

2011 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2366

2011 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2366
January 31, 2011
Job 13667

Conference Committee

Committee Clerk Signature

Eva Lubett

Explanation or reason for introduction of bill/resolution:

Relating to inspections of modular structures

Minutes:

Attachments

Chairman Klein: Opened the hearing.

Senator Dotzenrod: Introduced the bill. He stated that it would strike the word six and replace it with two. If you are going to build a house and move it, you have to have someone (a third party) inspecting it while it is being built. Third party inspections cost around two thousand dollars. They have had in the past builders building up to six homes on a site and then stopping so they don't have to have them inspected and starting up the next year with another six. This bill will bring it to two houses built without inspections. He then handed out an email from a builder who would like to see it at zero. See **Attachment #1**.

Senator Andrist: Asked if there had been a lot of abuses with the people who build fewer than six homes or if this is just because the ones who build more homes want the others to have the same expense as them.

Senator Dotzenrod: He stated that he didn't know of any abuses, but they could show up later. He said that this section of code was adopted in 2003 or 2005. What he heard from the builder, who sent the email, was that the Hutterite Colonies build two to three homes a year and they are not inspected and he has the extra two thousand dollar expense that they do not have to pay and in today's market it can be a significant difference on who gets to build the house.

Senator Laffen: He thinks the current law is there to help assist the code officials that are in those counties. Right now these houses are showing up in their jurisdiction and they are being asked to make sure they meet code and there is no way for them to look at them and really know. This is to help protect the smaller jurisdictions and the code officials. He also felt that everyone should have an inspection and if there is an exception to that it should only be for an educational institution.

Doreen Riedman, North Dakota Association of Builders: Stated that she thought the bill was good in making it an equal playing field. She suggested that they should visit more before a number is decided upon and that she is in support of all homes having an inspection.

Discussion about inspections and code

Jack Skaley, Chief Plumbing Inspector for the State of North Dakota: In regard to the homes being built at lumber yards, they get a certificate to do the plumbing inspection and the electrical board gets a certificate to do the electrical inspection, but because they don't know where these homes go there would not be a mechanical or building inspection. If they know where it is going they may call the inspectors from that area to have it inspected. The building inspector will not accept a house that does not have a label on it. The ones that are not getting inspected are probably the ones at the lumber yards, the other entities are. It is the building and mechanical part that is falling through the cracks.

Senator Laffen: The reason they have building codes is to protect the end user. He said he feels it doesn't make sense to exempt any homes from having to follow the code and be inspected.

Chairman Klein: This isn't an issue for the North Dakota owned homes, if it goes out of state it doesn't apply. You would have to have it fully inspected if it goes across the border.

Jack: Yes, each state has its own codes and they are constructed to their standards.

Senator Dotzenrod: The bill is providing standards so the consumer is assured he gets a home built to code. He added that this will not affect rural North Dakota.

Discussion continues on the difference of building on site versus factory.

Cal Steiner, North Dakota Department of Commerce: He said he runs the third party inspections for the state. He explains the difference of the codes in the state. He wanted to emphasize that any decision made would affect builders in other states. If we say it will be two, then other states will be able to ship in two units that are not inspected. Entities in the state could apply to the industrialized building commission who runs the IBC labeling, they could apply and become an inspector.

Chairman Klein: Asked how he felt about the bill.

Cal: Stated that they were neutral.

Chairman Klein: Closed the hearing.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2366

February 8, 2011

Job Number 14204

Conference Committee

Committee Clerk Signature

Erin Liebelt

Explanation or reason for introduction of bill/resolution:

Relating to inspections of modular structures.

Minutes:

Discussion and Vote

The Senate Industry, Business and Labor Committee will be discussing SB 2366.

Senator Klein states the bill is concerning inspections and proposes a change from 6 to 2. I spoke with someone from the builders who had an interest in making some changes that needed to be made. They are having their board meeting this morning but she indicated that they were fine with the way the bill is currently written.

Senator Andrist states he doesn't like this bill from the start.

Senator Schneider states he can't believe some homes don't have inspections.

Senator Klein states where he found a little comfort was that plumbing, electrical, whatever else was inspected; the issue to me would be the structure. I believe a homeowner who has bought a home from XYZ company is going to go back or certainly tell that company that they don't like that their rafters are 4 foot on center and my roof dips and other issues. I may put too much faith in my neighborhood lumberyard guy who is helping me construct something. I assume that these guys are building a few more of these places on their lots and are following these rules. If they want to sell more in the future, they have to meet some sort of quality standards. You make a point, if you were building it in the city; it has to follow code from the beginning. If you are going to build a shop out in the country, you may need to follow code.

Senator Lafeen states, "I agree entirely with Senator Schneider that it appears every one of these would have to be inspected. Just because you want to build two, doesn't mean that the person buying the house should be exempt from it being inspected. I am going to vote for this.

Senator Andrist states that he comes from the perspective of a small town where we have people living in tents and trucks much of the year. I don't want to do anything that would limit construction. I've never known that there are probably a lot of structures in our community that couldn't pass a building code. People live in them and don't have that much problem. I have heard of a lot of people being electrocuted and drowned in sludge. I

believe that the people who build something have enough liability themselves so they aren't going to build something defective.

Senator Klein states that we have come a long way from 30 years ago when we were knocking up the houses with less oversight.

Senator Nodland states he tends to agree with Senators Schneider and Lafeen. I think the building codes are being enforced and we are expanding more and more in the rural areas with building code enforcement. I guess I don't have heartache with this bill. I could go either way.

Senator Nodland makes the motion **DO PASS** on SB 2366.

Senator Lafeen seconds the motion.

SB 2366 passes 4-3-0.

Senator Lafeen is carrier of **SB 2366**.

REPORT OF STANDING COMMITTEE

SB 2366: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2366 was placed on the Eleventh order on the calendar.

2011 HOUSE TRANSPORTATION

SB 2366

2011 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee
Fort Totten Room, State Capitol

SB 2366
03/11/2011
Job # 15320

Conference Committee

Committee Clerk Signature

Jeanette Cook

Explanation or reason for introduction of bill/resolution:

SB 2366 is a bill relating to inspections of modular structures.

Minutes:

Attachments #1 and #2

Representative Glen Froseth, District 6, introduced SB 2366 and spoke to support the bill. He stated that he was instrumental in getting the third party inspection program started. He feels that the heart of this bill is lines 15-20. He provided testimony from Riverside Building Center in Lisbon that supports the bill. See attachment #1.

Representative Weisz: Why would we want to change this from six houses to two?

Representative Froseth: The concern is that the five homes that are allowed now are not being inspected by anyone except the person who is building them, even though they still have to be built by code. There is no inspection that takes place to certify that they have been built by code. It is felt that there may be some risk without those homes being adequately inspected. This will still allow a lumberyard, for instance, to build up to two spec. homes a year. It costs about \$2,000 to have a third party come in and inspect. If they don't have them inspected, and a fault is found later, the builder would be liable.

Representative Onstad: To move a home onto a site and get it hooked up to electrical power, they will need a wiring certificate. That would have to be done regardless of how many homes they build.

Representative Froseth: Yes.

Chairman Ruby: Who are usually the third party inspectors? Are they on retention by a building company?

Representative Froseth: As far as I know there are no third party inspectors in North Dakota. I would like to defer that question to the Department of Commerce.

Chairman Ruby: If you didn't have an inspection before the home is moved off the lot that it was built on, then would the local inspectors do the inspections?

Representative Froseth: Yes.

John Walen, Dakota Custom Homes and Wagon Wheel Lumber in Washburn, spoke in support of SB 2266 and provided written testimony. See attachment #2.

John Walen: There is finally one inspector in North Dakota who is from Grand Forks. We have to get set up with the program as mandated by the state. Our "go to" person is Mr. John Damoth (unsure of spelling) with the Division of Community Services of the Dept. of Commerce. We go from there to the Industrialized Building Commission which is located in Virginia. They have a list of third party inspectors. The closest one to North Dakota is T R Arnold Co. in Elk Heart, Indiana. To build a house we have to submit a detailed plan of the home. The plans have to be signed off before we can build the house. The homes are inspected twice by T R Arnold. Once is before the insulation goes in so the plumbing and electrical can be inspected. Then there is a final inspection. We have learned a lot about building homes through this process. Sometimes there is a deviation, and we have to make a correction. It may just to get the plans drawn correctly. We think it is a good process to ensure quality homes. It would be a good thing for this bill to pass; it would strengthen North Dakota's housing industry.

Representative Weisz: What is the cost for this, and what is the process when building on site for the inspections?

John Walen: We notify the inspector the week prior to when we need him. The first inspection they spend a lot of time looking at the wiring. He also looks that the design of the floor trusses and rafters.

Representative Weisz: I was referring to building on a customer's site, what is the difference in the inspections there as compared to building a home in your lumberyard.

John Walen: We don't build any off site homes. You had a question about cost. A lot of our cost is paying the inspector to drive back and forth. If I have two or three houses that can be inspected on the same day, I can do pretty well. It ranges from \$1200 for three houses or up to \$2200 if the inspector has to make trips for one house.

Chairman Ruby: What builders is this bill going to affect? Which manufacturers are exempt right now that this would capture?

John Walen: I don't know how many, but I do know that there are some who build five or less. It may also pertain to future start-up companies. It would get them started in the right direction.

Chairman Ruby: Can you refer us to any problem that has come from someone building less than the number required for the third party inspections?

John Walen: Not a specific problem.

Representative Frantsvog: When you design these homes, do you make a decision as to what type of heating will be involved...(inaudible)?

John Walen: We don't really get involved in the heating systems in our homes unless it is baseboard electric. Usually the furnace is added later.

Doreen Redman, North Dakota Association of Builders, spoke to support SB 2366. She stated that they build their homes to code, and they believe that these modular homes should be built to code as well. The third party inspection is one way of doing that. This bill will affect the smaller lumber yards, potentially, that are building up to five houses.

Doreen Redman: We find that the Riverside Building Company is building a large number of homes. They customize their homes, so they can incur a great cost per home. This can become very cost effective if you are doing ten homes, and they are all identical. We originally worked to get the bill to help alleviate some of the inspection costs that are incurred. They have to meet the building requirement of where the house lands. Some homes go into rural areas where they do not need a building permit. We think all homes should meet the same minimum requirements.

Chairman Ruby: This bill does not exempt anyone from complying with code. This is more of a requirement for the third party inspector. We are dropping that down to benefit third party inspectors. It seems like it would do that more than making some in compliance with building code. I am struggling with the need for this.

Doreen Redman: I can't disagree with anything that you said. However, I think that Riverside Building Company sees a number of builders that are building up to five houses per year and putting them out in rural North Dakota. I think that they are escaping a lot of the building inspections, but as Representative Onstad stated, they still have to have the electrical inspection and the plumbing inspection, which are required in the state.

Chairman Ruby: If it is location specific, even a third party inspector can't require a higher level of inspection than where the house is going to be placed, can they?

Doreen Redman: No.

Chairman Ruby: So, it wouldn't change that.

Doreen Redman: What I think was happening was the Riverside Building Company saw competitors getting by less expensively by avoiding the inspection process by only building up to the five homes.

Representative Hogan: Do you know the number of manufacturers of mobile structures that are in North Dakota?

Doreen Redman: I don't have the number for you.

Cal Steiner, Department of Commerce, spoke in a neutral position on SB 2366. He stated that it is not just in-state builders that we are concerned about. The building may be done in other states, and they build up to five homes and ship them into North Dakota. Without a local building inspector, they won't necessarily be built to the state code. Another concern

that is out there is that there may be entities that will contract to build up to six houses with a certain contractor, and then switch to another contractor, and another. They may be building fifteen or twenty houses without the third party inspection process, by switching contractors. I have just become aware of this recently.

Chairman Ruby: You mentioned that if a builder knows a house will be located in a rural area and not subject codes like a city, how would that be different from sending a crew to build the house on site in a rural area.

Cal Steiner: I would depend on the crew, what specs they build it to, with the exception of the electrical and plumbing. The local requirements are not all the same. That is a weakness in the way it is set up in the state.

Representative Hogan: Do you believe that the third party inspection process is working well now?

Cal Steiner: Yes, we believe it is working very well. Many times if an electrical problem is found, which many times they are, the problem is referred back to the Department of Commerce. We contact the third party inspector, the IBC Industrialized Building Commission, and we also contact the builder about the mistake. They have to correct it.

Representative Onstad: I know of a home that was purchased in Minnesota and moved into my area. They couldn't get an local electrician to approve it because they weren't part of the building process. It took them a long time to get the state wiring inspector to go through the home at considerable cost. It seems to me that getting a good inspection is very important to the buyer.

Cal Steiner: You are correct; the used homes are many times a problem. They may have had to do an invasive inspection.

There was no further testimony on SB 2366.
The hearing was closed on SB 2366.

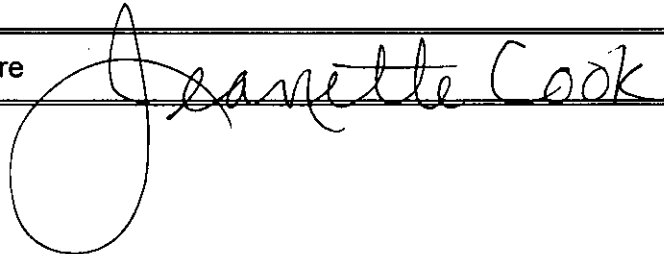
2011 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee
Fort Totten Room, State Capitol

SB 2366
03/17/2011
Job # 15627

Conference Committee

Committee Clerk Signature



Minutes:

Chairman Ruby brought SB 2366 before the committee and reviewed the bill.

Chairman Ruby: I don't see the problem with the current law. There weren't any examples given that substandard homes are being built. This doesn't mean that the homes don't have to be inspected at all.

Representative Onstad: In one situation they are building up to five, and then going to another site and building another five. In that way they are probably abusing the rule.

Representative Weisz: If a house is going into Bismarck, it will still have to have a third party inspection, and it will have to be up to Bismarck's code. If someone builds a house on a rural site, it wouldn't be different than a builder building a modular home and moving it to a rural site. They will have to have electrical and plumbing inspections.

Representative Heller: In the testimony from John Walen it says that some builders can build five homes that are not regulated by the same criteria that he is. Is that true?

Chairman Ruby: Yes, if a builder constructs more than five homes, they need to have a third party inspector. He believes that if someone is only building up to five homes, they can get by without the cost of the third party inspection.

Representative Weisz: In 2003 this issue started when some modular homes were built in Canada. Once they got here they had to have sheet rock torn out to inspect the electrical and plumbing. So, we came up with the idea of a third party inspector to inspect the houses before they were completed. I believe the reason that we used the number six was to exempt the small builders in the state that are building to an individual market. It was an arbitrary number. It was felt that the major companies would get the third party inspectors in for more than one home.

Chairman Ruby: Some think that it is not fair because some of the builders do not have to pay the third party inspection fees, making the cost of the housing less. The other thing is that we only have one inspector in the state.

Representative Onstad: From the building and trade perspective, I am going to support the bill. I think that it should be consistent overall.

Representative Onstad moved a DO PASS on SB 2366.

Representative Delmore seconded the motion.

Representative R. Kelsch: It is a little puzzling that the modular home industry was not here to speak on this bill.

A roll call vote was taken on SB 2366. Aye 11 Nay 3 Absent 0

The motion carried.

Representative Frantsvog will carry SB 2366.

Date: 3-17-11

Roll Call Vote #: _____

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2366

House TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Onstad Seconded By Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman Ruby		X	Representative Delmore	X	
Vice Chairman Weiler	X		Representative Gruchalla	X	
Representative Frantsvog	X		Representative Hogan	X	
Representative Heller	X		Representative Onstad	X	
Representative R. Kelsch	X				
Representative Louser	X				
Representative Owens	X				
Representative Sukut	X				
Representative Vigesaa		X			
Representative Weisz		X			

Total (Yes) 11 No 3

Absent 0

Floor Assignment Frantsvog

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2366: Transportation Committee (Rep. Ruby, Chairman) recommends DO PASS
(11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2366 was placed on the
Fourteenth order on the calendar.

2011 TESTIMONY

SB 2366

SB 2366

From: Darrell Mennis [mailto:darrell@rbclisbon.com]
Sent: Friday, January 14, 2011 12:48 PM
To: 'jdotzenrod@nd.gov'
Subject: Third Party Inspections

Jim

After our phone call this morning, I would like to clarify myself. Our main goal at Riverside Building Center is to reduce the amount of exemptions to zero. Our reasoning is that the current exemption of six, still let's unqualified housing come into the state, or let's builders within the state build up to six houses, every year, that are not up to IBC codes. If the Law was changed so that every movable house required third party inspection, it would close these loop holes.

When this law took effect, we were required to certify our plant to meet all requirements for third party inspections. At that time the cost to Riverside was approximately \$10,000.00.

Riverside along with S & B Homes stepped up to the plate, met all requirements, and continued to do business the correct way as required by that law. Others have used the loop holes to hurt our business's. Our request is that the law be changed to have zero exemptions for for all manufactured housing.

If the Law was changed to remove Sick Built One Piece Movable Houses from Third Party Inspections, it would only open the flood gates to let every type of quality into the state.

We believe that third party inspections are a good way to keep quality housing within the state!

Darrell Mennis
Riverside Building Center
Lisbon ND
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#1



Riverside Building Center

www.rbclisbon.com

1015 South Main Street • P.O. Box 1004

Lisbon, ND 58054

3/10/2011

Jim Dotzenrod

Re: SB2366

Sending this memo in support of SB2366. We are a Manufacturer of One Piece Movable Houses in south eastern North Dakota. When the law for third party inspection took effect in North Dakota, Riverside Building Center stepped up to the plate and followed the law as required. Fortunately we build more than six houses per year, therefore we certified our business and became compliant with the requirements of third party inspections.

If the original intent of this law was to provide better housing through third party inspection, then I believe you have been successful. However part of the quality control problem still exists. Apparently this law originally passed because the legislatures thought there was a problem with quality control in prebuilt housing. Instead of saying if it's not broke don't fix it, the legislatures should be saying, we narrowed the problem down on poor quality construction, now we need to finish job, and lower the exemptions to make it an even smaller problem.

Please vote for SB2366 so rural North Dakota can receive quality construction on even more of the manufactured houses products in the future.

A handwritten signature in black ink, appearing to read 'Darrell Mennis', is written over a faint, rectangular stamp.

Darrell Mennis

Riverside Building Center

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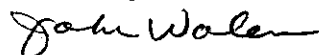
NORTH DAKOTA HOUSE TRANSPORTATION COMMITTEE

SENATE BILL 2366 RELATING TO THIRD PARTY
INSPECTIONS OF MODULAR STRUCTURES

Thank you to the ND House Transportation Committee for allowing me to voice my support of SB 2366 introduced by Senators Dotzenrod and Freborg and Representatives Froseth and Mueller. This bill would lower the number from less than 6 to less than 2 the amount of ready to move homes that can be built by one company per year without going through the process of certification and inspections by an approved third party.

I work with ready- to- move homes at Wagon Wheel Lumber in Washburn, ND and have gone through the process as required for certification and inspections on each home we have built. I feel that it is very important to my customers to know that their home meets or exceeds current building codes. Current legislation allows for companies to build up to five homes per year that are not regulated by the same criteria that we are. This could result in a substantial number of non-regulated homes being built and sold in North Dakota. I believe that passage of this bill will assure more uniformity and quality control for this phase of North Dakota's housing industry.

Thank you,



John Walen

Dakota Custom Homes
Wagon Wheel Lumber
Washburn, ND