

TESTIMONY OF
PENNSYLVANIA MANUFACTURED HOUSING ASSOCIATION
BEFORE THE COMMERCE COMMITTEE
OF THE
PENNSYLVANIA HOUSE of REPRESENTATIVES
ON
CODIFYING THE PROVISIONS OF THE MOTOR VEHICLE SALES
FINANCE ACT AND THE GOODS AND SERVICES INSTALLMENT
ACT

DECEMBER 16, 2009

PRESENTED BY
MARY GAISKI
EXECUTIVE VICE PRESIDENT
PENNSYLVANIA MANUFACTURED HOUSING ASSOCIATION

The Pennsylvania Manufactured Housing Association (PMHA) is a non-profit trade association representing the factory built housing industry. Our membership consists of the manufacturers who build manufactured and modular homes, retailers who sell the homes, installers, suppliers, transporters, insurance, lenders as well as developers, owners and managers of land leased manufactured housing communities.

Factory built housing is big business in Pennsylvania. Not only does it provide a viable affordable housing option to the citizens of the Commonwealth, it also provides jobs to over 10,000 residents and contributes billions of dollars to the local and state economy.

First of all we think it is important that the committee understands our industry, and that the homes talked about here today are built to a national building code supervised by HUD and are commonly called manufactured homes. Due to the fact that they are built with a chassis – purely for the purpose of transporting the home to the building site – they fall under laws that regulate “vehicles.” Due to our vehicular history, the manufacturers who built the homes and the retailers who sell the homes along with their sales people are required to be licensed under the Vehicle Licensing Act. In addition, our homes are titled therefore we must comply with various sections of the vehicle code and for those who are involved in helping consumers secure loans many in the industry fall under the jurisdiction of the Motor Vehicle Sales Finance Act (MVSFA).

Secondly, the committee needs to understand that consumers purchasing manufactured homes today have several options available to them when it comes to siting the home. It is the siting of the home that determines the type of financing the consumer will have available to them. Traditionally, due to widespread zoning discrimination, manufactured homes were placed in land leased communities, where the land is leased to a person who owns a manufactured home. The lending products for homes placed in a land lease community are chattel also known as installment since the product being financed is considered personal property versus real property. The lender's security is protected by a title, the same as an automobile loan. If the home is placed on land owned by the homeowner then a mortgage type loan can be secured and the lender has the option of

retiring the title on the home. Even if the home is placed on private property, many times the home is financed as an installment loan versus mortgage since historically that is how it has been done. In short, we are a hybrid – we are treated as vehicles while at the same time we are housing.

Since our industry is regulated by the Commonwealth's consumer credit laws, we were active on the Advisory Committee that was formed to review the consumer credit code laws to determine if changes were needed to make them compatible with today's laws and practices. Specifically, we participated in review of the MVSFA. The majority of those recommendations are found in HB 506.

Most issues were resolved by the Advisory Committee. However, one was not, and we wish to go on record in opposition to the inclusion of Section 6210 in HB 506 which attempts to regulate "mark-ups." Though this is directed primarily towards the automobile industry it is our position that it is contrary to the practices of our free enterprise system. Consumers are better served when markets, not government, determines the cost of goods and services. We encourage the removal of Section 6210 allowing the consumer to determine what they are willing to pay for service, warranty and debt agreement programs.

Of great importance to our industry are changes that have happened in the lending industry since the conclusions of the Advisory Committee. The mortgage lending industry has undergone drastic changes that directly impacts manufactured housing which needs to be brought to this committee's attention.

As previously indicated in our testimony lending programs for consumers purchasing manufactured homes are regulated under the MVSFA. This changed when the Mortgage Licensing Act (MLA) was signed into law; we were not involved in this process. Act 31 was passed to bring the Commonwealth in compliance with the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008" (SAFE) a federal law which provides for the licensing of individuals engaged in mortgage lending. Even though Pennsylvania

already licensed mortgage lenders and brokers the PA Department of Banking needed to make changes that were not included in their current licensing laws but were required by SAFE.

When the MLA went into effect on August 5, 2009 no consideration was given to the fact that it is in direct conflict with licensing requirements under the MVSFA. The MVSFA adequately licenses entities such as manufactured housing retailers engaged in actions involving the financing of titled property. Due to the expanded definitions in the MLA these activities will now require additional licensing under the MLA requiring the manufactured housing industry to hold several licenses, which is costly, and answer to two masters at a time that the housing industry is struggling due to the stressed economic conditions.

In addition, when Congress drafted the SAFE Act, there was clearly no intent to include manufactured housing retailers within the universe of persons who should be licensed loan originators. The reason for this is because in the federal SAFE Act, Congress defines the term “loan originator” as an individual who “takes a residential loan application **and** offers and negotiates terms of a residential mortgage loan for compensation or gain.” Because retailers do not offer or negotiate loan terms for compensation or gain, they clearly would not be covered under the federal definition. When Pennsylvania passed their law they changed the word “and” to “or”, greatly expanding upon Congress’s definition and allowing it to be interpreted to include anyone who takes a loan application including a manufactured housing retailer.

Manufactured housing retailer’s – like auto dealers – do take credit applications and pass the application on to lenders who are known to finance manufactured homes. Our customers expect this from the person selling them the home. However, for the most part that is all they do, take the credit application. They do not offer or negotiate loan terms – loan terms are determined by the lenders who create the programs to finance the homes.

Another concern is the Department of Banking's interpretation of "for compensation or gain." They are interpreting "for compensation or gain" in its broadest sense. It is Banking's position that if the retailer is compensated in any way, including the profit made on the sale of the home; they would fall under the jurisdiction of Act 31. Again, it is our understanding this was not the intent of Congress.

The costs to comply have increased dramatically – the cost of a license under the MVSFA is \$250 and to perform the same responsibilities under the MLA the license alone costs a retailer a minimum of \$1330 in addition to increased bonding limits, and costs related to training and testing. All told the out of pocket expenses are reaching close to \$5000 per retail center.

For retailers and communities owners who have what is known as "buy here pay here" programs the cost to comply with the MLA is even more costly and more onerous (i.e. must have a one million dollar line of credit) forcing many of these programs to be closed down. This is most distressing since it comes at a time when programs such as "buy here pay here" are the only way many consumers can purchase a home, the only way many of our retailers can keep their doors open and the only way communities can keep their rental sites occupied.

We are currently meeting with the PA Department of Banking trying to work through a solution that will keep Pennsylvania in compliance with SAFE and at the same time minimize the huge costs it has placed on the manufactured housing industry which directly impacts the availability of lending for consumers purchasing manufactured homes.

Though we do not have a definitive plan worked out, we feel legislative changes are needed to eliminate dual licenses for manufactured housing retailers who merely "takes a residential loan application" and forwards it to a licensed mortgage lender or broker.

We appreciate the opportunity to present our issues to this committee and hope that this committee will be willing to help the manufactured housing industry eliminate these burdensome mandates in a timely manner, by amending the MVSFA or MLA.