

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2325

2005 SENATE POLITICAL SUBDIVISIONS

SB 2325

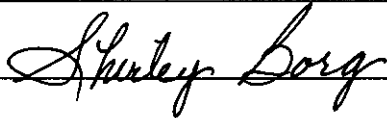
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2325

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date January 28, 2005

Tape Number	Side A	Side B	Meter #
1		X	630 - 2823
Committee Clerk Signature 			

Minutes:

Chairman Cook opened the hearing on SB 2325 relating to installation of manufactured homes.

All committee members (6) present.

Senator Ed Kringstad, District 35, Bismarck, ND, prime sponsor introduced SB 2325. He sponsored a bill which authorized an adoption of an installation program in the Department of Commerce for manufactured homes last session. This is the section before you which the manufactured housing association has asked me to sponsor amendments. This law was passed to allow the state to regulate this area rather than have the federal government do so. At that time we were not sure exactly what would be required in order to allow the state to handle this matter. Since then the Manufactured Housing Association has been working with the Department of Commerce on specific regulations and they have agreed on these amendments. Basically it will allow for a certification process and the means to take care of the cost of the processing fee.

Finally they allow the installation to be done either under the rules the department will adopt or the manufacture's instructions.

Kent French, North Dakota Manufactured Housing Association, testified in support of SB 2325.

What this bill does in its entirety is it sets a standard for manufactured housing installation across the state of North Dakota. It will also set certification standards and training for people who will do the installation. It sets up a system for inspection after the homes have been set up. It also sets up a system that suspends the certification of the installer if installation standards are not met. It incorporates a system for handling complaints and dispute resolutions.

Senator Gary Lee: It seems on lines eighteen and nineteen there is a potential for a conflict.

Kent French: We debated on how we would do that. The reason for that is sometimes a particular manufacture will have as good of set up instructions as he should have and at that point we would go with the standard. We do want to make sure that we go with the manufacture set up. It has to do with warranties and that type of thing. If the manufactures do not have as good of instructions as they should have we then want to go with the National Installation Instructions. The installer will determine what set of rules he will follow.

Senator Dever: Does this apply both to manufactured homes that are set on foundation or basement and mobile homes? Are those rules in existence now?

Kent French: This applies to all manufactured housing on the first time set. Any house that comes into the state of North Dakota is going to have to be set to these standards no matter where that house is set. We need to have this bill passed as we have a dead line with the federal government and we need to start charging our fees or we will have to accept what they pass down at a later date

Richard Gray, Department of Commerce, Divisions of Community Services, appeared neutral to answer questions on manufactured housing. The Department of Commerce office is in charge of putting the program together. They have developed a draft set of rules that is modeled after the state of Colorado. It provides for registration of installers, certification of inspectors, and participating jurisdictions. We have a process where installers after a period of time can be self certified. We have an over sight instruction program that will monitor compliance and make sure everybody is complying with this. The Department of HUD will be reviewing every states program to determine whether or not that program is acceptable to HUD or whether HUD will impose a federally sanctioned program. Mr. Gray submitted an amendment to the committee based on the fact that the federal program is still being developed and that program will be run by contractors. The big problem with the federal program is they will be hiring contractors and you will have no idea where the contractors are going to come from and it will be black and white with out a lot of flexibility in it. That is why the manufacturing housing association said we need to do this because the manufacturing housing improvement act of 2000 said that either the state will have its own manufacturing installation program or the federal government will impose one. The reason the federal government is getting involved it they found over seventy per cent of the problems with manufactured housing which people think are construction related problems are problems not related to construction but problems related to the improper installation. The goal is by December 27, 2005 we have this program ready to go and we have the ability then to ask flexibility in terms of the implementation date. The amendment deals with enforcement.

(See attachment #1)

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Senate Political Subdivisions Committee

Bill/Resolution Number: SB 2325

Hearing Date: January 28, 2005

Chairman Cook: How can we make sure people who don't know they are breaking the law, but just think they are helping out their neighbor, realize they should not be installing a home.

Richard Gray: There is a lot of laws on the books and a lot of people who do not know the laws. You need to provide the training, provide the publicity and get people to know that. It will take a lot of work to make sure this program exists.

No further testimony for or against the bill.

Chairman Cook closed the hearing on SB 2325

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2325

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date February 10, 2005

Tape Number	Side A	Side B	Meter #
1	X		3952 - 6089
Committee Clerk Signature <i>Shirley Borg</i>			

Minutes:

Chairman Cook called the committee to order for discussion and action on SB 2325. All members present.

Senator Cook asked the committee refresh them self. The amendment was discussed.

Senator Triplett moved the amendments of SB 2325.

Senator Dever seconded the motion.

Roll call vote: 6 Yes 0 No 0 No

Amendments approved.

Senator Gary Lee made a motion for a Do Pass as Amended

Senator Dever seconded the motion.

Roll call Vote: 6 Yes 0 No 0 Absent

Carrier: **Senator Dever**

FISCAL NOTE

Requested by Legislative Council
03/09/2005

Amendment to: SB 2325

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$0		\$0	
Expenditures			\$0		\$0	
Appropriations			\$0		\$0	

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

It is anticipated that there will be NO impact on General fund expenditures. Fees are to be collected each year for registration of installers, certification of inspectors, and the sale of labels indicating acceptance by an inspector of the proper installation of a manufactured home.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The amount of fees to be generated during the biennium is unknown at this time, as fees have not yet been established and the program has not yet reached the point of soliciting participation.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Richard Gray	Agency:	ND Dept. of Commerce
Phone Number:	328-3698	Date Prepared:	03/09/2005

Date: 2-10-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO SB2325

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Move Amendment

Motion Made By Senator Triplett Seconded By Senator Dever

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator Nicholas P. Hacker, VC	X				
Senator Dick Dever	X				
Senator Gary A. Lee	X				
Senator April Fairfield	X				
Senator Constance Triplett	X				

Total Yes 6 No 0

Absent 0

Floor Assignment _____

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

Date: 2-10-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2325

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 58283.0201 Title .0300

Action Taken Do Pass as Amended

Motion Made By Senator Gary Lee Seconded By Senator Dever

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator Nicholas P. Hacker, VC	X				
Senator Dick Dever	X				
Senator Gary A. Lee	X				
Senator April Fairfield	X				
Senator Constance Triplett	X				

Total Yes 6 No 0

Absent 0

Floor Assignment Senator Dever

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

REPORT OF STANDING COMMITTEE

SB 2325: Political Subdivisions Committee (Sen. Cook, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2325 was placed on the Sixth order on the calendar.

Page 1, line 2, after "homes" insert "; and to provide a penalty"

Page 1, line 6, after "program" insert "- Penalty"

Page 1, line 20, after the period insert "Any person who violates this section or any rule adopted under this section is guilty of an infraction."

Renumber accordingly

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2325

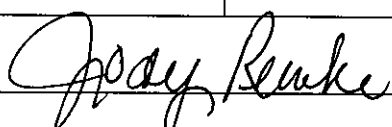
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2325

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 3-9-05

Tape Number	Side A	Side B	Meter #
1	x		0-25.3
Committee Clerk Signature 			

Minutes:

Chairman Keiser: Opened the hearing on SB 2325.

Senator Kringstad: Appeared in support of SB 2325 and also was a sponsor. This law was passed to allow the state to regulate this area rather than have the federal government do so. At this time we are not sure what the requirement in order to allow the state to handle this matter. Since then manufactured housing association has been working with the department of commerce on specific regulations and they have agreed on these amendments that were passed in the Senate. They allow for a certification process and a means to secure the processing complaints by charging fees.

Kent French: North Dakota manufacturing housing association has worked for a number of years, on coming up with installation procedures that would be uniform across the state of North Dakota, as it is today every single dealership in the state does their own thing. We feel all manufactured homes should be set up to given procedure, that is why we have been working with

the Department of Commerce, who does the building and codes, and we have been working with the building inspectors across the state to come up with something that is uniform, this is a consumer friendly bill, we are involved with it because the federal government is going to be putting some restrictions on it. We want to get the lead on this, I will tell you that we have looked at South Dakota's and I can tell you that North Dakota, from what we have done so far we are far superior to helping the consumer then South Dakota is. Basically what this bill does is establish minimum installation standards and gives us the ability to charge for penalties and that type of thing. If you make it to high you will not get a States Attorney that will not prosecute, so we really don't know where we are at with that.

Representative Ruby: Do the rules that are adopted by the department mirror the manufacturers requirements?

Kent French: Yes, they do, if we have a situation where we have a manufactured home come into the state and the manufacturer does not have the proper installation instructions, then at that point there will be another set of instructions that will be enforced to make sure those codes are met.

Representative Kasper: Who is going to do the actual inspection of homes?

Kent French: That would be the Department of Commerce.

Representative Keiser: You made a comment about the States Attorney not prosecuting if the penalty was set to high, who made that comment to you?

Kent French: Senator Cook.

Richard Gray, Division of Community Services, Department of Commerce: Appeared in support of bill and also provided a written statement (SEE ATTACHED TESTIMONY).

Representative Ekstrom: Who will pay for the inspection?

Richard Gray: The way the process is set up right now, is that every installer will pay a fee to register, and then there will be a fee to become a certified inspector, those will be license fees, and a part of those fees will be administered the program. The inspections will be handled differently, we are going to have some of those fees in our office because we will be doing an oversight review of the program, we will be going out periodically and checking the work of inspectors and installers to make sure they are complying with the registration. There will be a category of inspectors called certified inspectors, and these will be private individuals who will be trained by us to do inspections, and they will be able to charge there own fees for inspections. After an installer has been inspected for 5 set ups, and it has been satisfactorily done, the installers can become certified installers and what that means is the installer can do self certification. We will then be doing periodically inspections to make sure they are fulfilling their responsibility, the one other ingredient that we will collect fees on, are label fees, when the installation is completed and has been satisfactorily done, the inspector will put on a label that goes on to that unit, and it says that it meets all the requirements of this program and there will be a fee for the cost of the label as well.

Representative Keiser: We are handing out an amendment that would change on line 21 the word infraction to a class A misdemeanor.

Representative Nottestad: I move to Adopt amendment

Representative N. Johnson: I SECOND the ADOPTION of amendment.

Voice vote motion carried.

Representative Dosch: I move a DO PASS AS AMENDED.

Page 4

House Industry, Business and Labor Committee

Bill/Resolution Number SB 2325

Hearing Date 3-9-05

Representative Ruby: I SECOND the DO PASS AS AMENDED.

Motion carried VOTE: 10-YES 2-NO 2-Absent (KASPER, THORPE)

Representative Boe will carry the bill on the floor.

Roll Call Vote #: 1 Date: 3-9-05

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2325

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendments

Motion Made By Rep. Nottestad Seconded By Rep. N. Johnson

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman	X		Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom	X	
Rep. D. Dietrich	X		Rep. E. Thorpe	A	A
Rep. M. Dosch	X				
Rep. G. Froseth	X				
Rep. J. Kasper	A	A			
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigasaa	X				

Total (Yes) 12 No 0

Absent (2) Rep. Kasper & Rep. Thorpe

Floor Assignment _____

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

Roll Call Vote #: 2 Date: 3-9-05

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2325

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 58283.0301 .0400

Action Taken Do Pass As Amended

Motion Made By Rep. Dosch Seconded By Rep. Ruby

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman	X		Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom		X
Rep. D. Dietrich		X	Rep. E. Thorpe	A	
Rep. M. Dosch	X				
Rep. G. Froseth	X				
Rep. J. Kasper	A				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigesaa	X				

Total (Yes) 10 No 2

Absent (2) Rep. Kasper & Rep. Thorpe

Floor Assignment Rep. Boe

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

REPORT OF STANDING COMMITTEE (410)
March 9, 2005 2:58 p.m.

Module No: HR-43-4559
Carrier: Boe
Insert LC: 58283.0301 Title: .0400

REPORT OF STANDING COMMITTEE

SB 2325, as engrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2325 was placed on the Sixth order on the calendar.

Page 1, line 21, replace "an infraction" with "a class A misdemeanor"

Renumber accordingly

2005 TESTIMONY

SB 2325

Testimony By Richard Gray

On 2325
Senate Bill 2035

Mr. Chairman, committee members, my name is Richard Gray. I am a Program Manager with the Department of Commerce, Division of Community Services. I am here today to provide comments on Senate Bill 2035, since I have been designated to manage the Manufactured Housing Installation program.

In 2003 the Legislature authorized the establishment of a manufactured housing installation program. That law is in N.D.C.C. 54-21.3-08. This program is in response to the Manufactured Housing Improvement Act of 2000, which gives the state the opportunity to enforce an installation program, or to have the federal government impose a program. The reason for the federal act is that over 70 percent of the complaints from manufactured homeowners involve problems resulting from improper installation. Over the past two years, the Division of Community Services has worked closely with the North Dakota Manufactured Housing Association to draft a workable program for North Dakota. After reviewing programs in other states, we have developed a program modeled after the State of Colorado, primarily because we have not been authorized additional staff, nor has funding been provided.

The draft program, to comply with federal requirements, provides for the registration of installers of manufactured homes, training for installers, inspections of installations, and a process for handling disputes. Senate Bill 2035 is essential if the program is to be implemented because it provides for the collection of fees to administer the program. The determination of what fees to charge will be coordinated with the North Dakota Manufactured Housing Association, and the fees will be included in the administrative rules for the program. Without this authority, we cannot begin to implement the program, which we hope to finalize by December 2005 and begin implementing no later than July 2006.

One area of concern that we have with the current version of Senate Bill ²³²⁵2035, is the amendment that was added that makes a violation of the law and rules an infraction. When the Senate considered the bill, we introduced an amendment, based on advice from the Attorney General's Office, for a violation to be a Class A Misdemeanor. The primary purpose is to provide leverage to assure that installers register. An infraction does not provide much leverage. Interestingly enough, House Bill 1507 requires home inspectors to register with the Secretary of State's Office, and failure to register is a Class B Misdemeanor. The work of manufactured home installers is much more directly involved in protecting the health and safety of a homeowner than that of a home inspector, and can potentially have more impact on future costs for the homeowner. I ask that the committee consider either a Class A or Class B Misdemeanor, otherwise we may have problems in getting the attention of installers to register.

This concludes my testimony. I will be happy to try to answer any questions you may have.

Attachment #1
Richard Gray

Amendment to Senate Bill 2325

Add to line 20:

Failure to comply with this law or rules established under this law is a Class A
Misdemeanor.

March 7, 2005

**DRAFT
ARTICLE 108-03**

DEPARTMENT OF COMMERCE

Chapter
108-03-01 Manufactured Home Installation Program

**CHAPTER 108-03-01
MANUFACTURED HOME INSTALLATION PROGRAM**

Section	
108-03-01-01	History
108-03-01-02	Scope
108-03-01-03	Definitions
108-03-01-04	Inquiries
108-03-01-05	Administration
108-03-01-06	Installers of Manufactured Homes – Registration
108-03-01-07	Installation by Owner
108-03-01-08	City, County, or Township Requirements
108-03-01-09	Registered Installer
108-03-01-10	Certified Installer
108-03-01-11	Certified Installation Inspector
108-03-01-12	Standards
108-03-01-13	Inspection Procedures
108-03-01-14	Complaints
108-03-01-15	Suspension or Revocation
108-03-01-16	Appeal of Revocation or Suspension
108-03-01-17	Installation Insignias
108-03-01-18	Reports

108-03-01-01. History. In 2003, the legislative assembly created in the North Dakota Century Code chapter, section 54-21.3-08, Manufactured Housing Installation Program. The law requires the division of community services to adopt rules establishing a manufactured home installation program for all manufactured homes built in accordance with the manufactured homes construction and safety standards under 24 CFR 3280, adopted pursuant to the manufactured housing construction and safety standards act [42 U.S.C. 5401 et. seq.]. The law is in response to the 2000 manufactured housing improvement act that requires a state to have a manufactured home installation program, or to have the federal government impose an installation program.

History: Effective

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-02. Scope. This administrative rule pertains to the first-time installation of each manufactured home installed in North Dakota after the effective date of this rule that is installed in a temporary or permanent location and is designed and commonly used for occupancy by persons for residential purposes. Each installed manufactured home must display an insignia issued by the North Dakota department of commerce, division of community services, certifying that the home is installed in compliance with this rule.

Temporary installations for the purpose of home display or office use which will be relocated to another location to use as a residence, are exempted from this rule.

History: Effective

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-03. Definitions.

“Certified Inspector” means a local jurisdiction, individual, private firm, manufacturer, housing inspector, or a North Dakota licensed engineer or architect who has been approved by the division to perform or enforce installation inspections.

“Certified Installer” means an installer of manufactured homes who is registered with the division, has installed at least five manufactured homes in compliance with the manufacturer’s installation instructions and is currently approved as a certified installer by the division.

“Conflict of Interest” means when there is a personal or private interest(s) sufficient to influence or appears to influence the proper exercise of duties and/or responsibilities.

“Division” means the division of community services.

“Insignia” means a certificate (label) of installation issued by the division to indicate compliance with the manufacturer’s installation instructions and this rule.

“Installation” means assembly, at the site of occupancy, of all portions of the manufactured home, connection of the manufactured home to existing utility connections, and installation of support or anchoring systems, in accordance with the manufacturer’s installation instructions or the alternate standards adopted in this rule. This includes homes that have previously been installed and are moved and installed at a new location.

“Installer” means any person that attaches the manufactured unit sections together and ties the home to its foundation support and anchoring system.

“Installation Authorization” means a notice posted on the site of an installation indicating that the installer has authorization to install.

"Manufactured Home" means a Federal Housing and Urban Development (HUD) labeled structure, transportable in one or more sections that, in its traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; that is built on a permanent chassis; that is designed to be used as a dwelling; that may or may not have a permanent foundation; that is connected to the required utilities; and that contains the plumbing, heating, air conditioning, and electrical systems; except that such term shall include any structure that meets the size requirements and for which the manufacturer has voluntarily filed a certification required by the Secretary of HUD and that complies with the Manufactured Home Construction and Safety Standards.

NOTE: This definition should not be interpreted to include any type of recreational vehicle that may equal or exceed the body length or width specified herein.

"Owner" means the owner of a manufactured home or property.

"Participating Jurisdiction" means a local government entity which has agreed to administer and inspect manufactured housing installations within the legal and extraterritorial boundaries of the jurisdiction.

"Qualifying Person" means a designated individual in a registered installer company who must pass the installer examination for manufactured home installers and who supervises the installations. In a sole proprietorship the qualifying person must be the owner or a managing employee. In a corporation the qualifying person must be a chief executive officer or managing employee. If a qualifying person is a managing employee, that person must be an employee who is regularly employed by the registered installer and is actively engaged in the business of manufactured home installation on behalf of the registered installer.

"Standards" means the manufacturers installation instructions or alternate standards adopted by the division. The division may issue interpretations of the standards to be followed during installations and inspections. A local jurisdiction may enact additional standards concerning unique public safety requirements, such as weight restrictions for snow loads or wind shear factors, but must provide these requirements in writing to the division of community services before enacting and enforcing them.

"Registered Installer" means a company that installs manufactured homes that has registered with the division and is in compliance with the manufactured home installation program requirements. The company may be a sole proprietorship, partnership, or corporation.

History: Effective

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-04. Inquiries. Inquiries about this program may be addressed to:

Manufactured Housing Installation Program Manager

North Dakota Department of Commerce
Division of Community Services
Phone: (701) 328-3698
E-mail: rgray@state.nd.us

History: Effective

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-05. Administration. The administration of this program is the responsibility of the division of community services.

History: Effective

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-03

108-03-01-06. Installers of Manufactured Homes - Registration. Manufactured home installers in North Dakota shall first register with the division. If any of the application information for the registered installer changes after issuance of the registration, the registered installer shall notify the division in writing within thirty days from the date of the change. The division may suspend, revoke, or deny renewal of a registration if the registered installer fails to notify the division of any change in the application. A registration shall not be transferred nor assigned to another person.

At the time that an initial application for registration is filed, the following must be submitted:

1. Proof in the form of a copy of a valid drivers license or certificate of birth that the applicant is at least eighteen years of age;
2. Evidence of passage of the installation program exam, except for installers in business prior to the effective date of this rule;
3. For existing installers, evidence of at least three years of experience or equivalent training and testing in the installation of manufactured homes;
4. Proof of contractor's liability insurance in an amount not less than one hundred thousand dollars (\$100,000). This insurance policy shall contain a provision for the immediate notification of the division upon cancellation; and
5. A letter of credit, certificate of deposit issued by a licensed financial institution, or surety bond issued by an authorized insurer in the amount of ten thousand dollars (\$10,000) for the performance of installation pursuant to the manufacture's installation instructions. A provision shall be included for the immediate notification of the Division upon cancellation.

For a "qualifying person" within a company, the following information must be submitted:

1. Proof in the form of a copy of a valid driver's license or certificate of birth that the applicant is at least eighteen years of age;
2. Evidence of passage of the installation program exam, at least six years experience, or equivalent training and testing;
3. Description of position in the company.

History: Effective

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-07. Installation by Owner. A person who owns the manufactured home or the real property where the home is to be installed, is not required to register as an installer if they do their own installation, but shall comply with all provisions of this rule other than the registration provision.

A person who installs more than one manufactured home in any twelve-month period either owned or on real property owned by such person, must register as an installer and shall comply with the registration provisions.

History: Effective

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-08. City, County, Or Township Requirements. A political subdivision may not issue a building or zoning permit for the first time installation of a manufactured home to an unregistered installer. The political subdivision is required to report any such person attempting to obtain a permit to the Division.

108-03-01-09. Registered Installer. The application for registration as a manufactured home installer shall be submitted on a form provided by the division and shall be notarized and verified by a declaration signed under penalty of perjury by the applicant. The division shall make the application and declaration available for public inspection.

The registration period is _____ through _____. All registrations expire on the same date of each year, whether or not the registration is issued for all or a portion of the registration period. Registered installers will be subject to attending yearly training and taking a written test every three years after initial registration.

Persons employed by a registered or certified installer, as well as persons employed by an entity employing a registered or certified installer are not required to register when performing installation functions under the direct on-site supervision of a registered or certified installer. The registered or certified installer shall be responsible for supervising all employees and for the proper and competent performance of all employees working under his or her supervision.

Any registered or certified installer seeking to renew registration shall, at the time of applying for renewal, provide proof of liability insurance and letter of credit, certificate of deposit, or surety bond to run concurrent with the registration period.

Registered installers shall allow and pay for a periodic oversight inspections arranged by the division to monitor the installer's performance in complying with the program and registration requirements. The division may also, at the sole discretion of the division, arrange for the inspection of any manufactured home installation performed by a registered installer. This may also occur as the result of a consumer complaint.

History: Effective

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-10. Certified Installer. Any registered installer who has performed five installations that have passed inspection by a certified inspector may apply to the Division for certification. No fee will be charged for this certification.

A certified installer will be able to purchase installation insignias from the division. These insignias will be completed by the certified installer upon completion of the installation and attached to the manufactured homes in compliance with section _____ of this rule. The certified installer shall complete and submit a required insignia report to the division on a monthly (quarterly) basis. A certified installer shall also be authorized to post certified installer installation authorization on the installation site. Installations by a certified installer do not require an inspection by a certified inspector. The division or certified inspector at the request of the division may, at the division's sole discretion, inspect the installation if any manufactured home performed by a certified installer.

Certified installers shall allow and pay for periodic oversight inspections arranged by the division to monitor the installer's performance in complying with the program requirements and applicable installation standards. Based upon any findings of inadequate performance, the frequency of oversight inspections may be increased or certification revoked as determined by the division.

History: Effective

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-11. Certified Installation Inspector. The division may authorize independent contractors to perform inspections and enforce the proper installation of manufactured homes. Enforcement shall include issuance of installation authorizations and permanent insignias certifying compliance with the manufacturer's installation instructions.

Applicants for certified installation inspector shall furnish written evidence of a minimum of six months of manufactured housing inspection experience; or equivalent training; or related experience; or State of North Dakota professional licensing in engineering or related construction

fields. An applicant may successfully complete a certified installation home study course as a substitute for inspection experience, training, or professional licensing. Home study applicants must pass an installation program exam. Certified inspectors will be required to attend yearly training and take a written test every three years after initial certification. The certification period is _____ through _____.

A certification is valid for one year, and each certification will expire on the same date, regardless of the effective date, whether or not the certification is issued for all or a portion of the certification period.

Where a jurisdiction (incorporated city or a county) has a building code department, the jurisdiction may make a written request to be the exclusive independent installation inspection agency within their legal boundaries as a participating jurisdiction.. When approved, all manufactured home installation inspections will be made by that participating jurisdiction's certified installation inspector(s) or by a certified installation inspector under contract to the jurisdiction. In the event of a complaint, the division will make arrangements to make inspection within the jurisdiction.

A certified inspector shall not make inspections where the inspector has a conflict of interest that may affect his/her responsibility to make fair and impartial inspections.

A certified inspector and a participating jurisdiction with a certified inspector(s) shall be authorized to purchase and to affix insignias after the installation is completed and inspected.

Certified inspectors shall allow and pay for periodic oversight inspections arranged by the division to monitor installations that have been inspected to monitor the certified inspector's compliance with program requirements. Based on findings of inadequate performance, the frequency of inspections may be increased.

History: Effective

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-12. Standards. Since this program pertains to only the first time installation of a manufactured home, the primary standards are the specifications provided in the manufacturer's installation instructions. However, alternate standards developed by the Federal Department of Housing and Urban Development and adopted by the state may also be utilized. The standards do not pertain to the construction of permanent foundations. Standards for construction of permanent foundations are the responsibility of the local jurisdiction in which a manufactured home is installed.

Nothing in this section shall preclude a local government from enacting standards for manufactured homes concerning unique public safety requirements, such a weight restrictions for snow loads or wind shear factors, as otherwise permitted by law.

From time to time the division may issue interpretations of the standards to be followed during the course of manufactured home installations and inspections.

History: Effective

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-13. Inspection Procedures. The division shall adopt a standard installation authorization form to be used statewide by the division and certified inspectors, a standard inspection form, and minimum inspection form requirements. Inspection forms shall be maintained for a minimum of three years from the date of the attachment of the installation insignia.

Prior to beginning the installation of a manufactured home, the owner or registered installer of a manufactured home, shall make an application for an installation authorization from a participating jurisdiction or certified installation inspector. Certified installers will request the installation authorization from the division. The installation authorization is valid for 30 days from the date of issuance and may be extended for an additional 30 days upon written approval by the issuing entity.

Owners, registered, and certified installers shall display an installation authorization at the site of the manufactured home to be installed until an installation insignia is attached certifying compliance with the manufacturer's installation instructions. The authorization will contain the identity of the installer and owner, a phone number and contact person, and whether or not the installer is the owner, a registered installer, or a certified installer. The authorization will also include the name, address and telephone number of the issuing entity.

During installation and inspection, a copy of the manufacturer's installation instructions or alternate standards shall be available at all times on site. The installer shall be responsible to maintain the copy of the manufacturer's installation instructions on site. If the manufacturer's installation instructions or alternate standards are not present at the time of the inspection, the inspector may fail the inspection and require a re-inspection. All costs of the inspection and any re-inspection will be borne by the installer.

The owner, installer, manufacturer, or retailer shall have the right to be present at any inspection.

When the installation of manufactured home is found to be in compliance with the manufacturer's installation instructions or alternate standards, an insignia will be permanently attached by the inspector making the inspection next to the HUD label. A certified installer may inspect his/her own installation and permanently attach the insignia.

When a manufactured home installation is found not to be in compliance by a certified inspector with the manufacturer's installation instructions, the installer shall be notified in writing by the inspector. The inspector may, at the time of the inspection, include in the inspection report instructions for the installer to call for a re-inspection at any stage of installation to prevent cover up of any part of the installation requiring re-inspection by the inspector.

The installer shall pay for any repair required to bring the installation into compliance. The installer shall pay for any subsequent inspections.

If an installation or subsequent repair of an installation by an installer fails to meet the manufacturer's installation instructions within the time limit allowed by the inspector, the inspector shall notify the installer that the installation is in default. The installer shall be given ten working days after notification of default to bring the installation into compliance. Any independent inspector that knows of an installation that is in default and has not been corrected by subsequent repair shall request that the division arrange for an investigation of the installation. The division may revoke, suspend, or fail to renew the registration or certification of the installer and cause forfeiture of the installer's surety bond on behalf of the owner of the manufactured home.

History: Effective

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-01-01-14. Complaints. The division may cause to be investigated any complaint concerning the installation of a manufactured home filed by an owner, dealer, manufacturer, installer, or other party by the registered installer. The division may designate a certified inspector or other qualified entity to make complaint inspections on behalf of the division. The initial costs of processing complaints will be paid through a fund established from a portion of the registration, certification, and label fees.

If a participating jurisdiction or a certified inspector finds an installation of a manufactured home to be in default, they shall file a written complaint with the Division against the installer. Complaints received by telephone shall be confirmed in writing.

If the installation of a manufactured home fails the complaint inspection, the registered installer must make and pay for the repairs to bring the installation into compliance, and shall pay the costs associated with the complaint inspection and with any subsequent inspections. Failure of the installer to pay for repairs and subsequent inspections shall result in the revocation of registration and certification, and/or forfeiture of the installer's performance bond on behalf of the owner of the manufactured home.

History: Effective

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-15. Suspension or Revocation. The division may suspend or revoke permanently or temporarily the registration or certification of an installer if the person/entity fails to:

- File with the division each year and keep in force a letter of credit, certificate of deposit, or surety bond as required;

- File with the division and keep in force the required liability insurance;
- Pay assessed inspection costs;
- Make any subsequent repairs that are necessary to bring the installation into compliance with the manufacturer's installation instructions; and
- Has not corrected any defects or deficiencies in the installation in the time period established by the division.
- Pass periodic oversight inspections.

The division may also revoke the certification of a certified installer and replace it, at its discretion, with the status of registered installer.

When the certification of a certified installer is revoked or suspended, the installer must immediately return to the division all unused installation insignias and the installer will lose the right to purchase and install insignias.

When the installer's registration or certification is revoked, the installer may reapply as a registered installer one year after the date of revocation, but must retest. To be considered as a certified installer, the installer will be subject to the conditions for obtaining certification.

The division may revoke the certification of any certified inspector who fails to maintain the minimum requirements for the certification, has a conflict of interest, or as a result of investigation of complaints by the division, the inspector is found to repeatedly fail to enforce the requirements of the program. The division, or a certified inspector or other qualified entity, at the request of the division, may, at the division's sole discretion, inspect the installation of any manufactured home inspected by a certified inspector.

History: Effective

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-16. Appeal of Revocation or Suspension. A registered installer subject to a revocation or suspension may appeal the revocation or suspension to the director of the division of community services. A certified inspector may appeal the revocation of his/her certification to the director of the division of community services.

History: Effective

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-17. Installation Insignias. The Division shall adopt a standard insignia to be used statewide indicating that a manufactured home is installed in compliance with the manufacturer's installation instructions.

The insignia shall include the name, address, and telephone number of the Division, the date the installation was completed, and the name, address, telephone number, and registration number of the installer.

Insignias shall remain the property of the State of North Dakota and are not subject to refunds.

The insignia shall be permanently attached to the exterior, within 30 inches of the HUD label. The insignia is not transferable. When there is no exterior electrical service equipment on the home, the insignia shall be affixed to the exterior of the home near the HUD label or other readily visible location.

The possession of unattached insignias is limited to the Division, participating jurisdictions, certified inspectors, and certified installers. Insignias must be kept secure.

History: Effective

General Authority: NDCC 54-21.3-08

Law Implemented: NDCC 54-21.3-08

108-03-01-18. Reports. The division will establish and maintain a system of databases and procedures for reporting for the following reports:

- Each participating jurisdiction and certified inspector must submit a quarterly report of installation authorizations issued.
- Each participating jurisdiction, certified inspector must submit a (monthly) report accounting for insignias, both issued and on hand by serial number. The report is due by the 15th of the following month. No report is required if no insignias were affixed to a manufactured home during the month.