

106TH CONGRESS
2D SESSION

S. 1452

AN ACT

To modernize the requirements under the National Manufactured Housing Construction and Safety Standards Act of 1974 and to establish a balanced consensus process for the development, revision, and interpretation of Federal construction and safety standards for manufactured homes.

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; TABLE OF CONTENTS; REF-**
4 **ERENCES.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Manufactured Housing Improvement Act of 2000”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

- Sec. 1. Short title; table of contents; references.
- Sec. 2. Findings and purposes.
- Sec. 3. Definitions.
- Sec. 4. Federal manufactured home construction and safety standards.
- Sec. 5. Abolishment of National Manufactured Home Advisory Council; manu-
 factured home installation.
- Sec. 6. Public information.
- Sec. 7. Research, testing, development, and training.
- Sec. 8. Fees.
- Sec. 9. Dispute resolution.
- Sec. 10. Elimination of annual reporting requirement.
- Sec. 11. Effective date.
- Sec. 12. Savings provisions.

3 (c) REFERENCES.—Whenever in this Act an amend-
 4 ment is expressed in terms of an amendment to, or repeal
 5 of, a section or other provision, the reference shall be con-
 6 sidered to be made to that section or other provision of
 7 the National Manufactured Housing Construction and
 8 Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.).

9 **SEC. 2. FINDINGS AND PURPOSES.**

10 Section 602 (42 U.S.C. 5401) is amended to read as
 11 follows:

12 **“SEC. 602. FINDINGS AND PURPOSES.**

13 “(a) FINDINGS.—Congress finds that—

14 “(1) manufactured housing plays a vital role in
 15 meeting the housing needs of the Nation; and

16 “(2) manufactured homes provide a significant
 17 resource for affordable homeownership and rental
 18 housing accessible to all Americans.

19 “(b) PURPOSES.—The purposes of this title are—

1 “(1) to facilitate the acceptance of the quality,
2 durability, safety, and affordability of manufactured
3 housing within the Department of Housing and
4 Urban Development;

5 “(2) to facilitate the availability of affordable
6 manufactured homes and to increase homeownership
7 for all Americans;

8 “(3) to provide for the establishment of prac-
9 tical, uniform, and, to the extent possible, perform-
10 ance-based Federal construction standards for man-
11 ufactured homes;

12 “(4) to encourage innovative and cost-effective
13 construction techniques for manufactured homes;

14 “(5) to protect owners of manufactured homes
15 from unreasonable risk of personal injury and prop-
16 erty damage;

17 “(6) to establish a balanced consensus process
18 for the development, revision, and interpretation of
19 Federal construction and safety standards for manu-
20 factured homes and related regulations for the en-
21 forcement of such standards;

22 “(7) to ensure uniform and effective enforce-
23 ment of Federal construction and safety standards
24 for manufactured homes; and

1 “(8) to ensure that the public interest in, and
 2 need for, affordable manufactured housing is duly
 3 considered in all determinations relating to the Fed-
 4 eral standards and their enforcement.”.

5 **SEC. 3. DEFINITIONS.**

6 (a) IN GENERAL.—Section 603 (42 U.S.C. 5402) is
 7 amended—

8 (1) in paragraph (2), by striking “dealer” and
 9 inserting “retailer”;

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

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

14 (4) by adding at the end the following:

15 “(14) ‘administering organization’ means the
 16 recognized, voluntary, private sector, consensus
 17 standards body with specific experience in developing
 18 model residential building codes and standards in-
 19 volving all disciplines regarding construction and
 20 safety that administers the consensus standards
 21 through a development process;

22 “(15) ‘consensus committee’ means the com-
 23 mittee established under section 604(a)(3);

24 “(16) ‘consensus standards development proc-
 25 ess’ means the process by which additions, revisions,

1 and interpretations to the Federal manufactured
2 home construction and safety standards and enforce-
3 ment regulations shall be developed and rec-
4 ommended to the Secretary by the consensus com-
5 mittee;

6 “(17) ‘primary inspection agency’ means a
7 State agency or private organization that has been
8 approved by the Secretary to act as a design ap-
9 proval primary inspection agency or a production in-
10 spection primary inspection agency, or both;

11 “(18) ‘design approval primary inspection agen-
12 cy’ means a State agency or private organization
13 that has been approved by the Secretary to evaluate
14 and either approve or disapprove manufactured
15 home designs and quality control procedures;

16 “(19) ‘installation standards’ means reasonable
17 specifications for the installation of a manufactured
18 home, at the place of occupancy, to ensure proper
19 siting, the joining of all sections of the home, and
20 the installation of stabilization, support, or anchor-
21 ing systems;

22 “(20) ‘monitoring’—

23 “(A) means the process of periodic review
24 of the primary inspection agencies, by the Sec-
25 retary or by a State agency under an approved

1 State plan pursuant to section 623, in accord-
 2 ance with regulations recommended by the con-
 3 sensus committee and promulgated in accord-
 4 ance with section 604(b), which process shall be
 5 for the purpose of ensuring that the primary in-
 6 spection agencies are discharging their duties
 7 under this title; and

8 “(B) may include the periodic inspection of
 9 retail locations for transit damage, label tam-
 10 pering, and retailer compliance with this title;
 11 and

12 “(21) ‘production inspection primary inspection
 13 agency’ means a State agency or private organiza-
 14 tion that has been approved by the Secretary to
 15 evaluate the ability of manufactured home manufac-
 16 turing plants to comply with approved quality con-
 17 trol procedures and with the Federal manufactured
 18 home construction and safety standards promulgated
 19 under this title.”.

20 (b) CONFORMING AMENDMENTS.—The National
 21 Manufactured Housing Construction and Safety Stand-
 22 ards Act of 1974 (42 U.S.C. 5401 et seq.) is amended—

23 (1) in section 613 (42 U.S.C. 5412), by striking
 24 “dealer” each place it appears and inserting “re-
 25 tailer”;

(2) in section 614(f) (42 U.S.C. 5413(f)), by striking “dealer” each place it appears and inserting “retailer”;

(3) in section 615 (42 U.S.C. 5414)—

(A) in subsection (b)(1), by striking “dealer” and inserting “retailer”;

(B) in subsection (b)(3), by striking “dealer or dealers” and inserting “retailer or retailers”; and

(C) in subsections (d) and (f), by striking “dealers” each place it appears and inserting “retailers”;

(4) in section 616 (42 U.S.C. 5415), by striking “dealer” and inserting “retailer”; and

(5) in section 623(c)(9), by striking “dealers” and inserting “retailers”.

**SEC. 4. FEDERAL MANUFACTURED HOME CONSTRUCTION
AND SAFETY STANDARDS.**

Section 604 (42 U.S.C. 5403) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

“(a) ESTABLISHMENT.—

“(1) AUTHORITY.—The Secretary shall establish, by order, appropriate Federal manufactured

1 home construction and safety standards, each of
 2 which—

3 “(A) shall—

4 “(i) be reasonable and practical;

5 “(ii) meet high standards of protec-
 6 tion consistent with the purposes of this
 7 title; and

8 “(iii) be performance-based and objec-
 9 tively stated, unless clearly inappropriate;
 10 and

11 “(B) except as provided in subsection (b),
 12 shall be established in accordance with the con-
 13 sensus standards development process.

14 “(2) CONSENSUS STANDARDS AND REGU-
 15 LATORY DEVELOPMENT PROCESS.—

16 “(A) INITIAL AGREEMENT.—Not later
 17 than 180 days after the date of enactment of
 18 the Manufactured Housing Improvement Act of
 19 2000, the Secretary shall enter into a contract
 20 with an administering organization. The con-
 21 tractual agreement shall—

22 “(i) terminate on the date on which a
 23 contract is entered into under subpara-
 24 graph (B); and

1 “(ii) require the administering organi-
2 zation to—

3 “(I) recommend the initial mem-
4 bers of the consensus committee
5 under paragraph (3);

6 “(II) administer the consensus
7 standards development process until
8 the termination of that agreement;
9 and

10 “(III) administer the consensus
11 development and interpretation proc-
12 ess for procedural and enforcement
13 regulations and regulations specifying
14 the permissible scope and conduct of
15 monitoring until the termination of
16 that agreement.

17 “(B) COMPETITIVELY PROCURED CON-
18 TRACT.—Upon the expiration of the 4-year pe-
19 riod beginning on the date on which all mem-
20 bers of the consensus committee are appointed
21 under paragraph (3), the Secretary shall, using
22 competitive procedures (as such term is defined
23 in section 4 of the Office of Federal Procure-
24 ment Policy Act), enter into a competitively
25 awarded contract with an administering organi-

1 zation. The administering organization shall ad-
2 minister the consensus process for the develop-
3 ment and interpretation of the Federal stand-
4 ards, the procedural and enforcement regula-
5 tions, and regulations specifying the permissible
6 scope and conduct of monitoring, in accordance
7 with this title.

8 “(C) PERFORMANCE REVIEW.—The
9 Secretary—

10 “(i) shall periodically review the per-
11 formance of the administering organiza-
12 tion; and

13 “(ii) may replace the administering
14 organization with another qualified tech-
15 nical or building code organization, pursu-
16 ant to competitive procedures, if the Sec-
17 retary determines in writing that the ad-
18 ministering organization is not fulfilling
19 the terms of the agreement or contract to
20 which the administering organization is
21 subject or upon the expiration of the
22 agreement or contract.

23 “(3) CONSENSUS COMMITTEE.—

24 “(A) PURPOSE.—There is established a
25 committee to be known as the ‘consensus com-

1 mittee’, which shall function as a single com-
2 mittee, and which shall, in accordance with this
3 title—

4 “(i) provide periodic recommendations
5 to the Secretary to adopt, revise, and inter-
6 pret the Federal manufactured housing
7 construction and safety standards in ac-
8 cordance with this subsection;

9 “(ii) provide periodic recommenda-
10 tions to the Secretary to adopt, revise, and
11 interpret the procedural and enforcement
12 regulations, including regulations speci-
13 fying the permissible scope and conduct of
14 monitoring in accordance with this sub-
15 section; and

16 “(iii) be organized and carry out its
17 business in a manner that guarantees a
18 fair opportunity for the expression and
19 consideration of various positions and for
20 public participation.

21 “(B) MEMBERSHIP.—The consensus com-
22 mittee shall be composed of—

23 “(i) 21 voting members appointed by
24 the Secretary, after consideration of the
25 recommendations of the administering or-

ganization under paragraph (2)(A)(ii)(I),
from among individuals who are qualified
by background and experience to partici-
pate in the work of the consensus com-
mittee; and

“(ii) 1 nonvoting member appointed
by the Secretary to represent the Secretary
on the consensus committee.

“(C) DISAPPROVAL.—The Secretary shall
state, in writing, the reasons for failing to ap-
point under subparagraph (B)(i) of this para-
graph any individual recommended by the ad-
ministering organization under paragraph
(2)(A)(ii)(I).

“(D) SELECTION PROCEDURES AND RE-
QUIREMENTS.—Each member of the consensus
committee shall be appointed in accordance
with selection procedures, which shall be based
on the procedures for consensus committees
promulgated by the American National Stand-
ards Institute (or successor organization), ex-
cept that the American National Standards In-
stitute interest categories shall be modified for
purposes of this paragraph to ensure equal rep-

1 resentation on the consensus committee of the
2 following interest categories:

3 “(i) PRODUCERS.—Seven producers or
4 retailers of manufactured housing.

5 “(ii) USERS.—Seven persons rep-
6 resenting consumer interests, such as con-
7 sumer organizations, recognized consumer
8 leaders, and owners who are residents of
9 manufactured homes.

10 “(iii) GENERAL INTEREST AND PUB-
11 LIC OFFICIALS.—Seven general interest
12 and public official members.

13 “(E) BALANCING OF INTERESTS.—

14 “(i) IN GENERAL.—In order to
15 achieve a proper balance of interests on
16 the consensus committee, the Secretary, in
17 appointing the members of the consensus
18 committee—

19 “(I) shall ensure that all directly
20 and materially affected interests have
21 the opportunity for fair and equitable
22 participation without dominance by
23 any single interest; and

24 “(II) may reject the appointment
25 of any 1 or more individuals in order

1 to ensure that there is not dominance
2 by any single interest.

3 “(ii) DOMINANCE DEFINED.—In this
4 subparagraph, the term ‘dominance’ means
5 a position or exercise of dominant author-
6 ity, leadership, or influence by reason of
7 superior leverage, strength, or representa-
8 tion.

9 “(F) ADDITIONAL QUALIFICATIONS.—

10 “(i) FINANCIAL INDEPENDENCE.—An
11 individual appointed under subparagraph
12 (D)(ii) may not have—

13 “(I) a significant financial inter-
14 est in any segment of the manufac-
15 tured housing industry; or

16 “(II) a significant relationship to
17 any person engaged in the manufac-
18 tured housing industry.

19 “(ii) POST-EMPLOYMENT BAN.—An
20 individual appointed under clause (ii) or
21 (iii) of subparagraph (D) shall be subject
22 to a ban disallowing compensation from
23 the manufactured housing industry during
24 the 1-year period beginning on the last day

1 of membership of that individual on the
2 consensus committee.

3 “(G) MEETINGS.—

4 “(i) NOTICE; OPEN TO PUBLIC.—The
5 consensus committee shall provide advance
6 notice of each meeting of the consensus
7 committee to the Secretary and cause to be
8 published in the Federal Register advance
9 notice of each such meeting. All meetings
10 of the consensus committee shall be open
11 to the public.

12 “(ii) REIMBURSEMENT.—Members of
13 the consensus committee in attendance at
14 meetings of the consensus committee shall
15 be reimbursed for their actual expenses as
16 authorized by section 5703 of title 5,
17 United States Code, for persons employed
18 intermittently in Government service.

19 “(H) INAPPLICABILITY OF OTHER LAWS.—

20 “(i) ADVISORY COMMITTEE ACT.—The
21 consensus committee shall not be consid-
22 ered to be an advisory committee for pur-
23 poses of the Federal Advisory Committee
24 Act.

1 “(ii) TITLE 18.—The members of the
2 consensus committee shall not be subject
3 to section 203, 205, 207, or 208 of title
4 18, United States Code, to the extent of
5 their proper participation as members of
6 the consensus committee.

7 “(iii) ETHICS IN GOVERNMENT ACT
8 OF 1978.—

9 “(I) IN GENERAL.—Subject to
10 subclause (II), the Ethics in Govern-
11 ment Act of 1978 (5 U.S.C. App.)
12 shall not apply to members of the con-
13 sensus committee to the extent of
14 their proper participation as members
15 of the consensus committee.

16 “(II) FINANCIAL DISCLOSURE.—
17 The Secretary shall collect from each
18 member of the consensus committee
19 the financial information required to
20 be disclosed under section 102 of the
21 Ethics in Government Act of 1978 (5
22 U.S.C. App.). Notwithstanding section
23 552 of title 5, United States Code,
24 such information shall be confidential
25 and shall not be disclosed to any per-

son, unless such disclosure is determined to be necessary by—

“(aa) the Secretary;

“(bb) the Chairman or Ranking Member of the Committee on Banking, Housing, and Urban Affairs of the Senate; or

“(cc) the Chairman or Ranking Member of the Committee on Banking and Financial Services of the House of Representatives.

“(III) PROHIBITION ON GIFTS FROM OUTSIDE SOURCES.—

“(aa) IN GENERAL.—Subject to item (bb), an individual who is a member of the consensus committee may not solicit or accept a gift of services or property (including any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value), if the gift is solicited or given because of the status of

1 that individual as a member of
2 the consensus committee.

3 “(bb) EXCEPTIONS.—The
4 Secretary shall by regulation es-
5 tablish such exceptions to item
6 (aa) as the Secretary determines
7 to be appropriate, which shall in-
8 clude an exception for de mini-
9 mus gifts.

10 “(I) ADMINISTRATION.—The consensus
11 committee and the administering organization
12 shall—

13 “(i) operate in conformance with the
14 procedures established by the American
15 National Standards Institute for the devel-
16 opment and coordination of American Na-
17 tional Standards; and

18 “(ii) apply to the American National
19 Standards Institute and take such other
20 actions as may be necessary to obtain ac-
21 creditation from the American National
22 Standards Institute.

23 “(J) STAFF AND TECHNICAL SUPPORT.—
24 The administering organization shall, upon the
25 request of the consensus committee—

1 “(i) provide reasonable staff resources
2 to the consensus committee; and

3 “(ii) furnish technical support in a
4 timely manner to any of the interest cat-
5 egories described in subparagraph (D) rep-
6 resented on the consensus committee, if—

7 “(I) the support is necessary to
8 ensure the informed participation of
9 the consensus committee members;
10 and

11 “(II) the costs of providing the
12 support are reasonable.

13 “(K) DATE OF INITIAL APPOINTMENTS.—
14 The initial appointments of all of the members
15 of the consensus committee shall be completed
16 not later than 90 days after the date on which
17 an administration agreement under paragraph
18 (2)(A) is completed with the administering or-
19 ganization.

20 “(4) REVISIONS OF STANDARDS AND REGULA-
21 TIONS.—

22 “(A) IN GENERAL.—Beginning on the date
23 on which all members of the consensus com-
24 mittee are appointed under paragraph (3), the

1 consensus committee shall, not less than once
2 during each 2-year period—

3 “(i) consider revisions to the Federal
4 manufactured home construction and safe-
5 ty standards and regulations; and

6 “(ii) submit to the Secretary in the
7 form of a proposed rule (including an eco-
8 nomic analysis), any proposed revised
9 standard or regulation approved by a $\frac{2}{3}$
10 majority vote of the consensus committee.

11 “(B) PUBLICATION OF PROPOSED REVISED
12 STANDARDS AND REGULATIONS.—

13 “(i) PUBLICATION BY SECRETARY.—
14 The consensus committee shall provide a
15 proposed revised standard or regulation
16 under subparagraph (A)(ii) to the Sec-
17 retary who shall, not later than 30 days
18 after receipt, publish such proposed revised
19 standard or regulation in the Federal Reg-
20 ister for notice and comment. Unless
21 clause (ii) applies, the Secretary shall pro-
22 vide an opportunity for public comment on
23 such proposed revised standard or regula-
24 tion and any such comments shall be sub-

mitted directly to the consensus committee,
without delay.

“(ii) PUBLICATION OF REJECTED
PROPOSED REVISED STANDARDS AND REG-
ULATIONS.—If the Secretary rejects the
proposed revised standard or regulation,
the Secretary shall publish in the Federal
Register the rejected proposed revised
standard or regulation, the reasons for re-
jection, and any recommended modifica-
tions set forth.

“(C) PRESENTATION OF PUBLIC COM-
MENTS; PUBLICATION OF RECOMMENDED REVI-
SIONS.—

“(i) PRESENTATION.—Any public
comments, views, and objections to a pro-
posed revised standard or regulation pub-
lished under subparagraph (B) shall be
presented by the Secretary to the con-
sensus committee upon their receipt and in
the manner received, in accordance with
procedures established by the American
National Standards Institute.

“(ii) PUBLICATION BY THE SEC-
RETARY.—The consensus committee shall

1 provide to the Secretary any revisions pro-
2 posed by the consensus committee, which
3 the Secretary shall, not later than 7 cal-
4 endar days after receipt, publish in the
5 Federal Register a notice of the rec-
6 ommended revisions of the consensus com-
7 mittee to the standards or regulations, a
8 notice of the submission of the rec-
9 ommended revisions to the Secretary, and
10 a description of the circumstances under
11 which the proposed revised standards or
12 regulations could become effective.

13 “(iii) PUBLICATION OF REJECTED
14 PROPOSED REVISED STANDARDS AND REG-
15 ULATIONS.—If the Secretary rejects the
16 proposed revised standard or regulation,
17 the Secretary shall publish in the Federal
18 Register the rejected proposed revised
19 standard or regulation, the reasons for re-
20 jection, and any recommended modifica-
21 tions set forth.

22 “(5) REVIEW BY THE SECRETARY.—

23 “(A) IN GENERAL.—The Secretary shall
24 either adopt, modify, or reject a standard or

1 regulation, as submitted by the consensus com-
2 mittee under paragraph (4)(A).

3 “(B) TIMING.—Not later than 12 months
4 after the date on which a standard or regula-
5 tion is submitted to the Secretary by the con-
6 sensus committee, the Secretary shall take ac-
7 tion regarding such standard or regulation
8 under subparagraph (C).

9 “(C) PROCEDURES.—If the Secretary—

10 “(i) adopts a standard or regulation
11 recommended by the consensus committee,
12 the Secretary shall—

13 “(I) issue a final order without
14 further rulemaking; and

15 “(II) publish the final order in
16 the Federal Register;

17 “(ii) determines that any standard or
18 regulation should be rejected, the Secretary
19 shall—

20 “(I) reject the standard or regu-
21 lation; and

22 “(II) publish in the Federal Reg-
23 ister a notice to that effect, together
24 with the reason or reasons for reject-

1 ing the proposed standard or regula-
2 tion; or

3 “(iii) determines that a standard or
4 regulation recommended by the consensus
5 committee should be modified, the Sec-
6 retary shall—

7 “(I) publish in the Federal Reg-
8 ister the proposed modified standard
9 or regulation, together with an expla-
10 nation of the reason or reasons for the
11 determination of the Secretary; and

12 “(II) provide an opportunity for
13 public comment in accordance with
14 section 553 of title 5, United States
15 Code.

16 “(D) FINAL ORDER.—Any final standard
17 or regulation under this paragraph shall become
18 effective pursuant to subsection (c).

19 “(6) FAILURE TO ACT.—If the Secretary fails
20 to take final action under paragraph (5) with respect
21 to a proposed revised standard submitted by the
22 consensus committee under paragraph (4)(A) and to
23 publish notice of the action in the Federal Register
24 before the expiration of the 12-month period begin-
25 ning on the date on which the proposed revised

1 standard is submitted to the Secretary under para-
2 graph (4)(A)—

3 “(A) the proposed revised standard—

4 “(i) shall be considered to have been
5 adopted by the Secretary; and

6 “(ii) shall take effect upon the expira-
7 tion of the 180-day period that begins
8 upon the conclusion of such 12-month pe-
9 riod; and

10 “(B) not later than 10 days after the expi-
11 ration of such 12-month period, the Secretary
12 publish in the Federal Register a notice of the
13 failure of the Secretary to act, the revised
14 standard, and the effective date of the revised
15 standard, which notice shall be deemed to be an
16 order of the Secretary approving the revised
17 standard.

18 “(b) OTHER ORDERS.—

19 “(1) INTERPRETATIVE BULLETINS.—The Sec-
20 retary may issue interpretative bulletins to clarify
21 the meaning of any Federal manufactured home
22 construction and safety standard or procedural and
23 enforcement regulation. The consensus committee
24 may submit to the Secretary proposed interpretative
25 bulletins to clarify the meaning of any Federal man-

1 ufactured home construction and safety standard or
2 procedural and enforcement regulation.

3 “(2) REVIEW BY CONSENSUS COMMITTEE.—Be-
4 fore issuing a procedural or enforcement regulation
5 or an interpretative bulletin—

6 “(A) the Secretary shall—

7 “(i) submit the proposed procedural
8 or enforcement regulation or interpretative
9 bulletin to the consensus committee; and

10 “(ii) provide the consensus committee
11 with a period of 120 days to submit writ-
12 ten comments to the Secretary on the pro-
13 posed procedural or enforcement regulation
14 or the interpretative bulletin;

15 “(B) if the Secretary rejects any signifi-
16 cant comment provided by the consensus com-
17 mittee under subparagraph (A), the Secretary
18 shall provide a written explanation of the rea-
19 sons for the rejection to the consensus com-
20 mittee; and

21 “(C) following compliance with subpara-
22 graphs (A) and (B), the Secretary shall—

23 “(i) publish in the Federal Register
24 the proposed regulation or interpretative
25 bulletin and the written comments of the

1 consensus committee, along with the re-
2 sponse of the Secretary to those comments;
3 and

4 “(ii) provide an opportunity for public
5 comment in accordance with section 553 of
6 title 5, United States Code.

7 “(3) REQUIRED ACTION.—Not later than 120
8 days after the date on which the Secretary receives
9 a proposed regulation or interpretative bulletin sub-
10 mitted by the consensus committee, the Secretary
11 shall—

12 “(A) approve the proposal and publish the
13 proposed regulation or interpretative bulletin
14 for public comment in accordance with section
15 553 of title 5, United States Code; or

16 “(B) reject the proposed regulation or in-
17 terpretative bulletin and—

18 “(i) provide to the consensus com-
19 mittee a written explanation of the reasons
20 for rejection; and

21 “(ii) publish in the Federal Register
22 the proposed regulation and the written ex-
23 planation for the rejection.

24 “(4) EMERGENCY ORDERS.—If the Secretary
25 determines, in writing, that such action is necessary

1 in order to respond to an emergency that jeopardizes
2 the public health or safety, or to address an issue on
3 which the Secretary determines that the consensus
4 committee has not made a timely recommendation,
5 following a request by the Secretary, the Secretary
6 may issue an order that is not developed under the
7 procedures set forth in subsection (a) or in this sub-
8 section, if the Secretary—

9 “(A) provides to the consensus committee
10 a written description and sets forth the reasons
11 why emergency action is necessary and all sup-
12 porting documentation; and

13 “(B) issues the order and publishes the
14 order in the Federal Register.

15 “(5) CHANGES.—Any statement of policies,
16 practices, or procedures relating to construction and
17 safety standards, regulations, inspections, moni-
18 toring, or other enforcement activities that con-
19 stitutes a statement of general or particular applica-
20 bility to implement, interpret, or prescribe law or
21 policy by the Secretary is subject to subsection (a)
22 or this subsection. Any change adopted in violation
23 of subsection (a) or this subsection is void.”;

24 (2) in subsection (d), by adding at the end the
25 following: “Federal preemption under this subsection

1 shall be broadly and liberally construed to ensure
 2 that disparate State or local requirements or stand-
 3 ards do not affect the uniformity and comprehen-
 4 siveness of the standards promulgated under this
 5 section nor the Federal superintendence of the man-
 6 ufactured housing industry as established by this
 7 title. Subject to section 605, there is reserved to
 8 each State the right to establish standards for the
 9 stabilizing and support systems of manufactured
 10 homes sited within that State, and for the founda-
 11 tions on which manufactured homes sited within
 12 that State are installed, and the right to enforce
 13 compliance with such standards.”;

14 (3) by striking subsection (e);

15 (4) in subsection (f), by striking the subsection
 16 designation and all of the matter that precedes para-
 17 graph (1) and inserting the following:

18 “(e) CONSIDERATIONS IN ESTABLISHING AND IN-
 19 TERPRETING STANDARDS AND REGULATIONS.—The con-
 20 sensus committee, in recommending standards, regula-
 21 tions, and interpretations, and the Secretary, in estab-
 22 lishing standards or regulations or issuing interpretations
 23 under this section, shall—”;

24 (5) by striking subsection (g);

1 (6) in the first sentence of subsection (j), by
 2 striking “subsection (f)” and inserting “subsection
 3 (e)”; and

4 (7) by redesignating subsections (h), (i), and
 5 (j), as subsections (f), (g), and (h), respectively.

6 **SEC. 5. ABOLISHMENT OF NATIONAL MANUFACTURED**
 7 **HOME ADVISORY COUNCIL; MANUFACTURED**
 8 **HOME INSTALLATION.**

9 (a) IN GENERAL.—Section 605 (42 U.S.C. 5404) is
 10 amended to read as follows:

11 **“SEC. 605. MANUFACTURED HOME INSTALLATION.**

12 “(a) PROVISION OF INSTALLATION DESIGN AND IN-
 13 STRUCTIONS.—A manufacturer shall provide with each
 14 manufactured home, design and instructions for the in-
 15 stallation of the manufactured home that have been ap-
 16 proved by a design approval primary inspection agency.

17 “(b) MODEL MANUFACTURED HOME INSTALLATION
 18 STANDARDS.—

19 “(1) PROPOSED MODEL STANDARDS.—Not later
 20 than 18 months after the date on which the initial
 21 appointments of all of the members of the consensus
 22 committee are completed, the consensus committee
 23 shall develop and submit to the Secretary proposed
 24 model manufactured home installation standards,
 25 which shall be consistent with—

1 “(A) the manufactured home designs that
2 have been approved by a design approval pri-
3 mary inspection agency; and

4 “(B) the designs and instructions for the
5 installation of manufactured homes provided by
6 manufacturers under subsection (a).

7 “(2) ESTABLISHMENT OF MODEL STAND-
8 ARDS.—Not later than 12 months after receiving the
9 proposed model standards submitted under para-
10 graph (1), the Secretary shall develop and establish
11 model manufactured home installation standards,
12 which shall be consistent with—

13 “(A) the manufactured home designs that
14 have been approved by a design approval pri-
15 mary inspection agency; and

16 “(B) the designs and instructions for the
17 installation of manufactured homes provided by
18 manufacturers under subsection (a).

19 “(3) FACTOR FOR CONSIDERATION.—

20 “(A) CONSENSUS COMMITTEE.—In devel-
21 oping the proposed model standards under
22 paragraph (1), the consensus committee shall
23 consider the factor described in section
24 604(e)(4).

1 “(B) SECRETARY.—In developing and es-
 2 tablishing the model standards under paragraph
 3 (2), the Secretary shall consider the factor de-
 4 scribed in section 604(e)(4).

5 “(c) MANUFACTURED HOME INSTALLATION PRO-
 6 GRAMS.—

7 “(1) PROTECTION OF MANUFACTURED HOUS-
 8 ING RESIDENTS DURING INITIAL PERIOD.—During
 9 the 5-year period beginning on the date of enact-
 10 ment of the Manufactured Housing Improvement
 11 Act of 2000, no State or manufacturer may estab-
 12 lish or implement any installation standards that, in
 13 the determination of the Secretary, provide less pro-
 14 tection to the residents of manufactured homes than
 15 the protection provided by the installation standards
 16 in effect with respect to the State or manufacturer,
 17 as applicable, on the date of enactment of the Manu-
 18 factured Housing Improvement Act of 2000.

19 “(2) ENFORCEMENT OF INSTALLATION STAND-
 20 ARDS.—

21 “(A) ESTABLISHMENT OF INSTALLATION
 22 PROGRAM.—Not later than the expiration of the
 23 5-year period described in paragraph (1), the
 24 Secretary shall establish an installation pro-
 25 gram that meets the requirements of paragraph

1 (3) for the enforcement of installation stand-
2 ards in each State described in subparagraph
3 (B) of this paragraph.

4 “(B) IMPLEMENTATION OF INSTALLATION
5 PROGRAM.—Beginning on the expiration of the
6 5-year period described in paragraph (1), the
7 Secretary shall implement the installation pro-
8 gram established under subparagraph (A) in
9 each State that does not have an installation
10 program established by State law that meets
11 the requirements of paragraph (3).

12 “(C) CONTRACTING OUT OF IMPLEMENTA-
13 TION.—In carrying out subparagraph (B), the
14 Secretary may contract with an appropriate
15 agent to implement the installation program es-
16 tablished under that subparagraph, except that
17 such agent shall not be a person or entity other
18 than a government, nor an affiliate or sub-
19 sidiary of such a person or entity, that has en-
20 tered into a contract with the Secretary to im-
21 plement any other regulatory program under
22 this title.

23 “(3) REQUIREMENTS.—An installation program
24 meets the requirements of this paragraph if it is a

1 program regulating the installation of manufactured
2 homes that includes—

3 “(A) installation standards that, in the de-
4 termination of the Secretary, provide protection
5 to the residents of manufactured homes that
6 equals or exceeds the protection provided to
7 those residents by—

8 “(i) the model manufactured home in-
9 stallation standards established by the Sec-
10 retary under subsection (b)(2); or

11 “(ii) the designs and instructions pro-
12 vided by manufacturers under subsection
13 (a), if the Secretary determines that such
14 designs and instructions provide protection
15 to the residents of manufactured homes
16 that equals or exceeds the protection pro-
17 vided by the model manufactured home in-
18 stallation standards established by the Sec-
19 retary under subsection (b)(2);

20 “(B) the training and licensing of manu-
21 factured home installers; and

22 “(C) inspection of the installation of manu-
23 factured homes.”.

24 (b) CONFORMING AMENDMENTS.—Section 623(c)
25 (42 U.S.C. 5422(c)) is amended—

1 (1) in paragraph (10), by striking “and” at the
2 end;

3 (2) by redesignating paragraph (11) as para-
4 graph (13); and

5 (3) by inserting after paragraph (10) the fol-
6 lowing:

7 “(11) with respect to any State plan submitted
8 on or after the expiration of the 5-year period begin-
9 ning on the date of enactment of the Manufactured
10 Housing Improvement Act of 2000, provides for an
11 installation program established by State law that
12 meets the requirements of section 605(c)(3);”.

13 **SEC. 6. PUBLIC INFORMATION.**

14 Section 607 (42 U.S.C. 5406) is amended—

15 (1) in subsection (a)—

16 (A) by inserting “to the Secretary” after
17 “submit”; and

18 (B) by adding at the end the following:

19 “The Secretary shall submit such cost and
20 other information to the consensus committee
21 for evaluation.”;

22 (2) in subsection (d), by inserting “, the con-
23 sensus committee,” after “public”; and

1 (3) by striking subsection (c) and redesignating
2 subsections (d) and (e) as subsections (c) and (d),
3 respectively.

4 **SEC. 7. RESEARCH, TESTING, DEVELOPMENT, AND TRAIN-**
5 **ING.**

6 (a) IN GENERAL.—Section 608(a) (42 U.S.C.
7 5407(a)) is amended—

8 (1) in paragraph (2), by striking “and” at the
9 end;

10 (2) in paragraph (3), by striking the period at
11 the end and inserting a semicolon; and

12 (3) by adding at the end the following:

13 “(4) encouraging the government-sponsored
14 housing entities to actively develop and implement
15 secondary market securitization programs for the
16 FHA manufactured home loans and those of other
17 loan programs, as appropriate, thereby promoting
18 the availability of affordable manufactured homes to
19 increase homeownership for all people in the United
20 States; and

21 “(5) reviewing the programs for FHA manufac-
22 tured home loans and developing any changes to
23 such programs to promote the affordability of manu-
24 factured homes, including changes in loan terms,
25 amortization periods, regulations, and procedures.”.

1 (b) DEFINITIONS.—Section 608 (42 U.S.C. 5407) is
2 amended by adding at the end the following:

3 “(c) DEFINITIONS.—In this section:

4 “(1) GOVERNMENT-SPONSORED HOUSING ENTI-
5 TIES.—The term ‘government-sponsored housing en-
6 tities’ means the Government National Mortgage As-
7 sociation of the Department of Housing and Urban
8 Development, the Federal National Mortgage Asso-
9 ciation, and the Federal Home Loan Mortgage Cor-
10 poration.

11 “(2) FHA MANUFACTURED HOME LOAN.—The
12 term ‘FHA manufactured home loan’ means a loan
13 that—

14 “(A) is insured under title I of the Na-
15 tional Housing Act and is made for the purpose
16 of financing alterations, repairs, or improve-
17 ments on or in connection with an existing
18 manufactured home, the purchase of a manu-
19 factured home, the purchase of a manufactured
20 home and a lot on which to place the home, or
21 the purchase only of a lot on which to place a
22 manufactured home; or

23 “(B) is otherwise insured under the Na-
24 tional Housing Act and made for or in connec-
25 tion with a manufactured home.”.

1 **SEC. 8. FEES.**

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

4 **“SEC. 620. AUTHORITY TO COLLECT FEE.**

5 “(a) IN GENERAL.—In carrying out inspections
6 under this title, in developing standards and regulations
7 pursuant to section 604, and in facilitating the acceptance
8 of the affordability and availability of manufactured hous-
9 ing within the Department, the Secretary may—

10 “(1) establish and collect from manufactured
11 home manufacturers a reasonable fee, as may be
12 necessary to offset the expenses incurred by the Sec-
13 retary in connection with carrying out the respon-
14 sibilities of the Secretary under this title,
15 including—

16 “(A) conducting inspections and moni-
17 toring;

18 “(B) providing funding to States for the
19 administration and implementation of approved
20 State plans under section 623, including rea-
21 sonable funding for cooperative educational and
22 training programs designed to facilitate uniform
23 enforcement under this title, which funds may
24 be paid directly to the States or may be paid
25 or provided to any person or entity designated
26 to receive and disburse such funds by coopera-

1 tive agreements among participating States,
2 provided that such person or entity is not other-
3 wise an agent of the Secretary under this title;

4 “(C) providing the funding for a noncareer
5 administrator within the Department to admin-
6 ister the manufactured housing program;

7 “(D) providing the funding for salaries and
8 expenses of employees of the Department to
9 carry out the manufactured housing program;

10 “(E) administering the consensus com-
11 mittee as set forth in section 604; and

12 “(F) facilitating the acceptance of the
13 quality, durability, safety, and affordability of
14 manufactured housing within the Department;
15 and

16 “(2) subject to subsection (e), use amounts
17 from any fee collected under paragraph (1) of this
18 subsection to pay expenses referred to in that para-
19 graph, which shall be exempt and separate from any
20 limitations on the Department regarding full-time
21 equivalent positions and travel.

22 “(b) CONTRACTORS.—In using amounts from any fee
23 collected under this section, the Secretary shall ensure
24 that separate and independent contractors are retained to
25 carry out monitoring and inspection work and any other

1 work that may be delegated to a contractor under this
2 title.

3 “(c) PROHIBITED USE.—No amount from any fee
4 collected under this section may be used for any purpose
5 or activity not specifically authorized by this title, unless
6 such activity was already engaged in by the Secretary
7 prior to the date of enactment of the Manufactured Hous-
8 ing Improvement Act of 2000.

9 “(d) MODIFICATION.—Beginning on the date of en-
10 actment of the Manufactured Housing Improvement Act
11 of 2000, the amount of any fee collected under this section
12 may only be modified—

13 “(1) as specifically authorized in advance in an
14 annual appropriations Act; and

15 “(2) pursuant to rulemaking in accordance with
16 section 553 of title 5, United States Code.

17 “(e) APPROPRIATION AND DEPOSIT OF FEES.—

18 “(1) IN GENERAL.—There is established in the
19 Treasury of the United States a fund to be known
20 as the ‘Manufactured Housing Fees Trust Fund’ for
21 deposit of amounts from any fee collected under this
22 section. Such amounts shall be held in trust for use
23 only as provided in this title.

24 “(2) APPROPRIATION.—Amounts from any fee
25 collected under this section shall be available for ex-

1 penditure only to the extent approved in advance in
2 an annual appropriations Act. Any change in the ex-
3 penditure of such amounts shall be specifically au-
4 thorized in advance in an annual appropriations Act.

5 “(3) PAYMENTS TO STATES.—On and after the
6 effective date of the Manufactured Housing Im-
7 provement Act of 2000, the Secretary shall continue
8 to fund the States having approved State plans in
9 the amounts which are not less than the allocated
10 amounts, based on the fee distribution system in ef-
11 fect on the day before such effective date.”.

12 **SEC. 9. DISPUTE RESOLUTION.**

13 Section 623(c) (42 U.S.C. 5422(c)) is amended—

14 (1) by inserting after paragraph (11) (as added
15 by section 5(b) of this Act) the following:

16 “(12) with respect to any State plan submitted
17 on or after the expiration of the 5-year period begin-
18 ning on the date of enactment of the Manufactured
19 Housing Improvement Act of 2000, provides for a
20 dispute resolution program for the timely resolution
21 of disputes between manufacturers, retailers, and in-
22 stallers of manufactured homes regarding responsi-
23 bility for the correction or repair of defects in manu-
24 factured homes that are reported during the 1-year

1 period beginning on the date of installation; and”;
2 and

3 (2) by adding at the end the following:

4 “(g) ENFORCEMENT OF DISPUTE RESOLUTION
5 STANDARDS.—

6 “(1) ESTABLISHMENT OF DISPUTE RESOLU-
7 TION PROGRAM.—Not later than the expiration of
8 the 5-year period beginning on the date of enact-
9 ment of the Manufactured Housing Improvement
10 Act of 2000, the Secretary shall establish a dispute
11 resolution program that meets the requirements of
12 subsection (c)(12) for dispute resolution in each
13 State described in paragraph (2) of this subsection.

14 “(2) IMPLEMENTATION OF DISPUTE RESOLU-
15 TION PROGRAM.—Beginning on the expiration of the
16 5-year period described in paragraph (1), the Sec-
17 retary shall implement the dispute resolution pro-
18 gram established under paragraph (1) in each State
19 that has not established a dispute resolution pro-
20 gram that meets the requirements of subsection
21 (c)(12).

22 “(3) CONTRACTING OUT OF IMPLEMENTA-
23 TION.—In carrying out paragraph (2), the Secretary
24 may contract with an appropriate agent to imple-
25 ment the dispute resolution program established

1 under paragraph (2), except that such agent shall
2 not be a person or entity other than a government,
3 nor an affiliate or subsidiary of such a person or en-
4 tity, that has entered into a contract with the Sec-
5 retary to implement any other regulatory program
6 under this title.”.

7 **SEC. 10. ELIMINATION OF ANNUAL REPORTING REQUIRE-**
8 **MENT.**

9 The National Manufactured Housing Construction
10 and Safety Standards Act of 1974 (42 U.S.C. 5401 et
11 seq.) is amended—

12 (1) by striking section 626 (42 U.S.C. 5425);

13 and

14 (2) by redesignating sections 627 and 628 (42
15 U.S.C. 5426, 5401 note) as sections 626 and 627,
16 respectively.

17 **SEC. 11. EFFECTIVE DATE.**

18 The amendments made by this Act shall take effect
19 on the date of enactment of this Act, except that the
20 amendments shall have no effect on any order or interpre-
21 tative bulletin that is issued under the National Manufac-
22 tured Housing Construction and Safety Standards Act of
23 1974 (42 U.S.C. 5401 et seq.) and published as a pro-
24 posed rule pursuant to section 553 of title 5, United
25 States Code, on or before that date of enactment.

1 **SEC. 12. SAVINGS PROVISIONS.**

2 (a) STANDARDS AND REGULATIONS.—The Federal
3 manufactured home construction and safety standards (as
4 such term is defined in section 603 of the National Manu-
5 factured Housing Construction and Safety Standards Act
6 of 1974) and all regulations pertaining thereto in effect
7 on the day before the date of enactment of this Act shall
8 apply until the effective date of a standard or regulation
9 modifying or superseding the existing standard or regula-
10 tion that is promulgated under subsection (a) or (b) of
11 section 604 of the National Manufactured Housing Con-
12 struction and Safety Standards Act of 1974, as amended
13 by this Act.

14 (b) CONTRACTS.—Any contract awarded pursuant to
15 a Request for Proposal issued before the date of enact-
16 ment of this Act shall remain in effect until the earlier
17 of—

18 (1) the expiration of the 2-year period begin-
19 ning on the date of enactment of this Act; or

20 (2) the expiration of the contract term.

Passed the Senate May 4, 2000.

Attest:

Secretary.

106TH CONGRESS
2D SESSION

S. 1452

AN ACT

To modernize the requirements under the National Manufactured Housing Construction and Safety Standards Act of 1974 and to establish a balanced consensus process for the development, revision, and interpretation of Federal construction and safety standards for manufactured homes.

S 1452 ES——2

S 1452 ES——3

S 1452 ES——4

S 1452 ES——5