriate fees for education programs, testing and certification of manufactured home installers and inspectors; and establishes procedures under which the Department will issue warnings, suspensions, revocations or monetary fines for violations of the act or regulations.

Introduction

The Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C.A. §§ 5401—5426) provides for the establishment of practical, uniform and, to the extent possible, performance-based construction standards for manufactured homes. The act was passed in response to the amendments in 2000 that require each state to establish an installation program by December 27, 2005. The act requires the Department to promulgate regulations to establish an installation standard for new manufactured homes being installed in this Commonwealth, certify manufactured home installers and provide training to manufactured home installers and installation inspectors.

Analysis

Section 149.1 (relating to definitions) defines the terminology used in the proposed rulemaking.

Section 149.2 (relating to purpose) describes the purpose of the proposed rulemaking, which is to establish administrative procedures for the implementation of the act.

Section 149.3 (relating to installation standard) requires the manufacturer to provide DAPIA approved designs and installation instructions for all new manufactured homes. It also provides that all new manufactured homes be installed under the manufacturer's DAPIA approved designs for the particular home. This section prohibits a building code official from rejecting a manufacturer's approved design and provides a procedure to be followed if a building code official believes a design was approved by a DAPIA in error or questions the validity of a DAPIA approved design.

Under § 149.4 (relating to installer training and certification), the Department is required to develop or designate acceptable training curricula and approve trainers. This section requires training providers to provide the Department with a list of those successfully completing the training course along with the required fee for each participant. This section provides that the approved training curriculum will be published annually in the *Pennsylvania Bulletin* and can be obtained directly from the Department. This section provides that installer applicants must successfully complete the designated training curriculum and pay the required fee to the Department, in order to be certified as installers of new manufactured homes. This section establishes that certification will be valid for 1 year from the date of Department issuance and an installer will be required to successfully complete a specified training curriculum at least every 3 years. This section also permits those individuals who successfully completed a Department-approved training curriculum prior to the effective date of this chapter to be certified initially without taking additional training curriculum.

Section 149.5 (relating to building code official training) sets forth the requirement that building code officials who inspect new manufactured home installation must successfully complete a Department approved course or workshop and must do so every 3 years to continue inspecting new manufactured home installation.

Section 149.6 (relating to certificate of compliance) provides that an installer must complete a certificate of compliance upon completion of a new manufactured home installation. The section requires the certificate of compliance to be completed by the installer and forwarded to the Department within 5 calendar days of completion of the new manufactured home installation. This section prohibits a building code official from issuing a certificate of occupancy for a new manufactured home, unless he has received a completed copy of the certificate of compliance filed with the Department. This section also requires the new manufactured home installer to attach the original completed certificate of compliance to the installation instructions that remain with the home or hand deliver to the purchaser the certificate of compliance and installation instructions. If the manufacturer or retailer has not agreed in writing to be responsible to the purchaser for the new manufactured home installation before the execution of the sales documents, this section requires the manufacturer or retailer to provide the purchaser with a written statement that the home must be installed under § 149.3(b) and (c), and that the Certificate of Compliance shall be completed and signed by an installer certified under § 149.4(b). At the same time, the manufacturer or retailer shall provide the purchaser with a list of installers known to him or obtained from the Department. This section provides that by providing the list, the manufacturer or retailer does not warrant the quality of the installers' work, nor is the purchaser under any obligation to use any particular installer.

Section 149.7 (relating to fees) sets forth the fees for training providers who submit training curricula for evaluation by the Department; for each training participant; and for issuance of an individual installer certification. The section provides that by publication of a notice in the *Pennsylvania Bulletin*, the Department may change its fee schedule.

Section 149.8 (relating to penalties) provides that the Department may suspend or revoke the certification of any person who violates the provisions of the act or the regulations or from whom the Department receives adverse performance information and sets forth the procedures for these actions. This section also permits the Department to impose a civil penalty of up to \$1,000 on any person who violates the act or regulations.

Fiscal Impact

(a) *Commonwealth.* The impact upon the Commonwealth is minimal. The Department will incur costs associated with the creation, printing and processing of applications and certificates of compliance by existing Department staff. Fees generated from the regulation will be sufficient to address any additional clerical or recordkeeping costs to the Department.

(b) *Political subdivisions.* There will be no fiscal impact on political subdivisions.

(c) *Public.* Upon submission of training curricula for evaluation by the Department, training providers shall submit a fee to the Department of \$400. Also, a training provider shall submit a fee of \$50 per enrollee. A person seeking certification as a manufactured home installer shall submit an annual fee of \$150 and successfully complete a designated training program every 3 years.

Paperwork

The proposed rulemaking will require manufactured home installers to complete an application form for submittal to the Department. Upon completion of each new home installation, a certificate of compliance will be submitted to the building code official, the Department and the homeowner.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 22, 2005, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Commerce Committee and the Senate Community and Economic Development Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

Effective Date/Sunset Date

The proposed rulemaking will become effective 60 days after final-form publication in the *Pennsylvania Bulletin*. The regulations will be monitored on a regular basis and updated as needed.

Contact Person

Interested persons are invited to submit comments, suggestions or objections regarding this proposed rulemaking to Jill Busch, Deputy Chief Counsel, Office of Chief Counsel, Department of Community and Economic Development, Commonwealth Keystone Building, 4th Floor, 400 North Street, Harrisburg, PA 17120, (717) 720-7314; and Mark Conte, Chief, Housing Standards

Division, Office of Community Development, Department of Community and Economic Development, Commonwealth Keystone Building, 4th Floor, 400 North Street, Harrisburg, PA 17120, (717) 720-7416.

DENNIS YABLONSKY,
Secretary

Fiscal Note: 4-82. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 12. COMMERCE, TRADE AND LOCAL GOVERNMENT

PART V. COMMUNITY AFFAIRS AND DEVELOPMENT

Subpart C. COMMUNITY DEVELOPMENT AND HOUSING

CHAPTER 149. MANUFACTURED HOUSING IMPROVEMENT PROGRAM

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§ 149.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Manufactured Housing Improvement Act (35 P. S. §§ 1658.1—1658.6).

Attachment—Wind storm protection accomplished by one of the following:

(i) Securing the manufactured home to the foundation.

(ii) An alternative system, which is approved for use by the manufacturer through its DAPIA approved design, to secure the manufactured home to the foundation.

(iii) Other requirements of the manufacturer necessary to provide an integrated, fully compliant manufactured home.

Building code official—As defined in section 3 of the act (35 P. S. § 1658.3).

Certificate of Compliance—A form developed by the Department which bears the signature of the installer of a new manufactured home and certifies that the new manufactured home was installed in accordance with the manufacturer's approved design and complies with all nonconstruction requirements of the Uniform Construction Code, relating to the installation of a new manufactured homes, which are not addressed by the Manufactured Home Construction and Safety Standards.

Construction code official—As defined in section 103 of the Pennsylvania Construction Code Act (35 P. S. § 7210.103).

DAPIA—The Design Approval Primary Inspection Agency, as defined in the Manufactured Home Procedural and Enforcement Regulations (24 CFR 3282.361 (relating to Design Approval Primary Inspection Agency (DAPIA))).

Department—The Department of Community and Economic Development of the Commonwealth.

HUD—The United States Department of Housing and Urban Development.

Installation—As defined in section 3 of the act.

Installer—As defined in section 3 of the act.

Manufactured Home Construction and Safety Standards—As defined in section 3 of the act

Manufactured housing or manufactured home—As defined in section 3 of the act

Manufacturer—A person engaged in manufacturing or assembling manufactured homes, including a person engaged in importing manufactured homes for resale.

Manufacturer's approved design—

(i) As defined in section 3 of the act.

(ii) The term includes drawings, instructions, illustrations, documentation or procedures submitted by a manufacturer and approved by the manufacturer's DAPIA, which assures that the new manufactured home, or any part thereof, including the support, stabilization and assembly, is in compliance with the Manufactured Home Construction and Safety Standards.

Purchaser—The first person purchasing a new manufactured home for purposes other than resale.

Retailer—A person engaged in the sale, leasing or distribution of a new manufactured home directly to a purchaser.

UCC—Uniform Construction Code—The Uniform Construction Code adopted under section 301 of the Pennsylvania Construction Code Act (35 P. S. § 7210.301).

Utility connections—Connections not provided by the manufacturer of the new manufactured home which connect the new manufactured home to the utility service provider.

§ 149.2. Purpose.

This chapter interprets and makes specific the provisions of the act. This chapter establishes administrative procedures for the implementation of the act. The procedures comply with the Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C.A. §§ 5401—5426) and the Manufactured Home Construction and Safety Standards. More specifically, this chapter is intended to achieve the following objectives:

(1) Designate appropriate training programs for those persons that install new manufactured homes, to provide them with a thorough understanding of manufactured home construction and to assure that the manufactured homes they install comply with the act, the Manufactured Home Construction and Safety Standards and the UCC, as applicable.

(2) Establish a system to certify those persons who successfully complete the training program as installers of new manufactured homes.

(3) Provide training for those persons who inspect new manufactured home installations under the act, the Manufactured Home Construction and Safety Standards and the UCC.

(4) Provide that new manufactured home construction, installations and completion onsite be performed in a manner consistent with the home manufacturer's DAPIA approved designs.

(5) Establish a mechanism to verify to the Department, building code officials and purchasers that new manufactured homes are completed and installed by an installer of manufactured homes who was certified by the Depart-

ment and that the homes comply with the Manufactured Home Construction and Safety Standards and applicable building codes.

(6) Establish appropriate fees for the educational programs, testing and certification of installers of manufactured homes, as well as those who inspect the installation of manufactured homes.

(7) Establish procedures for the Department to issue warnings, suspensions, revocations or monetary fines against persons who violate the act or this chapter.

§ 149.3. Installation standard.

(a) In accordance with the Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C.A. §§ 5401—5426), a manufacturer of a new manufactured home shall provide a copy of the manufacturer's approved design, which includes instructions for the installation of the new manufactured home, to the purchaser, retailer or installer of the new manufactured home.

(b) In accordance with the Manufactured Housing Construction and Safety Standards Act of 1974, a new manufactured home shall be installed consistent with the manufacturer's approved design.

(1) The manufacturer's approved design must be current, complete, easily understood and compatible with the home being installed.

(2) The manufacturer's approved design must fully address the support, attachment, assembly and all other aspects of manufactured home construction and installation to assure that the manufactured home performs as a fully integrated structure and complies with all elements of the Manufactured Home Construction and Safety Standards.

(c) A design other than the manufacturer's approved design may not be utilized in the installation of a new manufactured home without authorization of the manufacturer and evaluation and approval by the manufacturer's DAPIA.

(d) A building code official may not reject a manufacturer's approved design for any reason, including, but not limited to, the fact that the material was not reviewed, approved, sealed or certified by an engineer, architect or similar person licensed in this Commonwealth. If a building code official believes a manufacturer's approved design was approved by a DAPIA in error or questions the validity of a manufacturer's approved design, the building code official should contact the Department, which will investigate the matter.

§ 149.4. Installer training and certification.

(a) *Training.*

(1) The Department will develop or designate acceptable training curricula for individuals seeking certification as an installer. The Department will annually review the training curricula.

(2) Those desiring to provide training shall submit an application to the Department. The application must contain the application fee, the proposed curriculum and any other information the Department requests to evaluate the submittal.

(3) Upon approval of a training curriculum, a training provider shall coordinate the scheduling of courses with the Department. A training provider shall set the tuition for the training, after consultation with the Department. Upon completion of each course, a training provider shall submit to the Department a list of course participants

and the required fee for each participant. A training provider shall indicate on the list of course participants which participants successfully completed the course.

(4) The Department will publish annually a list of approved curriculum in the *Pennsylvania Bulletin*. Individuals seeking certification as an installer may also contact the Department to obtain a listing of the approved curriculum.

(b) *Certification.*

(1) Individuals seeking certification as an installer shall successfully complete the designated training curriculum; provide evidence of the successful completion of the designated training curriculum at the time of application; and pay the required fee to the Department. An individual does not qualify as and may not represent himself to be an installer until the individual has received written certification from the Department.

(2) Certification as an installer is valid for 1 year from the date of issuance by the Department. Installers shall reapply for certification each year.

(3) An installer is required to successfully complete a specified training curriculum at least every 3 years.

(4) A person who has successfully completed a training curriculum approved by the Department as described in paragraph (1), prior to _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.*), may apply for certification as an installer in the manner provided in this section without successfully completing an additional training curriculum. If the training curriculum was successfully completed more than 2 years before _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.*), the applicant has 12 months to comply with paragraph (3).

§ 149.5. Building code official training.

Building code officials who inspect the installation of new manufactured homes shall successfully complete a course or workshop approved by the Department and shall do so every 3 years to continue inspecting the installation of new manufactured homes.

§ 149.6. Certificate of Compliance.

(a) Upon completion of the installation of a new manufactured home, an installer shall complete a certificate of compliance. An installer is not required to complete a certificate of compliance for installation of items such as, but not limited to, a porch or steps, if the items are not part of the manufacturer's approved design or covered by the Manufactured Home Construction and Safety Standards.

(b) Within 5 calendar days of completion of the installation of a new manufactured home, the installer of the new manufactured home shall forward the Certificate of Compliance to the Department.

(c) A building code official may not issue a certificate of occupancy for a new manufactured home until the official has received a completed copy of the Certificate of Compliance filed with the Department.

(d) The installer of a new manufactured home shall attach the original completed certificate of compliance to the installation instructions that remain with the home or hand deliver the certificate of compliance and the installation instructions to the purchaser.

(e) If the manufacturer or retailer has not agreed in writing to be responsible to the purchaser for the installation of the new manufactured home prior to the execution of the sales documents, the manufacturer or retailer shall provide the purchaser with a written statement that the home shall be installed as described in § 149.3(b) and (c) (relating to installation standard), and that the certificate of compliance shall be completed and signed by an installer certified under § 149.4(b) (relating to installer training and certification). At that same time, the manufacturer or retailer shall provide the purchaser with a list of installers known to him or obtained from the Department. By providing the list, the manufacturer or retailer does not warrant the quality of the installers' work, nor is the purchaser under any obligation to use any particular installer.

§ 149.7. Fees.

(a) The Department will charge training providers the following fees:

(1) \$400 for each curriculum evaluated by the Department payable upon submission of the application.

(2) \$50 for each person registered to participate in an approved training curriculum.

(b) The Department will charge installers an annual fee of \$150 for the issuance of an individual installer certification.

(c) The Department may change the fee schedule by publication of a notice in the *Pennsylvania Bulletin*.

§ 149.8. Penalties.

(a) *General.*

(1) The Department may suspend or revoke the certification of any person who violates the act or this chapter or for whom the Department receives one or more of the following:

(i) Homeowner complaints.

(ii) Complaints from building code officials regarding performance of duties.

(iii) Evidence of a conviction of moral turpitude or similar crime.

(iv) Information that indicates a repeated failure to properly install manufactured homes.

(v) Evidence of fraud.

(vi) Evidence of loss of licensure or certification issued by another state or the Department of Housing and Urban Development.

(vii) Evidence of a violation of the Manufactured Home Procedural and Enforcement Regulations.

(2) Before the Department suspends or revokes a certification, the Department will provide written notification to the certified person. The Department will specify in the notification the reason for the suspension or revocation and a time and place for a hearing on the matter, to be held within 30 days of notification.

(b) *Civil penalties.* Additionally, the Department may impose a civil penalty of up to \$1,000 on any person who violates the act or this chapter. The Department may impose the penalty only after affording the accused party the opportunity for a hearing, as provided in 2 Pa.C.S. (relating to administrative law and procedure).

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