

104TH CONGRESS  
2D SESSION

# H. R. 3404

To amend title VI of the Housing and Community Development Act of 1974 to establish a consensus committee for maintenance and revision of the Federal manufactured home construction and safety standards, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 7, 1996

Mr. McINTOSH introduced the following bill; which was referred to the  
Committee on Banking and Financial Services

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## A BILL

To amend title VI of the Housing and Community Development Act of 1974 to establish a consensus committee for maintenance and revision of the Federal manufactured home construction and safety standards, and for other purposes.

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 “Safe and Affordable Manufactured Housing Improve-  
6 ment 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. DEFINITIONS.**

7 Section 603 (42 U.S.C. 5402) is amended—

8 (1) by striking paragraph (7) and inserting the  
9 following new paragraph:

10 “(7) ‘Federal manufactured home construction  
11 and safety standard’ means a reasonable perform-  
12 ance standard for the construction, design, and  
13 transportation of a manufactured home which meets  
14 the needs of the public including the need for afford-  
15 ability, quality, durability, and safety;”;

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

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

20 (4) by adding at the end thereof the following  
21 new paragraphs:

22 “(14) ‘consensus committee’ means the body es-  
23 tablished to provide periodic recommendations to the  
24 Secretary pursuant to the provisions of section 604;

1           “(15) ‘consensus process’ means the process by  
2           which the consensus committee, established pursuant  
3           to section 604, recommends to the Secretary any ad-  
4           ditions, revocations, and/or amendments to the Fed-  
5           eral manufactured home construction and safety  
6           standards and any related interpretations;

7           “(16) ‘transportation’ means the movement of a  
8           manufactured home or manufactured home compo-  
9           nents from the manufacturing facility to a retailer’s  
10          place of business or a location selected by the pur-  
11          chaser, and the movement of a manufactured home  
12          or manufactured home components from the  
13          retailer’s place of business to a site selected by the  
14          home purchaser, where applicable; and

15          “(17) ‘Secretariat’ means the qualified technical  
16          or building code maintenance organization selected  
17          by the Secretary to administer the consensus proc-  
18          ess, and to appoint the members of the consensus  
19          committee established under section 604.”.

20 **SEC. 3. FEDERAL MANUFACTURED HOME CONSTRUCTION**  
21 **AND SAFETY STANDARDS.**

22          (a) IN GENERAL.—Section 604 (42 U.S.C. 5403) is  
23 amended—

24                 (1) by striking subsection (a) and inserting the  
25                 following new subsection:

1 “(a) ESTABLISHMENT.—

2 “(1) AUTHORITY OF SECRETARY.—The Sec-  
3 retary shall establish, by order, appropriate Federal  
4 manufactured home design, construction, transpor-  
5 tation, and safety performance standards that shall  
6 be reasonable, practicable, objectively stated, and re-  
7 flective of current developments in building stand-  
8 ards and technology. The Secretary shall issue such  
9 orders pursuant to the consensus process described  
10 in this section.

11 “(2) ESTABLISHMENT OF CONSENSUS COMMIT-  
12 TEE AND PROCEDURES.—Not later than 180 days  
13 after the date of the enactment of the Manufactured  
14 Housing Improvement Act of 1996, the Secretary, in  
15 accordance with all relevant statutes, regulations, or-  
16 ders, and directives pertaining to competitively bid  
17 procurement, shall enter into a contract with a  
18 qualified technical or building code organization to  
19 administer a consensus process as its secretariat and  
20 to establish a manufactured housing consensus com-  
21 mittee and appoint the members of that committee.  
22 The performance of such secretariat shall be re-  
23 viewed by the Secretary on a periodic basis. The  
24 consensus committee shall be exempt from the re-  
25 quirements of the Federal Advisory Committee Act.

1 All meetings shall be open to the public, and ad-  
2 vance notice of such meetings shall be provided in  
3 the Federal Register. Any final action by the consen-  
4 sus committee shall be taken only after notice to the  
5 public and opportunity for public comment in ac-  
6 cordance with the provisions of section 553 and sub-  
7 chapter II of chapter 5 of title 5, United States  
8 Code.

9 “(3) SELECTION AND QUALIFICATIONS.—The  
10 consensus committee shall function, and its members  
11 shall be selected, in accordance with the procedures  
12 for consensus committees promulgated by the Amer-  
13 ican National Standards Institute. Members of the  
14 consensus committee shall be qualified to participate  
15 in the work of the committee. The consensus com-  
16 mittee and the secretariat organization shall be cer-  
17 tified by the American National Standards Institute  
18 and shall be provided reasonable staff resources by  
19 the administering organization.

20 “(4) RESPONSIBILITIES.—The consensus com-  
21 mittee established under this subsection shall be re-  
22 sponsible for the maintenance and revision of the  
23 Federal manufactured home construction and safety  
24 standards, including the interpretation of such  
25 standards.

1           “(5) REVISIONS TO STANDARDS.—The consen-  
2           sus committee shall consider additions, deletion, and  
3           amendments to the Federal manufactured home con-  
4           struction and safety standards, as needed, over a 2-  
5           year cycle. The consensus committee, after notice  
6           and an opportunity for public comment, shall pub-  
7           lish any proposed standards or revisions and notice  
8           of their submission to the Secretary, in the Federal  
9           Register. This notice shall describe the cir-  
10          cumstances under which the proposed standards  
11          could become effective.

12          “(6) SECRETARY’S RESPONSE.—The Secretary  
13          may either adopt or reject the standards submitted  
14          by the consensus committee. A final order adopting  
15          such a standard, or rejecting such a standard, shall  
16          be issued by the Secretary no later than 180 days  
17          after the date the proposed standard or regulation is  
18          submitted to the Secretary by the consensus commit-  
19          tee, and shall be published in the Federal Register.  
20          In the event that the Secretary rejects, in whole or  
21          in part, such a standard, such publication shall be  
22          preceded by publication of the proposed standard  
23          and the Secretary’s proposed final order for public  
24          comment in accordance with section 553 and sub-

1 chapter II of chapter 5 of title 5, United States  
2 Code.

3 “(7) FAILURE TO TAKE ACTION.—If the Sec-  
4 retary fails to take final action under paragraph (6)  
5 and publish notice of the action in the Federal Reg-  
6 ister within the required 180-day period, the rec-  
7 ommendations of the consensus committee shall take  
8 effect 60 days after the 180-day period. Within 10  
9 days after the expiration of the 180-day period, the  
10 consensus committee shall publish in the Federal  
11 Register notice of the Secretary’s failure to act, the  
12 revised standards, and the effective date of the re-  
13 vised standards.

14 “(8) INTERIM EMERGENCY STANDARDS.—The  
15 Secretary shall have the authority at any time to re-  
16 quest that the consensus committee develop interim  
17 emergency performance standards or amendments to  
18 the standards, when necessary to respond to a  
19 health or safety emergency, as determined by the  
20 Secretary in writing. The consensus committee shall  
21 have 60 days to submit such proposed interim stand-  
22 ards or amendments following a request by the Sec-  
23 retary.

24 “(9) WRITTEN INTERPRETATIONS.—Upon re-  
25 quest from an interested party and after a finding

1 that such an interpretation is reasonably necessary,  
2 the consensus committee shall submit to the Sec-  
3 retary written interpretations of the Federal manu-  
4 factured home construction and safety standards.  
5 These interpretations shall become binding upon the  
6 completion of notice and comment rulemaking proce-  
7 dures by the Secretary in accordance with section  
8 553 and subchapter II of chapter 5 of title 5, United  
9 States Code, which shall be instituted within 180  
10 days of the Secretary's receipt of such an interpreta-  
11 tion. The Secretary may reject, in whole or in part,  
12 an interpretation only upon a written finding that  
13 the interpretation is inconsistent with the purposes  
14 of this title.”;

15 (2) in subsection (b)—

16 (A) by striking “All” and inserting “Ex-  
17 cept as expressly provided herein, all”; and

18 (B) by inserting “and subchapter II of  
19 chapter 5” after “section 553”;

20 (3) in subsection (c), by striking “Each” and  
21 all that follows through “effect,” and inserting the  
22 following: “Each order establishing, amending, delet-  
23 ing, or interpreting a Federal manufactured home  
24 construction and safety standard shall specify the

1 date such standard, amendment, or interpretation is  
2 to take effect,”;

3 (4) by striking subsections (d), (e), (f), and (g)  
4 and inserting the following new subsections:

5 “(d) PREEMPTION.—Except as may otherwise be ex-  
6 pressly authorized by the provisions of this title, a State  
7 or local unit of government shall not establish, continue  
8 in effect, or enforce any standard pertaining to the design,  
9 construction, transportation, or safety of manufactured  
10 homes after the effective date of the United States Hous-  
11 ing Act of 1996. The standards mandated by this title are  
12 deemed complete and exhaustive and shall supersede and  
13 preempt State and local law and regulations.

14 “(e) CONSIDERATIONS.—The consensus committee,  
15 in recommending performance standards and issuing in-  
16 terpretations, and the Secretary, in establishing such  
17 standards and standards interpretations under this title,  
18 shall—

19 “(1) consider relevant, reliable manufactured  
20 home construction and safety data, including the re-  
21 sults of the research, development, testing, and eval-  
22 uation activities conducted pursuant to this title,  
23 and those activities conducted by private organiza-  
24 tions and other governmental agencies to determine  
25 how best to promote the purposes of this title;

1           “(2) consult with such State or interstate agen-  
2           cies (including legislative committees) as they deem  
3           appropriate;

4           “(3) consider whether any such proposed per-  
5           formance standard or standard interpretation is rea-  
6           sonable for the particular type of manufactured  
7           home or for the geographic region for which it is  
8           adopted;

9           “(4) consider the probable effect of such stand-  
10          ard or standard interpretation on the cost of the  
11          manufactured homes to purchasers and potential  
12          purchasers; and

13          “(5) consider the extent to which any such  
14          standard or standard interpretation will contribute  
15          to carrying out the purposes of this title.”;

16          (5) by redesignating subsections (h), (i), and (j)  
17          as subsections (f), (h), and (i), respectively;

18          (6) by inserting after subsection (f) (as so re-  
19          designated by paragraph (5) of this subsection) the  
20          following new subsection:

21          “(g) EVALUATION METHODOLOGIES.—Based on a  
22          finding of need, as determined in writing by the Secretary,  
23          the consensus committee may, in accordance with the pro-  
24          visions of this section, establish reasonable, cost-effective,  
25          uniform evaluation methodologies in order to determine

1 compliance with existing standards, or may evaluate pro-  
2 posed methodologies.”; and

3 (7) by adding at the end the following new sub-  
4 section:

5 “(j) **REQUIRED USE OF CONSENSUS PROCESS.**—  
6 After the date of the enactment of the Manufactured  
7 Housing Improvement Act of 1996, the Secretary shall not  
8 adopt or amend any standards or standards interpreta-  
9 tions other than through the consensus process set forth  
10 in this section.”.

11 (b) **CONFORMING AMENDMENT.**—Section 610 (42  
12 U.S.C. 5409(a)(6)) is amended by striking “subsection  
13 (h)” and inserting “subsection (f)”.

14 **SEC. 4. INSPECTION FEES.**

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

17 “INSPECTION AND COLLECTION AND UTILIZATION OF  
18 FEES

19 “SEC. 620. (a) **ESTABLISHMENT.**—The Secretary  
20 may establish and impose, on manufactured home manu-  
21 facturers, distributors, and dealers, a reasonable fee to off-  
22 set the necessary expenses incurred in conducting the in-  
23 spections required by this title and the expenses incurred  
24 by the consensus committee in performing its duties under  
25 this title. Such fees shall be established and/or modified  
26 pursuant to notice and comment rulemaking in accordance

1 with section 553 and subchapter II of chapter 5 of title  
2 5, United States Code.

3 “(b) USE.—Fees collected pursuant to this title shall  
4 be deposited in a dedicated fund and shall be expended  
5 only for the functions specified in subsection (a), and shall  
6 be subject for expenditure only to the extent approved in  
7 an appropriations Act. The Secretary shall provide an an-  
8 nual report to the Congress specifying expenditures of  
9 these funds. The Secretary shall also make available to  
10 the public, in accordance with all applicable disclosure  
11 statutes, regulations, orders, or directives, information  
12 pertaining to such funds, including but not limited to, in-  
13 formation pertaining to amounts collected, amounts dis-  
14 bursed, and the fund balance.”.

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