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Health and Human Services Committee  
February 01, 2008

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[LB749 LB892]

The Committee on Health and Human Services met at 1:30 p.m. on Friday, February 1, 2008, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB749 and LB892. Senators present: Tim Gay, Vice Chairperson; Philip Erdman; Tom Hansen; Gwen Howard; Dave Pankonin; and Arnie Stuthman. Senators absent: Joel Johnson, Chairperson. []

SENATOR GAY: It's 1:30, we'll get started here in the interest of everybody's time. Senator Stuthman first up on LB749. Looks like we're a little shorthanded here today, but others will be joining us or they're out testifying on other bills right now. But our clerk, Erin Mack, will be here and when you come up to testify, can you state your name and then spell it out too for the record. We'd appreciate that. Thanks for shutting off all cell phones, appreciate that as well. Jeff Santema is our legal counsel and he's here to help out too. So we'll get started and open the public hearing on LB749, real quick for time because we have another senator who's going to be joining us. Who will all be testifying on LB749 that thinks they might speak? Okay. So we've got one is all. Okay. Senator Tom Hansen is joining us and Senator Stuthman testifying. All right. Senator Stuthman, go ahead. []

SENATOR STUTHMAN: Good afternoon, Senator Gay and members of the Health Committee. For the record, my name is Arnie Stuthman, A-r-n-i-e S-t-u-t-h-m-a-n, and I am here introducing LB749. LB749 changes the provisions in the Mobile Home Park Act. This bill will eliminate the requirements that the Department of Health and Human Services provide a specific form that people use in an application for a mobile home park. Also, this bill provides for a civil penalty as one of the possible sanctions against a mobile home park owner who is unable to maintain compliance with the statute or regulations. Christine Peterson, the CEO of the Department of Health and Human Services is following me to provide more details on this bill. And I would request that all of the questions be directed to her because I think that would be appropriate at that time. [LB749]

SENATOR GAY: Okay. Thank you, Senator Stuthman. Senator Gwen Howard has joined us as well. Thanks. [LB749]

CHRISTINE PETERSON: (Exhibit 1) Good afternoon, Senator Gay and members of the Health and Human Services Committee. My name is Christine Peterson, C-h-r-i-s-t-i-n-e P-e-t-e-r-s-o-n, and I'm the chief executive officer of the Department of Health and Human Services. And I'm here today to testify in support of LB749 and our thanks to Senator Stuthman for introducing it for the department. The Mobile Home Park Act regulates the establishment, operation, and maintenance of mobile home parks. Specifically, we're able to look at the water, such as: the wells, the sewage, debris around the site, garbage delivery, garbage pick up, electrical hook ups, along those

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lines. Currently, the department licenses about 400 mobile home parks and this function is found in the division of public health. First, this bill will eliminate the requirement that the department provide a specific form. While the department will continue to provide forms, this bill allows flexibility in the way those forms are provided. For an example, the form could be provided electronically and the goal behind this is while they have to do pertinent information, there be flexibility that we don't have to have the official form come in and I have a copy of that. It's a fairly simplistic form, but this allows them to have a little more leeway in what they send into us. It also allows an applicant to provide their own form if they wish to the department as long as the necessary information is included. Overall, by being more flexible, this application process can become more efficient. Second, the bill provides for a civil penalty as one of the possible sanctions against a mobile home park owner who is unable to maintain compliance with the statute and regulations. This bill provides for a maximum civil penalty of \$2,000 per day. The other sanctions already in place include denying an application, refusing renewal of an application, and suspending or revoking a license to operate. It is believed that using a civil penalty will ensure compliance without having to resort to these other sanctions. The existing sanctions are considerably more onerous and difficult to carry out. For example, a revocation requires residents of a mobile home park to move and the park to close. The department believes that the least amount of sanction should be used that will achieve compliance and the civil penalty is an interim sanction to be used in just this manner. For those of you who have maybe had a park closed in your area, there was one closed in Grand Island at the time, it is a very complicated process. The person who is in the mobile home is required to move the mobile home off-site. We've closed mobile home parks many times for contamination of wells, and it takes a significant amount of resources and collaboration by a lot of entities to move people. It's very significant and so we would like to avoid that if possible. This provides an interim-type of process to help them move forward. We use the civil penalties just in the division of public health. The civil penalty or fining is an option for enforcement with doctors, nurses, chiropractors, all of the hospitals, nursing homes, home health, child care, environmental health, public water system. It is a very common enforcement practice that we use throughout the rest of our licensing activities. The ones that do not have a civil penalty as an option would be like a recreation park, a swimming pool, and now the mobile home parks. So I'd be glad to try to answer any questions that you may have. [LB749]

SENATOR GAY: Thank you, Chris. Senator Howard. [LB749]

SENATOR HOWARD: Thank you, Senator Gay. Chris, just for my information because I haven't dealt with something like this before, it's a whole new issue. Are there currently civil penalties in effect? Is that something that's currently being used? So this would be an addition to... [LB749]

CHRISTINE PETERSON: This is new. Um-hum. [LB749]

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SENATOR HOWARD: I see. Thank you. [LB749]

CHRISTINE PETERSON: If you've been involved in one of these issues, there is kind of overlapping between the city and the county and the Department of Health and the local department of health and the department. And for us, while we have the ability to "revocate" the license, we have to go through the administrative process and really it's a last resort to close a mobile home park. It's just extremely hard to find places for people. It's a real hardship on them, they have to move it. And what see is this is a way to provide kind of a push for the person to come into compliance without disrupting the lives of the people that live in that park. [LB749]

SENATOR HOWARD: Okay. Thank you. [LB749]

CHRISTINE PETERSON: Um-hum. [LB749]

SENATOR GAY: Any other questions? I don't see any right now. Thanks, Chris. [LB749]

CHRISTINE PETERSON : Thanks. [LB749]

SENATOR GAY: Any other proponents who would like to speak on LB749? Any opponents? Anybody in a neutral capacity? Okay. Senator Stuthman waives closing and we'll close the public hearing on LB749. [LB749]

BREAK: []

SENATOR GAY: We'll let you catch your breath, don't worry. [LB892]

SENATOR PEDERSEN: You know, this doesn't happen very often. I was up in two committees and then the bill that I had in my committee, didn't think I had any opposition for but there is now. Then there was a confirmation in my committee for somebody who I've known for a long, long time that I wanted to make sure that I said a couple of words for. [LB892]

SENATOR GAY: That's all right. We're speeding along faster than we thought. [LB892]

SENATOR PEDERSEN: Thank you for waiting. [LB892]

SENATOR GAY: All right. Go ahead, Senator Pedersen for LB892. [LB892]

SENATOR PEDERSEN: Thank you, Senator Gay and members of the Health and Human Services Committee. For the record, I am Senator Dwite Pedersen, representing the 39th Legislative District. I'm here today to introduce LB892. The bill

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was brought to me by the Public Service Commission. LB892 clarifies, updates, and generally cleans up provisions in the Modular Housing Unit Act and a Uniform Standard Code for manufactured homes and recreational vehicles. The specifics of what the bill does are listed in the statement of intent and I'm sure those points will be explained in more detail by those testifying after me. There are representatives here from the Public Service Commission and the manufactured housing industry that are far more qualified to answer questions regarding specifics of this bill, and I would ask that you ask any technical questions of them. If you have any questions that I might be able to answer, please feel free to ask. I'd be glad to try and answer them. [LB892]

SENATOR GAY: Thank you, Senator Pedersen. Are there any questions from the committee? I don't see any. Are you going to stay around do you think? Stay around? I don't see any. [LB892]

SENATOR PEDERSEN: Thank you. [LB892]

SENATOR GAY: Thank you. [LB892]

SENATOR PEDERSEN: No, I'm not going to stay to close because this the "death penalty" day. [LB892]

SENATOR GAY: Oh, yeah. Okay. Well, thank you. All right. Any proponents? [LB892]

ANNE BOYLE: (Exhibit 1) Good afternoon, Senators, and thank you for the opportunity to be with you this afternoon. My name is Anne Boyle, B-o-y-l-e. I'm chair of the Nebraska Public Service Commission and I'm here today to support LB892. As Senator Pedersen mentioned, this bill clarifies, modernizes, and generally cleans up provisions of the Modular Housing Units Act and the Uniform Standard Code for manufactured home and recreational vehicles. Most of the changes proposed remove obsolete language, add clarification to certain provisions, and make nonsubstantive changes to definitional sections and other languages in the act and standard code. One change I would like to point out is the change to the seal fee system for modular homes. The commission has previously issued a single uniform new price seal regardless of the size of the home. In past times when most modular homes were similar in size and scale, this system was for the most part fair and equitable. However, the modular housing industry has changed substantially in the past 15 to 20 years. The commission now sees plans for homes that are as diverse as any frame-built home. We issue seals to small one-bedroom homes and to large multiple bedroom mansions. Homes today differ drastically in price and size and are assessed the same seal fee. This past year, within the confines of the current statutory scheme, the commission attempted to make the seal fee more closely relate to home size. However, the changes intended in LB892 would be a more equitable system. In LB892, the seal fee would be directly proportionate to the size of the home. The commission would issue one seal per home

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based on the total square footage of the home. A square footage based system would also be less confusing for the industry and more easily administered by the commission. Therefore, Section 2 of the bill eliminates the definition of living unit, and Section 4 increases the maximum seal fee that the commission could potentially assess. The revenue generated by the seals will change very little. The bill also raises the maximum cap on inspection and plan review fees the commission assesses within the program. The changes are a direct result of increases in the administrative costs. These changes would simply give the commission the flexibility to assess appropriate fees that will allow us to recover the costs of administering the housing program. Thank you for your attention this afternoon and I urge you to support LB892. If you have questions, I'd be happy to answer them. [LB892]

SENATOR GAY: Thank you, Anne. Senator Stuthman. [LB892]

SENATOR STUTHMAN: Thank you, Senator Gay. Commissioner Boyle, what do you mean by a seal? Is that a stamp or is that an inspection... [LB892]

ANNE BOYLE: It's like a license. It's a seal that we issue, so it's the same as any kind of a license or that they put on the unit itself. [LB892]

SENATOR STUTHMAN: On the individual units. [LB892]

ANNE BOYLE: Yes. [LB892]

SENATOR STUTHMAN: And that is because of the size and are they inspected in order to receive a seal? [LB892]

ANNE BOYLE: Yes. [LB892]

SENATOR STUTHMAN: Okay. Thank you. [LB892]

ANNE BOYLE: And I'm sure you understand that when this first started, manufactured housing were just pretty uniform [LB892]

SENATOR STUTHMAN: Yeah, um-hum. [LB892]

ANNE BOYLE: But actually I'd like to tell you I have seen a manufactured home that is the size of a castle and so they are much different than they began. [LB892]

SENATOR STUTHMAN: Okay. Thank you. [LB892]

SENATOR GAY: Any other questions? [LB892]

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SENATOR PANKONIN: Senator Gay. [LB892]

SENATOR GAY: Oh, sorry, Senator Pankonin. Go ahead. [LB892]

SENATOR PANKONIN: No problem. Commissioner, thanks for coming down, Anne, and appreciate your comments because I was going to ask the same thing about that seal. So this seal is physically on that unit even after it's installed? [LB892]

ANNE BOYLE: (Cell phone ringing) I hope that's not mine. I'm sorry. Pardon me? [LB892]

SENATOR PANKONIN: So that seal stays on that unit even after it's occupied and whatever? Is that a physical thing that... [LB892]

ANNE BOYLE: To ensure that I'm giving you the correct answer, I'm just going to turn... [LB892]

SENATOR PANKONIN: Okay. But there's going to be some people that maybe can answer that? [LB892]

SENATOR ERDMAN: The answer is yes. [LB892]

SENATOR PANKONIN: All right. [LB892]

ANNE BOYLE: Thank you, Senator. The answer is yes. [LB892]

SENATOR ERDMAN: And when you got to do an appraisal on that property, they ask you to find that seal and put it in your report. [LB892]

SENATOR PANKONIN: And you mentioned about the inspections, who does...obviously the Public Service Commission doesn't physically do the inspections. There is some kind of government or private outfit that does the inspections of these homes? [LB892]

ANNE BOYLE: We review the plans for the manufactured homes and then we issue the seal to the manufacturer. [LB892]

SENATOR PANKONIN: To the builder, to the manufacturer of those. Okay. And so it's not necessarily about the quality of construction. It's just about the plan and how many feet and how it's... [LB892]

ANNE BOYLE: To ensure that the... [LB892]

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SENATOR PANKONIN: There's going to be people up here I think that are going to be able to answer those questions. The reason I'm asking is just primarily more about your work and the like. [LB892]

ANNE BOYLE: But we do sometimes get complaints and then we do go out and look at them. And so it is not that we just look at plans and issue the seal. [LB892]

SENATOR PANKONIN: Because I do agree with you. There's a lot more of these homes being utilized now that I see and I think it's probably, wouldn't you agree, that it's going up, the numbers of being sold or going up? [LB892]

ANNE BOYLE: They do and the history that we have had since I've been at the commission is it fluctuates depending on what's happening in the economy. But in Nebraska we do manufacture quite a few of them off and on, depending on, again, the economy. [LB892]

SENATOR PANKONIN: Okay. Thank you. [LB892]

SENATOR GAY: We've got a few more questions. Senator Howard. [LB892]

SENATOR HOWARD: Thank you, Senator Gay. And this is a pretty simple question, but again this is a new area for me. Are the seals issued once in the beginning or is it annual or how... [LB892]

ANNE BOYLE: They are issued when we okay and approve the plans. [LB892]

SENATOR HOWARD: So just once, not every year, not renewable? [LB892]

ANNE BOYLE: No, they're not renewed. [LB892]

SENATOR HOWARD: Okay. Thank you. [LB892]

SENATOR GAY: Senator Hansen. [LB892]

SENATOR HANSEN: Thank you. Commissioner Boyle, it's good to see you again. [LB892]

ANNE BOYLE: Thank you. [LB892]

SENATOR HANSEN: Do you control premanufactured houses in interstate sales too because I understand there's a house that stick-built from Canada, all the materials come from Canada, they come down and then they're reassembled to some extent? [LB892]

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ANNE BOYLE: We review the plans of those that are manufactured in Nebraska. [LB892]

SENATOR HANSEN: Oh, just Nebraska. [LB892]

ANNE BOYLE: Yes, and we review them to make sure that they are up to code and all of the other safety issues that we need to make sure that they are up to code for the people who are going to be living in them. [LB892]

SENATOR HANSEN: So how do we know about houses that are brought in from Canada? [LB892]

ANNE BOYLE: I'm going to...Mark Breiner is here with me and he is one of our staff attorneys. He's also director of one of our divisions and he would probably have the answer for that, and he may answer to you. But also so that we...before I say anything else, Mark, maybe you want to come up here because I don't want to make an error on my comments. [LB892]

SENATOR GAY: We can wait. We can wait. [LB892]

SENATOR HANSEN: I'll ask him a question later. That's fine. Thank you. [LB892]

SENATOR GAY: Okay. Any other questions? I have one for you on fees, but it can wait too. I just want to know will the fees being charged offset some of your cost to do the inspection or a portion or all that or how did you arrive at the fees? [LB892]

ANNE BOYLE: The fees are...this is a cash funded division of the Public Service Commission and there are caps on the fees that we charge. And so what we're asking is to just allow us to have the liberty of assessing a fee, but not necessarily going up to that cap. And every year we look at each division of the Public Service Commission just like the committees do over here, and we determine what the cost will be to run that division and then we assess the fee based on what the projected cost that will be on an annual basis. [LB892]

SENATOR GAY: So the caps that are there now, should there be a cap then or should we...then you have to come back all the time, should we remove the cap and avoid the coming back? I mean, not that you go and generate or should. What's the most prudent way to...you're not going to go make lots of money off this I understand. But would it be easier to leave it open? Are the caps good enough now or should they be higher for flexibility purposes? [LB892]

ANNE BOYLE: Well, Senator, I'm really torn because actually it would be easier for us if



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the caps were raised, and candidly I don't know that somebody would say, well, we don't want the commission to be able to go as high as they want to. We've never done that. Actually we have not been here for a long time asking to revisit the cost of running this division. But because sometimes the number of homes that are being inspected drops significantly, then our revenues drop. And so that is one of the reasons we are asking to come in and revamp what we're doing today. [LB892]

SENATOR GAY: Right. And I guess the reason I ask that too from just knowing that sometimes we put these on and then it's 20 years before we revisit them like we're doing here. But then they just don't keep pace and it's a political challenge then. You know, that's a balancing act between how much to give you versus oh, we haven't looked at these fees for 15-20 years, and then you need more revenue that way. Okay. [LB892]

ANNE BOYLE: Well, if we could remove the cap it would be in the best interest because exactly what you just said. We have to come over and ask to increase the cap and then hope that the bill gets through committee and live with whatever happens, if it does or does not. [LB892]

SENATOR GAY: And how did you arrive at this number then? Compromise, just this is breaking even or... [LB892]

ANNE BOYLE: I don't believe that the cap that we're asking for even significantly increases what the department needs right now. [LB892]

SENATOR GAY: Okay. [LB892]

ANNE BOYLE: It is just...the genesis of this is the problem that we have and it's really a fairness problem. When the consumer comes in and somebody is buying a manufactured home that has two bedrooms, and then somebody else is buying a manufactured home that is five or six bedrooms, they were paying the same fee. So then we tried to use whatever skills we had based on the law as it is, and it was difficult and complicated and the industry, working with them, we have come up with this as a way to equalize it just as you do when you assess property. It's based on valuation. [LB892]

SENATOR GAY: All right. Thank you. Any other questions? I don't see any. Thank you very much, appreciate it. [LB892]

ANNE BOYLE: Thank you. [LB892]

SENATOR GAY: Other proponents who would like to speak? Proponents, come on up. [LB892]

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MARTIN HUFF: Members of the committee, Mr. Chairman and members of the committee, my name is Martin Huff, M-a-r-t-i-n H-u-f-f. I'm with the Nebraska Manufactured Housing Association. I appear today as a proponent of the legislation more out of shall we say...we don't like the seal fees going up and that. But it's been 15-20 years since this has been visited and we are proponents of the legislation. I don't have anything specific to add. I could answer a couple of those questions that were asked previously. I'll just end with that. [LB892]

SENATOR GAY: Let's wait and see if there's any questions for you. All right. Any questions from the committee? Senator Hansen. [LB892]

SENATOR HANSEN: Thank you. Martin is it? [LB892]

MARTIN HUFF: Yes. [LB892]

SENATOR HANSEN: Can you answer the question about international sales of manufactured homes then? [LB892]

MARTIN HUFF: There's provisions in the law that in order for an out-of-state manufacturer to build a house, offer for sale, build it, lease, whatever, they have to meet the program, send in their plans, review all the detail, and have the plan approved that they're shipping into the state or else the department has a reciprocity, I believe, with a few other states where they recognize that other state's inspection. But I was kind of taken by your comment. Is there a house in Nebraska right now from Canada? [LB892]

SENATOR HANSEN: Correct. [LB892]

MARTIN HUFF: Is it closed construction or can it be inspected on site? [LB892]

SENATOR HANSEN: I'm sure, it's for sale. I know that. There was an orthopedic surgeon moved to the North Platte area and bought 17 acres just so he could live outside of town and build a, I don't know, it's close to \$700,000 manufactured home from Canada. Part of it was built in Canada, shipped on trucks...I don't know how many trucks it took to get it...a huge house. But I would call that a manufactured home. I don't know. It didn't come on wheels. But other than the semis that brought it. [LB892]

MARTIN HUFF: Yeah. Well, there's a criteria. If it's a closed construction, in other words if there's plumbing installed in the walls and wiring, it cannot be inspected without tearing that out. You know, the guy got a building permit and all that, didn't he? [LB892]

SENATOR HANSEN: Well, I'm not sure because he had more than 10 acres and in our county, I think, if you have more than 10 acres you don't have to get those permits. I'm

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not sure about that either. Some of that's changed, some of it's not. We're in the west, you know. [LB892]

SENATOR ERDMAN: But it wasn't--just to interrupt, Senator Hansen--it was not preconstructed and delivered to the site. It was delivered... [LB892]

SENATOR HANSEN: And then reconstructed. [LB892]

SENATOR ERDMAN: Okay. [LB892]

MARTIN HUFF: If the local jurisdiction can inspect at the point of reassembly, you know, that meets the code. And otherwise if there's parts of the assembly that are closed in the wall they can't inspect, it has to meet the state program. I'm at a loss. [LB892]

SENATOR HANSEN: I don't even know if it would be in definition of a manufactured home because at one time I'm sure you could have seen the plumbing and the wiring. But everything for the house, all the material for the house was measured and then sent. Some of the walls were already put together. [LB892]

MARTIN HUFF: There's all kinds of stuff offered for sale. There is that example of...it depends on how much of the process is completed at the factory as to whether it needs to meet this program or not. If it can be inspected on site by a local inspector, then it has to meet the program, and if it was closed, you know... [LB892]

SENATOR HANSEN: It could have been at one time. [LB892]

SENATOR GAY: All right. Thank you very much. Any other questions? I don't see any. Thank you. [LB892]

MARTIN HUFF: Thank you. [LB892]

SENATOR ERDMAN: Mr. Chairman, can we request the legal representative for the commission to testify? [LB892]

SENATOR GAY: Absolutely. Legal counsel would you...okay. Go ahead and state you name. [LB892]

MARK BREINER: There's two of us here, so co-counsel (inaudible). [LB892]

SENATOR ERDMAN: I'd rather talk to Nicole, but...(laughter) no, I'm just teasing. I'm just teasing. [LB892]

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MARK BREINER: I would too. [LB892]

SENATOR ERDMAN: I won't do that to Nicole because she used to work for me, so I won't do that to her. [LB892]

SENATOR GAY: Can you state your name and spell it out for the record? [LB892]

MARK BREINER: My name is Mark Breiner, B-r-e-i-n-e-r. I'm the director of the Board of Transportation Department for the Public Service Commission, but I'm also co-legal counsel that is involved with the manufacture and mobile home program. [LB892]

SENATOR GAY: Okay. Thanks, Mark. Senator Erdman has a question. [LB892]

SENATOR ERDMAN: Mark, there's a couple of questions that I had and maybe it's just seeking clarity. Section 2 of the bill defines modular housing unit as a dwelling whose construction consists entirely of or the major portions of its construction consists of a unit or units, and the new language is containing facilities for no more than one family, not fabricated on the final side or dwelling unit. If a modular housing unit were to be constructed and say the zoning of a community allowed for multifamily residence, one family in the basement and one upstairs, if that was the use of that, is that no longer a modular home or what is the application of that new language referring to containing facilities for no more than one family? [LB892]

MARK BREINER: Well, that's a little bit of an adjustment for the living unit statutory construction that was there. The living unit would be...there could be three different pieces of a living unit in one modular housing unit, and that was the genesis of some of the problems that we had that Commission Boyle addressed with the seal fee. And so in essence, what we're doing is getting rid of the living unit concept, which was there for purposes of seal determination and just changing that definition to just a modular housing unit. [LB892]

SENATOR ERDMAN: So then the language, though, still retains some discretion or determination about the use of that improvement once it's installed. [LB892]

MARK BREINER: The intention wasn't for just for a single family unit. That would be different than say a hotel and that you could have several units that would be put together would be a hotel that would not meet that definition that's in that statutory scheme. And frankly, that question, I don't know if we have a better answer in the back. [LB892]

SENATOR ERDMAN: It sounds like, Mark, it sounds like it could still be treated as modular housing. The intended use of that property would be determined by the individuals using it, not as you're explaining a hotel purpose or it's clear that it could be

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utilized as a single family property. But depending upon zoning codes and other things, there may be other options. But for your purposes, you would consider a modular housing unit to be an item or a plan that was constructed that would generally be for one family. [LB892]

MARK BREINER: If I'm understanding the statement correctly, I think that is a good understanding. [LB892]

SENATOR ERDMAN: The second question that I have is in that same section, it deals with the location of the seal. Currently we require that seal to be located on the exterior of the modular housing unit to comply with state standards. Now it's going to say to be displayed on the housing unit as determined by the commission. Help me with that. Logic may be that if you locate it somewhere else, that may be easier to find. For example, if you located it in the area where the fuse boxes were or something, that would be the logical place to put that. The idea, though, that if it was on the exterior of the house it would be harder to remove, in theory, because of the nature of the way that you would affix that. Is the intent to give flexibility or is the intent to provide a common regulation as to where that will be located because if I'm going to go out and try to appraise one of these properties and I'm looking for this seal, I don't want to have to go hunt this thing down and find out from the owner that they have no idea where it is either? What is the guidance or what is the direction that the commission is looking to for that language to provide? Is it to provide consistency or flexibility or both? [LB892]

MARK BREINER: It's a little bit of both. The rule and the statute before had it displayed in an area that might not be convenient for the customer. At one point in time it was supposed to be in a window and this is an address to change that so that it can be put in a less arguably conspicuous space while still being in a consistent manner to be found and inspected. [LB892]

SENATOR ERDMAN: And do you have any input from the manufacturers as to where they would like to see it or do they have a preference at this point, do you know? I know it says it is determined by the commission. Will that be determined by rules and reg? [LB892]

MARK BREINER: Yes, that would be. That would, as I understand it, part of the rules and reg process. [LB892]

SENATOR ERDMAN: So do you have any idea at this point, any discussion with them where that would be? [LB892]

MARK BREINER: There has been some discussion. I don't know that that's been finally...you know, a final determination has been made. It's certainly something I can review with the director, Mark Luttich, and get back to you on as to...if there's been any

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progress made in that area. [LB892]

SENATOR ERDMAN: Okay. [LB892]

SENATOR GAY: Any other questions? Senator Pankonin. [LB892]

SENATOR PANKONIN: Thank you, Senator Gay. I just want to reiterate what Phil Erdman said. And your commissioner Schram can tell you, we've looked at serial numbers for farm equipment, Tim. You can never find them. Every manufacturers different, then they change. They've got them everywhere. There needs to be...that's important where there's an appraiser or you folks or whatever, you know, it's going to be in the bathroom, it's going to be here, it's there. Its a mess when you don't have some consistent...Tim Schram can tell you all about it. Can't find them can you, Tim? [LB892]

SENATOR GAY: No. [LB892]

SENATOR PANKONIN: Yeah, so that's got to be something that's real important, I think. [LB892]

MARK BREINER: I can tell you there's...and maybe this is a little bit of a refinement from Senator Erdman's question, there's about two or three different places, specific places on the unit that they're looking to put it in. I think the fuse box is one of them, perhaps on the inside of a cabinet in the kitchen was another place. I think those issues are still being looking at and no final determination has been made. But the commission is aware that that's an issue and does want to have that as part of its consideration. [LB892]

SENATOR PANKONIN: Good. Thank you. [LB892]

SENATOR GAY: Mark, I've got a question for you. I saw you on the fees kind of like, well, the question I asked on the fees, Martin, was kind of reluctant a little bit when we talked about fees, but the fees changing. How did you arrive at the fees that are in this bill now? Did you read the bill and are you... [LB892]

MARK BREINER: Yes, sir. [LB892]

SENATOR GAY: How did you arrive at those fees because some doubled, some are now \$60, they're doubled kind of? [LB892]

MARK BREINER: How that was looked at was a statistical analysis that was done by the director of the department, Mark Luttich, looking at, going back and taking a past history of what size living units were put in, and what is the largest square footage the commission would be looking at issuing a seal for based on what's come in historically

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received by the commission. As Commissioner Boyle made comment to, 15 years ago just about everything that was a manufactured home was the traditional double-wide trailer. Well, now you've got 20-unit pieces that are being helicoptered up to mountainsides in Colorado. So it's a completely different market now than it was. So the seal fee is based on a statistical analysis that the director of the department did. [LB892]

SENATOR GAY: So when I looked at that fee, but some are flat fees for the initial registration and then you have an hourly fee for an inspection. Is that... [LB892]

MARK BREINER: That would be a plan review. There's about two or three different steps that come in. [LB892]

SENATOR GAY: Okay. So the plan review, that's still capped at \$60 now. So I guess on these larger...what I'm saying is on these larger homes you're not probably being fully compensated what it's costing you or are you? Or are you too much or... [LB892]

MARK BREINER: Well, the goal is to have the compensation. I think the hourly fee is that would be set by the commission. I believe it would be determined...and the commission I believe would only approve anything that pretty much met the cost of the department and analyzing these plans without having to turn into a revenue center, which is not the intention of the program. [LB892]

SENATOR GAY: Yeah. And that's kind of the, you know, fine line you walk. You don't want to come here every year, but yet you don't want to come here every 20 years either and try to fix this. And then on the industry, I can see their side and say, hey, wait a minute, we want some kind of cap here. So I'm just looking...you know, I'm not that familiar with the bill, this is the first hearing. But I'm looking for some happy medium, I guess, in the interest of both parties quite honestly. More for your interest than theirs, I guess, but so. Okay. Thank you. Any other questions? I don't see any. [LB892]

MARK BREINER: If I could address two issues that came up when they were talking with Commissioner Boyle. Senator Hansen, we'd be happy to take a specific look at the circumstance that you have out in North Platte. My understanding would be that at least the plans would have to be reviewed and a seal issued for any unit that's sold in the state of Nebraska. But if you have a specific issue or question about that, I certainly would be happy to investigate that and get back to you. And then Senator...is it Pankonin? [LB892]

SENATOR PANKONIN: Pankonin. [LB892]

MARK BREINER: You had asked a question regarding the inspection of what exactly the department does. And not only does the department review the plans and make sure the plans are okay, but they also go out, they inspect the manufactured housing

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factories to make sure that their quality control is in good shape. They also go out and will do some on-site inspection of the houses that once they're assembled on the location where that's appropriate and where they're able and they will also...we get involved in post sale issues. If there's been a defect with the house, we can go out and do some investigation to help determine what happened and what went wrong with the house and what needs to be done to fix it, and maybe if the manufacturer is responsible, we have some abilities to hold their feet to the fire if they did make a mistake somewhere in the process. So the commission is...the department is fairly heavily involved and does have a pretty active role in the industry. [LB892]

SENATOR GAY: Thank you. I don't see any further questions. [LB892]

MARK BREINER: And getting back to, I think, a point Commissioner Schram wanted to make, another goal that we're trying to achieve is an equality of a situation where a person that was...if they have a big home and it has to be moved in three pieces because of the way the road is constructed, we don't want to necessarily put them in a position where they have to pay more in a seal fee than somebody that doesn't have that issue. So this is yet another factor behind why the changes were made and the goal that the commission is trying to achieve. [LB892]

SENATOR GAY: Okay. Thank you. [LB892]

MARK BREINER: Thank you. [LB892]

SENATOR GAY: Any other proponents? Any opponents? Anybody would like to speak on this issue in neutral? Okay. We'll close the public hearing on LB892. Thank you all. [LB892]



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Disposition of Bills:

LB749 - Advanced to General File.

LB892 - Advanced to General File.

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Chairperson

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Committee Clerk