STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

A PERFORMANCE AUDIT
of

THE ARIZONA MOBILE AND MANUFACTURED HOUSING STANDARDS BOARD

OCTOBER 1979

IMPROVEMENTS ARE NEEDED IN TRUST, ESCROW AND BONDING REQUIREMENTS FOR MOBILE HOME PURCHASES TO ENSURE ADEQUATE PROTECTION FOR CONSUMERS

A REPORT TO THE
ARIZONA STATE LEGISLATURE

REPORT 79-13

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October 22, 1979

The Honorable Bruce Babbitt, Governor
Members of the Arizona Legislature
Members of the Mobile and Manufactured Housing Standards Board

Transmitted herewith is a report of the Auditor General, A Performance Audit of the Arizona Mobile and Manufactured Housing Standards Board. This report is in response to a September 19, 1978 resolution of the Joint Legislative Budget Committee and a January 18, 1979 resolution of the Joint Legislative Oversight Committee.

A summary of this report is found on the blue pages at the front of the report. A response to this report by the Director and Board members is found on the yellow pages preceding the appendices of the report.

My staff and I will be happy to meet with the appropriate legislative committees, individual legislators or other state officials to discuss or clarify any items in this report or to facilitate the implementation of the recommendations.

Respectfully submitted,

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OFFICE OF THE AUDITOR GENERAL

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SUMMARY

The Division of Building Codes started operations on September 17, 1972. In August 1977, the Division name was changed to the Division of Mobile and Manufactured Housing Standards and the Mobile and Manufactured Housing Standards Board was established.

The agency was established to maintain standards of quality and safety for mobile homes, factory built buildings and recreational vehicles and to protect the consumer of such products and services. Operations are funded primarily through fees for inspections, licenses, plan reviews and insignias, and monies received from a non-profit corporation.

Our review of the Mobile and Manufactured Housing Standards Board revealed that dealer trust accounts and bonds do not provide consumers with adequate protection from unscrupulous or insolvent dealers. (page 19)

In addition, the number of consumer complaints filed with the Division regarding mobile homes increased dramatically from fiscal year 1977-78 to 1978-79. Division policy and regulatory changes are needed to reduce the number of such complaints in that:

- The Division should institute disciplinary actions against those manufacturers with an inordinate number of complaints; and
- The Division should continue to develop a strong program to regulate the installation of mobile homes. (page 24)

Our review also disclosed that many purchasers of new mobile homes, recreational vehicles and factory built buildings do not know that the Division, through its complaint process,can help to rectify service problems. (page 29)

Finally, recreational vehicles which are designed to be used as temporary living quarters are being used as permanent residences in Arizona. However, no performance or construction standards exist in Arizona for recreational vehicles being used as permanent residences. (page 33)

It is recommended that:

1. Arizona Revised Statutes 32-1185 be amended to eliminate the use of trust accounts by dealers. All new mobile home sales should be processed through an escrow agent. Bonds should be increased to a level that would provide adequate protection to consumers. (page 19)
2. The Board establish a rule or regulation to conduct an investigation on receipt of a specified excessive number of verified complaints.

   The Director, after notice and hearing suspend or revoke a license based upon a finding that a licensee has received an excessive number of verified complaints.

   Arizona statutes be amended to provide for imposition of civil penalties by a court if a licensee commits certain acts or omissions such as an accumulation of excessive complaints.

   The Division continue to develop a strong program to regulate the installation of mobile homes. (page 24)
3. To make the public more aware of its complaint process, the Division consider contacting the Arizona media and arranging a series of public service announcements. The Division should also consider preparing and distributing a letter to purchasers of new mobile homes, recreational vehicles, and factory built buildings informing them of the Division's complaint process. (page 29)
4. The Board establish performance or construction standards for recreational vehicles being used as permanent residences. (page 33)

INTRODUCTION AND BACKGROUND

In response to a September 19, 1978 resolution of the Joint Legislative Budget Committee and a January 18, 1979 resolution of the Joint Legislative Oversight Committee, we have conducted a performance audit as a part of the sunset review of the Mobile and Manufactured Housing Standards Board in accordance with ARS 41-2351 through 41-2374.

The bill creating the Division of Building Codes was signed into law by the Governor on May 17, 1972. The Division was established within the Office of the Registrar of Contractors and started operations September 17, 1972. A Director and a seven member hearing board were appointed by the Registrar of Contractors with the approval of the Governor. The duties of the Director at that time were to:

1. Provide for the regulation of mobile home, factory built building and recreational vehicle manufacturers and dealers.
2. Establish rules and regulations for the manufacture of mobile homes. Establish standard codes.
3. Require surety bonds of licensees.
4. Require dealers to establish trust accounts.

In August 1977, amendments to the law went into effect. The Division name was changed to the Division of Mobile and Manufactured Housing Standards, and the Mobile and Manufactured Housing Standards Board was established. The Board changed from a hearing board to a five member board that establishes standards and promulgates rules and regulations. The five members are the Registrar of Contractors, one representative of the mobile home industry, one representative of the recreational vehicle industry, one representative of financial institutions and a member of the public. The Board and Director are now appointed by the Governor with the consent of the Senate. Added responsibilities for the Director include:

1. Enforce rules, regulations and standards.
2. Allow cash bonds in lieu of surety bonds.
3. Process and verify complaints.

4. Determine that mobile homes manufactured in Arizona are in conformance with U. S. Housing and Urban Development (HUD) regulations on mobile homes.
5. Establish grounds for suspension and revocation of licenses.
6. Pursue unlicensed manufacturers, installers and dealers.

The objectives of the Division are to:

1. Insure the quality and durability of mobile homes and to a lesser extent recreational vehicles and factory built buildings.
2. Protect the public against physical harm and financial loss.
3. Handle complaints and hearings fairly.

The following table indicates the agency's growth since its inception.

	1972-73	1975-76	1977-78	1978-79 Estimated
Number of Employees	12	21	30	37
Expenditures	$155,000	$362,154	$523,259	$776,800
Receipts	$419,997	$416,779	$523,875	$786,100

Sources of revenue to the agency are:

1. In-plant inspection and plan review fees imposed upon manufacturers of mobile homes, recreational vehicles, and factory built buildings.
2. Insignia fees imposed upon manufacturers of recreational vehicles and factory built buildings who ship units to Arizona for sale.
3. License fees imposed upon manufacturers and dealers of mobile homes, recreational vehicles, and factory built buildings, and installers of mobile homes.
4. Monies from the National Conference of States on Building Codes and Standards which are to be used to analyze and review mobile home complaints. The amount of such monies is based upon the number of mobile home units first placed in Arizona.

Audit Scope And Approach

The audit scope included a review of the operations of the Board and the Division. The audit focused primarily on fiscal years 1977-78 and 1978-79.

The audit approach was to review the statutes and rules and regulations governing the Board and Division to ascertain their goals, objectives and procedures. The effectiveness and efficiency of the Board and Division were assessed through interviews with board members, administrative staff, dealers, manufacturers, and consumers; examination of files, documents and other records; review of pertinent financial data; and through questionnaires mailed to dealers, manufacturers, and consumers. The information obtained from these procedures is the basis for the contents of this report.

The Office of the Auditor General expresses its gratitude to present and former employees of the Division and members of the Board for their cooperation, assistance and consideration during the course of our audit.

SUNSET FACTORS

In accordance with ARS 41-2351 through 41-2374, nine factors were considered to determine, in part, whether the Mobile and Manufactured Housing Standards Board and Division of Mobile and Manufactured Housing Standards should be continued or terminated.

These factors are:

1. Objective and purpose in establishing the agency,
2. The degree to which the agency has been able to respond to the needs of the public and the efficiency with which it has operated,
3. The extent to which the agency has operated within the public interest,
4. The extent to which rules and regulations promulgated by the agency are consistent with the legislative mandate,
5. The extent to which the agency has encouraged input from the public before promulgating its rules and regulations and the extent to which it has informed the public as to its actions and their expected impact on the public,
6. The extent to which the agency has been able to investigate and resolve complaints that are within its jurisdiction,
7. The extent to which the Attorney General or any other applicable agency of state government has the authority to prosecute actions under enabling legislation,
8. The extent to which the agency has addressed deficiencies in its enabling statutes which prevent them from fulfilling their statutory mandate, and
9. The extent to which changes are necessary in the laws of the agency to adequately comply with the factors listed in this subsection.

SUNSET FACTOR: OBJECTIVE AND PURPOSE IN ESTABLISHING THE AGENCY

Arizona Revised Statutes 32-1171 states:

> "The division of mobile and manufactured housing standards is established to further the public interests of safety and welfare. The purpose of this article is to maintain standards of quality and safety for mobile homes, factory built buildings and recreational vehicles. The affairs of the division of mobile and manufactured housing standards shall be conducted consistently with minimum standards of the United States department of housing and urban development so as to be designated the 'state inspector' for mobile homes and related industries. The division shall implement all existing laws and regulations mandated by the federal government, its agencies and this state for such purposes. The division shall accomplish such purposes by the enforcement of regulations and laws pertaining to the housing quality standards of the mobile home, factory built building and recreational vehicle manufacturing and construction industries and the enforcement of regulations and laws pertaining to the licensing of manufacturers, dealers and installers.
>
> It is also the purpose of this article to establish a procedure to protect the consumer of such products and services. "

The United States Code (42 U.S.C. 5401) states:

> "The Congress declares that the purposes of this chapter are to reduce the number of personal injuries and deaths and the amount of insurance costs and property damage resulting from mobile home accidents and to improve the quality and durability of mobile homes. Therefore, the Congress determines that it is necessary to establish Federal construction and safety standards for mobile homes and to authorize mobile home safety research and development."

SUNSET FACTOR: THE DEGREE TO WHICH THE AGENCY HAS BEEN ABLE TO RESPOND TO THE NEEDS OF THE PUBLIC AND THE EFFICIENCY WITH WHICH IT HAS OPERATED

A survey was conducted by the Office of the Auditor General of consumers who had filed complaints with the Division in the 1978 calendar year. These complainants were asked to rate the usefulness of the Division in resolving their complaints. Their responses were:

	All Responses		Excluding Responses on Complaints Not Within Jurisdiction of Division*	
	Number	Percent	Number	Percent
Very useful	23	52%	23	70%
Useful	3	7	2	6
Not useful	18	41	8	24

Based upon the above survey responses it appears that the Division has been effective in resolving consumer complaints that are within its jurisdiction.

Areas where the agency does not respond to public needs are:

1. Protecting the consumer from unscrupulous dealers through trust accounts, escrow accounts or increased bonds. (See page 15 for a discussion of this issue.)
2. Protecting the purchasers of new travel trailers used for permanent residences by establishing standards for performance or construction. (See page 33 for a discussion of this issue.

* The Division does not have jurisdiction over complaints filed more than one year after the date of purchase.

In April 1979 the Division withdrew from its participation in the mobile home monitoring program of the National Conference of States on Building Codes and Standards, Inc. (NCSBCS). The NCSBCS is a non-profit corporation that was founded in 1967 to increase interstate cooperation and to coordinate intergovernmental reforms in the area of building codes. The Assistant Director of the Division in a letter to the Director of NCSBCS stated that:

> "We find it necessary to take the above action due to the lack of personnel within the Division in order to be able to handle our immediate in-State requirements."

This action allowed the Division to make more efficient use of budgeted personnel.

SUNSET FACTOR: THE EXTENT TO WHICH THE AGENCY HAS OPERATED WITHIN THE PUBLIC INTEREST

The Division is the sole inspector of mobile homes in Arizona. To be certified as the Production Inspection Primary Inspection Agency (IPIA) for Arizona the agency must meet the standards established by the U. S. Department of Housing and Urban Development (HUD). On July 10, 1979, Patricia M. Worthy, Deputy Assistant and Secretary for Regulatory Functions for HUD, stated in a letter to the Director:

> "A monitoring review of your IPIA functions has been completed in accordance with 3282.355(d) of the Federal Regulations. Based on this review, the Secretary has determined that the level of performance of your Agency as an IPIA is adequate."

A survey* was conducted by the Office of the Auditor General of consumers who had filed complaints with the Division in the 1978 calendar year. These complainants were asked to rate the Division's ability to be fair and impartial. Consumer responses to the survey are summarized as follows:

* See Appendix VI

	Number	Percent
Very fair and impartial	17	47%
Above average	6	17
Average	8	22
Below average	2	6
Biased	3	8
No opinion	0	--

Based upon the above survey responses it appears that the Division's inspectors are resolving complaints fairly and impartially.

SUNSET FACTOR: THE EXTENT TO WHICH RULES AND REGULATIONS PROMULGATED BY THE AGENCY ARE CONSISTENT WITH THE LEGISLATIVE MANDATE

A review of the Board's rules and regulations revealed that they are consistent with the legislative mandate.

SUNSET FACTOR: THE EXTENT TO WHICH THE AGENCY HAS ENCOURAGED INPUT FROM THE PUBLIC BEFORE PROMULGATING ITS RULES AND REGULATIONS AND THE EXTENT TO WHICH IT HAS INFORMED THE PUBLIC AS TO ITS ACTIONS AND THEIR EXPECTED IMPACT ON THE PUBLIC

In addition to posting notices of meetings as required by law, the Division maintains a list of licensees and other parties interested in receiving such information as meeting notices and rules and regulations. Included on the list are:

A. Three newspapers, two of which are primarily concerned with reporting mobile home news,
B. Representatives of local jurisdictions,
C. A surety company, and
D. A savings and loan association.

According to the Assistant Director, a consumer would be placed on the mailing list upon request.

The Division was also responsible for an article on the Division's complaint process that appeared in an Arizona mobile home newspaper. Several other articles have appeared in Arizona newspapers covering such topics as:

A. Disputes and agreements between the Board and the industry regarding the mounting of propane tanks on recreational vehicles,
B. House committee which reviewed mobile home safety, and
C. Problems with trust accounts used by mobile home and factory built building dealers.

The Division is also listed in the Consumer Assistance Directory prepared by the Information and Referral Services.*

Finally, the Division requires that the name of the applicant for licenses as a dealer or manufacturer of mobile homes, recreational vehicles, or factory built buildings or installer of mobile homes be posted on the bulletin board in the Occupational Licensing Building for 20 days to see if anyone from the public knows why a license should not be issued to the applicant. The names of all applicants are also distributed to one mobile home newspaper for possible publication.

* A department of the community council which is a planning agency that attempts to search out and solve community needs. Funding is provided by the Arizona Department of Economic Security, City of Phoenix, and the United Way.

SUNSET FACTOR: THE EXTENT TO WHICH THE AGENCY HAS BEEN ABLE TO INVESTIGATE AND RESOLVE COMPLAINTS THAT ARE WITHIN ITS JURISDICTION

Our review of the complaints received by the Division revealed that 37 percent are settled between consumer and dealer or manufacturer before investigation is initiated by the Division and 63 percent require a division investigation. The Division investigated all unresolved complaints within its jurisdiction.

It should be noted that if a complaint is not resolved after an investigation by the Division, the complainant may ask that a citation be issued by the Division to the licensee requiring a verified answer to the complaint within ten days after service of the citation. The complainant may also request a hearing if the complaint cannot be resolved. One possible outcome of the hearing could be probation for the licensee or suspension or revocation of the license.

From September 1, 1977 to June 30, 1979, the Division of Mobile and Manufactured Housing Standards suspended 14 licenses and revoked three other licenses. Thirteen of the 14 suspensions were actually suspensions in the form of probations. Under ARS 32-1188 the Director, as of July 1979, may now issue probations. Prior to July 1979, the Director could only suspend or revoke a license.

Our review revealed that the following factors impair the Division's ability to investigate and resolve complaints:

1. Forty-eight percent of the complainants surveyed said they had problems in determining where to register their complaints. (See page 26 for a discussion of this issue.)
2. The Division has not disciplined chronic problem manufacturers. (See page 20 for a discussion of this issue.)
3. Complaints are increasing at a significant rate. (See page 23 for a discussion of this issue.)

SUNSET FACTOR: THE EXTENT TO WHICH THE ATTORNEY GENERAL OR ANY OTHER APPLICABLE AGENCY OF STATE GOVERNMENT HAS THE AUTHORITY TO PROSECUTE ACTIONS UNDER THE ENABLING LEGISLATION

The Director of the Division of Mobile and Manufactured Housing Standards can issue cease and desist orders to stop unlicensed activity.

The Attorney General's Office legal authority for the Division involves:

A. Obtaining injunctions in Superior Court to restrain and enjoin a person from engaging in unlicensed activity.

B. Representing the Division at administrative hearings when a license is denied, suspended or revoked due to the Division's initiative.

There appears to be sufficient authority to prosecute actions within the Division's area of responsibility.

SUNSET FACTOR: THE EXTENT TO WHICH THE AGENCY HAS ADDRESSED DEFICIENCIES IN THEIR ENABLING STATUTES WHICH PREVENT THEM FROM FULFILLING THEIR STATUTORY MANDATE

During the 1977, 1978 and 1979 legislative sessions the Division has proposed several pieces of legislation including a massive restructuring of the laws on manufactured housing. Senate Bill 1079, introduced January 25, 1977, proposed a complete rewrite of laws on manufactured housing. Senate Bill 1094, introduced January 16, 1978, was a clean-up bill that corrected oversights made in the 1977 law change. Senate Bill 1238, introduced in 1979, provided corporations with the option of being represented by corporate officers rather than lawyers at hearings. All of the previously listed bills eventually became law.

The Assistant Director and former Director have testified a number of times before legislative committees regarding other bills that impacted upon the manufactured housing industry or its regulation.

SUNSET FACTOR: THE EXTENT TO WHICH CHANGES ARE NECESSARY IN THE LAWS OF THE AGENCY TO ADEQUATELY COMPLY WITH THE FACTORS LISTED IN THIS SUBSECTION

- Eliminate the option of using trust accounts from ARS 32-1185(B). Require that all new mobile home sales be processed through an escrow agent. (page 19)

FINDING I

IMPROVEMENTS ARE NEEDED IN TRUST, ESCROW AND BONDING REQUIREMENTS FOR MOBILE HOME PURCHASES TO ENSURE ADEQUATE PROTECTION FOR CONSUMERS.

Arizona statutes allow mobile home and factory built building dealers to place earnest monies received from customers into trust accounts which are under the control of the dealers. The use of trust accounts does not afford sufficient protection to consumers in that: 1) Division examinations of a limited number of trust accounts have identified numerous abuses; and 2) in the event a dealer ceases operation, trust account monies may not be returned to the customers who paid into the accounts. In addition, current surety bond requirements for dealers do not afford consumers adequate protection from unscrupulous or insolvent dealers.

Identified Trust Account Abuses

Arizona Revised Statutes 32-1185 requires dealers to place earnest monies from customers in either a trust account or escrow account and states, in part:

> "A. Each dealer licensed pursuant to this article who sells mobile homes or factory built buildings shall maintain a trust account or an escrow account with a financial institution or escrow agent located in this state and shall deposit all earnest money received for the sale of mobile homes or factory built buildings in such account.
>
> B. All earnest money deposited in the trust or escrow account shall be held in such account until one of the following is completed:
>
> 1. Application for title transfer has been made.
>
> 2. The transaction involved is consummated or terminated and proper accounting is made.

"C. Upon completion of subsection B the earnest money deposit shall be conveyed to the lending institution or the dealer, or purchaser, whichever is applicable."

A sample of 52 mobile home dealers by the Office of the Auditor General revealed that the dealers which were examined used trust accounts exclusively.

Trust accounts can be either checking or savings accounts which are maintained and controlled by the dealer. This element of control by the dealer allows for potential abuses which could result in financial losses to consumers. From July 1977 to April 1979, the Division conducted trust account examinations on 37 of approximately 210 mobile home dealers in Arizona. Of the 37 examinations that were conducted, 24 indicated the need for further investigation because of possible dealer abuses such as:

1. The commingling of operational monies with earnest monies received from purchasers;
2. The removal of earnest money from trust accounts prior to the consummation of the purchase contract;
3. Dealers not depositing all earnest monies received in trust accounts;
4. No records to document the final disposition of funds or verify that the transaction had been properly consummated or terminated.

It should be noted that the Division conducted follow-up examinations on only five of the 24 dealers identified as warranting further investigation. It should also be noted that the 37 dealers examined by the Division represent only 18 percent of the 210 mobile home dealers in Arizona. Thus it appears, based upon the Division's limited examinations, that trust account abuses by mobile home dealers may be pervasive.

Trust Account Monies May Not
Be Returned To Customers

From July 1977 to April 1979,five mobile home dealers have ceased operation in Arizona resulting in financial loss to customers.

Customers' earnest monies in dealer trust accounts at the time the dealer ceases operation may not be returned. For example, in April 1979, a mobile home dealer ceased operation. At the time the dealer ceased operation four customers had made deposits totaling $36,846 to the dealer. As of September 20, 1979, these customers had not received their mobile homes, for which they paid their earnest money, or had their earnest money returned to them.

In October 1977, this dealer's trust account was examined and the investigation revealed that the dealer did not:

1. Deposit all earnest monies received from a buyer to bind sales in the account;
2. Identify on the deposit receipt the type of earnest money received;
3. Deposit all earnest monies no later than the second business day after the receipt of the monies;
4. Maintain a complete record of all earnest monies received;
5. Identify at the time of withdrawal of the funds from the depository that the transaction had been properly consummated or terminated; and
6. Identify that the deposits referred to in the rules of the Division had not been utilized for any other purpose except for the transaction for which they were provided.

This dealer's account was targeted by the Division as requiring a follow-up investigation. A follow-up investigation never occurred and in April 1979, the dealer ceased operations with a balance of only $10 in the trust account.

Bonds Do Not Afford

Adequate Protection

To Consumers

Arizona Revised Statutes 32-1184 requires dealers to post a surety bond or cash deposit prior to being licensed and states, in part:

> "A. Before granting an original license, the director shall require of the applicant a surety bond in a form acceptable to the director or a cash deposit pursuant to this section. A separate bond or cash deposit shall be required for each branch location of any licensed manufacturer, dealer, broker or installer. No license shall be renewed unless the applicant's surety bond or cash deposit is in full force and effect.
>
> B. The bonds or cash deposit shall be in amounts fixed by the director in the schedule adopted and promulgated in the rules and regulations." (Emphasis added)

A surety bond or cash deposit amount was established by the Director in September 1973 at $5,000. It does not appear that this amount affords adequate protection to consumers in view of: 1) the average price of a mobile home in 1977 was $14,500* and 2) the average price of a mobile home has nearly doubled* since 1973 when the Director established the $5,000 bond amount.

Advantages Of Escrow Accounts

Escrow accounts provide consumers with more protection against dealer defalcation than do trust accounts. Under an escrow arrangement the purchase agreement and earnest monies are held by an escrow agent. The escrow agent prepares all the papers necessary for the transfer of title and sends them to the Motor Vehicle Division of the Arizona Department of Transportation (ADOT) to be processed. Once the application for transfer of title has been mailed to ADOT, the money may be released to the dealer.

* Based upon U. S. Department of Housing and Urban Development Statistics.

The use of escrow agents offers a number of advantages when compared to trust accounts. The advantages provided to purchasers, dealers and the Division include:

1. Purchaser's deposit will be safe from diversions;
2. All monies are handled and controlled by an independent third party;
3. Dealers would have to prepare and retain fewer and less detailed records;
4. Dealers are relieved of the burden of preparing title papers; and
5. Examination of dealer records by the Division would still be necessary but such a review would be much less time consuming than a trust account review.

The cost of the use of escrow accounts is estimated to be $38 to $125 for each unit. (See Appendix IX)

CONCLUSION

Dealer trust accounts and bonds do not provide adequate protection for consumers from unscrupulous or insolvent dealers.

RECOMMENDATIONS

It is recommended that consideration be given to the following:

1. Arizona Revised Statutes 32-1185 be amended to eliminate the use of trust accounts by dealers. All new mobile home sales should be processed through an escrow agent.
2. Bonds be increased to a level that would provide adequate protection to consumers.

Legislation must be enacted in order to implement the first recommendation.

FINDING II

IMPROVEMENTS ARE NEEDED TO REDUCE THE NUMBER OF CONSUMER COMPLAINTS REGARDING MOBILE HOMES.

The number of consumer complaints filed with the Division regarding mobile homes increased dramatically from fiscal year 1977-78 to 1978-79. Division policy and regulatory changes are needed to reduce the number of such complaints in that:

- The Division should institute disciplinary actions against those manufacturers with an inordinate number of complaints, and
- The Division should continue to develop a strong program to regulate the installation of mobile homes.

Manufacturers With An Inordinate Number Of Complaints

In 1978 three of the 11 mobile home manufacturers in Arizona received 55 percent of all consumers complaints filed with the Division against Arizona mobile home manufacturers. Table 1 summarizes the consumer complaints filed against these 11 manufacturers in 1978.

TABLE 1

SUMMARY OF CONSUMER COMPLAINTS FILED WITH THE DIVISION ON MOBILE HOMES MANUFACTURED IN ARIZONA IN 1978

Manufacturer*	Number of Units Manufactured**	Number of Consumer Complaints***	Ratio of Consumer Complaints Per 100 Units Manufactured	Ratio of Consumer Complaints Per 100 Units Manufactured and Placed in Arizona
A	32	-0-	-0-	-0-
B	946	24	2.5369	2.7210
C	1,235	37	2.9959	3.1197
D	1,025	36	3.5121	3.7735
E	429	17	3.9627	4.4619
F	494	22	4.4534	4.5929
G	550	24	4.3636	4.9484
H	119	6	5.0420	5.1282
I	543	55	10.1289	11.5303
J	692	89	12.8612	15.0847
K	551	65	11.7967	16.0891
Total	6,616	375	5.6681	6.2636

* Listed in order from lowest ratio to the highest ratio of complaints to units manufactured and placed in Arizona.

** In accordance with Housing and Urban Development regulations each unit produced is inspected by the Division at some stage of manufacture.

*** Most of the problems listed on the complaint forms were identified as manufacturer responsibility by the Division, although some were identified as dealer and/or installer responsibility.

As shown in Table 1, the three manufacturers with the highest ratios of consumer complaints per 100 units exceeded the ratio of the next highest manufacturer by two to three times. It should be noted that the three manufacturers with the highest complaint ratios are not the manufacturers that produce the greatest number of mobile homes. In fact, the two largest mobile home manufacturers in Arizona had complaint ratios that were significantly lower than the ratios for the three companies with the highest complaint ratios.

Currently the Director does not have the authority to fine manufacturers but he may suspend or revoke their licenses for excessive complaints. In this regard the Legislative Council in an opinion dated September 25, 1979*, stated:

> "The division of mobile and manufactured housing standards is not authorized to levy fines against licensees. The division may initiate a criminal action upon one or more complaints, whether statisfied or not, and a criminal action upon one or more complaints, whether satisfied or not, and a court may impose a fine for each violation for which a licensee is convicted.
>
> ...the division has the authority to investigate manufacturers, dealers and installers against whom it receives an excessive number of complaints and to pursue manufacturers, dealers and installers against whom a complaint is verified.
>
> ...consider the excessive number of prior <u>verified</u> complaints in determining whether the license should be suspended or revoked, even if the licensee satisfied the prior complaints.
>
> The division has the authority to investigate manufacturers, dealers and installers on its own motion and is mandated to pursue manufacturers, dealers and installers against whom a complaint is verified. However, you may wish to recommend that the statutes be amended to provide for imposition of civil penalties by a court if a licensee commits certain acts or omissions. In addition, the entire statutory framework regarding the division should be reviewed and amendments recommended to clarify the procedures and the authority of the parties involved."

* Appendix IV contains a full text of this opinion.

A Strong Program To Regulate The Installation Of Mobile Homes

Consumer complaints regarding mobile homes that were filed with the Division increased from 354 in fiscal year 1977-78 to 686 in fiscal year 1978-79, an increase of 94 percent. The former Director attributes 40 percent of these consumer complaints to improper set-up or installation of mobile homes.

The Division currently does not have a fully implemented program to regulate the installation of mobile homes. A survey conducted by the Office of the Auditor General revealed that those states that have established installation regulatory and enforcement programs have experienced a noticeable decline in complaints. The following comments are from officials of three states with installation (set-up) programs.

Russell R. Bahr, Mobile Home Program Manager, California Department of Housing and Community Development:

> "Three years after the program began in California, complaints related to installation were reduced by 35%."

Mitchell Baker, Director, Arkansas Mobile Home Standards:

> "The set-up program in Arkansas reduced complaints considerably."

Harry Christensen, Assistant Administrator, Texas Mobile Home Division of the Department of Labor and Standards:

> "As a result of the installation program in Texas complaints from poor set-up have decreased."

It should be noted that the Division is currently in the process of establishing a set-up program in Arizona. This program will involve a great deal of coordination and cooperation with local jursidictions. The former Director feels that a strong installation program will significantly reduce complaints.

CONCLUSION

The number of consumer complaints filed with the Division regarding mobile homes increased dramatically from fiscal year 1977-78 to 1978-79. Division policy and regulatory changes are needed to reduce the number of such complaints in that:

- The Division should institute disciplinary actions against those manufacturers with an inordinate number of complaints, and
- The Division should continue to develop a strong program to regulate the installation of mobile homes.

RECOMMENDATION

It is recommended that:

1. The Board establish a rule or regulation to conduct an investigation on receipt of a specified excessive number of verified complaints.
2. The Director, after notice and hearing, suspend or revoke a license based upon a finding that a licensee has received an excessive number of verified complaints.
3. Arizona statutes be amended to provide for imposition of civil penalties by a court if a licensee commits certain acts or omissions such as an accumulation of excessive complaints.
4. The Division continue to develop a strong program to regulate the installation of mobile homes.

FINDING III

THE DIVISION OF MOBILE AND MANUFACTURED HOUSING STANDARDS HAS NOT ADEQUATELY INFORMED THE PUBLIC OF THE ASSISTANCE IT CAN PROVIDE IN RESOLVING CONSUMER COMPLAINTS.

A survey of consumers who had filed complaints with the Division revealed that nearly half had difficulty in identifying the Division as the appropriate State agency to receive such complaints. As a result it appears that the Division needs to better inform the public that it can assist them with consumer complaints.

Public Inadequately Informed

When consumers experience problems with their mobile homes they should contact the dealer or manufacturer first to resolve the problem. If the problem cannot be satisfactorily resolved at that point then the consumer should contact the Division and file a complaint in writing.

The former Director of the Division feels that the average complaint should be completed in 30 to 60 days* computed as follows:

1. Manufacturer or dealer has 15 days to make repairs after receiving notification from the Division that a complaint had been filed.
2. Division has ten days to verify the consumer's complaint if this step is necessary.
3. Manufacturer or dealer has 30 days to make repairs after receiving notification from the Division that the complaint had been verified.
4. The Division or consumer can ask that a citation be issued within five days for unsatisfactory performance by the dealer or manufacturer.

At any point the consumer can terminate the process by signing a form stating that satisfactory repairs had been made.

* See Appendix V

To make the public aware of its existence the Division's complaint process was written up in one of Arizona's Mobile Home newspapers. Further, manufacturers of mobile homes are required by the U.S. Department of Housing and Urban Development (HUD) to prepare a consumer manual and include a list of State Administrative Agencies (SAA's) which are responsible for handling consumer complaints.* While these practices are notable available evidence indicates the need for additional procedures.

A survey by the Office of the Auditor General of consumers who filed complaints with the Division indicated that 48 percent had difficulty in learning where to register their complaints. Further analysis revealed that 50 percent of the mobile home complainants and 45 percent of the recreational vehicle complainants did not know where to file their complaints**. By way of contrast, a survey of consumers who filed complaints with the Registrar of Contractor's Office revealed that only 13 percent had difficulty in determining where to register their complaint.

From January 1, 1978, to December 31, 1978, the Division received 536 complaints on mobile homes, recreational vehicles, and factory built buildings. However, the Better Business Bureau (BBB) received ten to 12 complaints per month on mobile homes. The BBB, upon receiving a complaint on a mobile home, usually contacts the dealer or manufacturer to discuss the matter. It is the policy of the BBB to attempt to resolve complaints against dealers or manufacturers on their own and not to pass complaints on to governmental agencies. The BBB does not inform consumers of the Division's existence unless they are specifically asked to identify other sources of assistance. Therefore, during 1978 the Division did not receive at least 20 to 25 percent of consumer complaints filed regarding mobile homes in Arizona.

* It should be noted that some manufacturers explain in their consumer manuals that the SAA's can provide assistance if a problem arises with a mobile home. However, other manufacturers simply list the SAAs but do not explain their purpose. Appendix VIII is an example of one manufacturer's listing of SAAs that is void of any explanation of the SAA's purpose.

** See Appendix VII.

Methods For Improving

Public Participation

Mr. Ernest Gellhorn, former Dean of Arizona State University College of Law and a recognized authority on administrative procedure law, has formulated recommendations for improving the Federal Administrative Procedures Act. Many of these recommended actions are equally applicable to state regulatory bodies. According to Mr. Gellhorn*:

"1. Agency obligations. Minimum constitutional requirements are insufficient reasons for agencies to fail to explore appropriate procedures for providing effective notice to the affected public. (Emphasis added)

2. Meeting public notice needs. Agencies should be required to provide identified, accessible sources of information about proceedings in which public participation is possible....At a minimum, each agency should:
   a. Strive to provide notice as far in advance of the proceeding as possible; and
   b. Prepare a separate bulletin issued periodically, identifying the proceeding and providing relevant information.

3. Attracting and focusing public attention. The public can be made aware of important agency proceedings in many ways, such as press releases to news media; requirements that applicants directly inform users; special notice to governmental bodies, citizen groups or trade associations; and separate agency listings of significant matters.

   Coverage in the news media is perhaps the most effective way of reaching the average citizen, and public interest groups and agencies should make special efforts to encourage reporting of their activities. Factual press releases written in lay language should explain the significance of the proceedings and the opportunities for public participation. Releases describing important proceedings with a local geographical impact should be sent to area news media. In major matters, agencies might consider public service advertisements and announcements over local broadcasting facilities. Direct mailings are yet another alternative." (Emphasis added)

* Techniques of Public Involvement, State Planning Series 11, Council of State Planning agencies, pp 12-13. This statement is a summary of Gellhorn's article, "Public Participation in Administrative Proceedings," Yale Law Journal, Volume 81, No. 3 (January 1972) pp 398-401.

In August 1975 the then Attorney General, Bruce E. Babbitt, further amplified these ideas in a memorandum to all state agencies. Forms of public notice discussed were:

1. Newspaper Publications

   In many cases, notice of meetings can be disseminated by providing press releases to newspapers published in the area in which notice is to be given. In addition, paid legal notices in such newspapers may be purchased by the governing body.

2. Mailing List

   Some bodies may wish to provide a mailing list whereby persons desiring to obtain notices of meetings may ask to be placed on a mailing list. All notices of meetings issued will then be mailed to those appearing on the current mailing list.

3. Articles or Notices in Professional or Business Publications

   In addition, the governing body may obtain publication of articles or notices in those professional and business publications relating to the agency's field of regulation.

The Office of the Auditor General contacted several television and radio stations and determined that these stations were willing to air public service announcements for a state agency providing that:

1. The agency prepare a statement explaining the purpose of the message and assure the station that the message is from a nonprofit organization; and
2. The agency prepare the announcement (that is, type the script of the announcement).

Another alternative would be for the Division to send a letter to each purchaser of a new mobile home, recreational vehicle, or factory built building. The letter could convey two ideas:

1. Inform the owner that service requirements be directed to the dealer first and the manufacturer secondarily if the dealer fails to respond satisfactorily.
2. If within one year after purchase, neither the dealer nor the manufacturer responds satisfactorily to a service requirement, then a formal complaint may be filed with the Division of Mobile and Manufactured Housing Standards.

Approximately 20,000 new mobile homes, recreational vehicles, and factory built buildings were sold in Arizona in the 1978 calendar year. Assuming a letter was sent to each of the 20,000 new owners and was distributed through bulk mail the cost would be $4,800 detailed as follows:

Type and stuff letter	$2,500
Postage	1,680
Paper and envelopes	620
Total	$4,800

CONCLUSION

Many purchasers of new mobile homes, recreational vehicles, and factory built buildings do not know that the Division through its complaint review process can help to rectify service problems.

RECOMMENDATION

To make the public more aware of its complaint review process the Division should consider the following options:

a. Contact the Arizona media and arrange for a series of public service announcements.
b. Prepare and distribute a letter to purchasers of new mobile homes, recreational vehicles, and factory built buildings informing them of the Division's complaint review process.

FINDING IV

THE DIVISION NEEDS TO ESTABLISH STANDARDS FOR TRAVEL TRAILERS USED AS PERMANENT RESIDENCES.

Arizona Revised Statutes 32-1172.20 states: "'Recreational vehicles' means a vehicular type unit primarily designed as a temporary living quarters for recreational, camping or travel use which is not designed for permanent residence* or commercial purposes." It appears, however, that vehicles designed for use as temporary residences are being used as permanent residences* and that no performance or construction standards exist in Arizona for such vehicles.

One type of travel trailer that is used as a permanent residence is the park model. Visits to several mobile home parks in Maricopa County by the Office of the Auditor General revealed that travel trailers, especially park models, are being used as permanent residences.* The personnel from the Division of Mobile and Manufactured Housing Standards have also observed numerous mobile home parks where park models are used as permanent residences*. Mr. Gene Deaton, former inspector and supervisor of complaints at the Division of Mobile and Manufactured Housing, stated:

> "There is no construction performance required from the state for park models. Park models do not have smoke detectors, tie-downs to protect against strong winds or special fire-resistant specifications."

Table 2 details the differences between the ANSI 501C Code used for park models, and HUD regulations used for mobile homes.

* The Office of the Auditor General defined permanent residences as units that were used six months or longer in one location.

TABLE 2

U. S. HOUSING AND URBAN DEVELOPMENT STANDARDS FOR MOBILE HOMES NOT REQUIRED ON TRAVEL TRAILERS BY ANSI 501C CODE

Requirement	Required of Travel Trailers By ANSI 501C	Required of Mobile Homes By HUD Regulation	Potential Effect
Furnace and water heater compartments must have walls and ceilings made of materials with a fire spread rating of 25	No	Yes	Fire will spread more quickly throughout the unit if there is not a special protectant
Fire protectant material with a flame spread of 50 on back wall and bottom of cupboards for six inches on either side of range	No	Yes	Fire will spread more quickly on cupboards if there is not a special protectant.
At least one smoke detector is required	No	Yes	Occupants may not be alerted of fire in time to escape safely
Tie-downs are required	No	Yes	Unit may tip over in case of strong winds
Lumber used must be a specified species	No	Yes	Walls, floors, or ceilings may not be strong enough
Specific methods of restrengthening structural members is required	No	Yes	Floors, ceilings or walls may lose their strength once a structural member has been cut for wiring, lights and bathtubs

The use of travel trailers as permanent residences occurs in other parts of the country besides Arizona, usually in the sun-belt states. Buck Jones, who is with the Division of Motor Vehicles in Florida, states:

> "Travel trailers are also used as permanent residences in Florida. One park has 1500 spaces that use travel trailers as permanent residences. Overall though, we don't know how many people use travel trailers as permanent residences in Florida."

Regarding park models, John Stanton, Vice-President, Recreation Vehicle Industry Association stated:

> "...park models need special consideration...they are not a recreation vehicle or a mobile home, but are a special product meeting a special market need...they are built with the intention of providing a temporary residence.
>
> Park models are a class of their own. They fill a void that mobile homes cannot fill. They are easily towable by a light-duty truck, whereas mobile homes have to be towed by large trucks. Also, mobile homes require a special towing permit whereas park models do not.
>
> A mobile home is more permanent in nature than a park model. For these reasons a park model fills the needs of a special part of society; people who need mobility. There are people who need mobility because of their occupation or for use as a summer or winter resort.
>
> I...suggest that they be treated as a unique product with their own set of standards; definitely a different kind of standards than what presently regulates recreation vehicles. Because of their use, I can see a far greater need for their regulation than I can for recreation vehicles. However, if anyone attempted to construct them according to conventional or mobile home building codes, then they no longer would be light enough to be towed, nor could they meet the configurations necessary and desired by the segment of the market to which they presently appeal.

> "...the Recreation Vehicle Industry Association is in the process of developing a standard for park models totally separate from recreation vehicle standards...I can understand the need for maintaining inspections of mobile homes as required by federal law. I also recognize that it may be necessary to develop an inspection program for park models in the interest of the safety of Arizona citizens...."

CONCLUSION

Recreational vehicles which are designed to be used as temporary living quarters are being used as permanent residences in Arizona. However, no performance or construction standards exist in Arizona for recreational vehicles being used as permanent residences.

RECOMMENDATION

The Board establish performance or construction standards for recreational vehicles being used as permanent residences.

OTHER PERTINENT INFORMATION

THE FOLLOWING INFORMATION IS PERTINENT TO IN-PLANT INSPECTIONS OF RECREATIONAL VEHICLE AND FACTORY BUILT BUILDING MANUFACTURERS PERFORMED BY THE DIVISION OF MOBILE AND MANUFACTURED HOUSING STANDARDS.

Inspectors from the Division of Mobile and Manufactured Housing Standards inspect plants located in Arizona, other states and Canada that manufacture recreational vehicles and factory built buildings.

During calendar year 1978 Division inspectors traveled to 14 other states and Canada in order to perform inspections of plants used to manufacture either recreational vehicles or factory built buildings.

Recreational Vehicle Inspections

In July 1977, the Division reinstituted in-plant inspections for recreational vehicles. Recreational vehicles include travel trailers, motor homes, camping trailers, chassis mount units, van conversions and cab-over campers. An in-plant inspection of a recreational vehicle manufacturer consists of:

1. A review of the manufacturer's quality control manual, plans and specifications;
2. The observation of the manufacturer's test of gas, water and electrical systems on one finished unit;
3. An examination of appliance panels, converters, lights and wiring to determine approvals from a national testing or listing agency;
4. Inspection of all units for electrical, plumbing, water or gas lines and appliances;
5. Check at least one finished unit with an approval tag affixed; and,
6. A write-up of any non-conformances to American National Standards Institute (ANSI) 501C Code, and the manufactuer's quality control manual, plans and specifications.

The purpose of the recreational vehicle inspections is to protect the consumer of such products.

During 1978, the Division conducted 142 in-plant inspections in Arizona and 242 in-plant inspections in 13 other states and Canada for recreational vehicle manufacturers.

Table 3 summarizes the states that had in-state inspection programs for recreation vehicles and the extent to which states had out-of-state inspection programs during 1978.

TABLE 3

SUMMARY OF STATES WITH IN-STATE INSPECTION PROGRAMS FOR RECREATIONAL VEHICLES AND THE EXTENT TO WHICH STATES HAD OUT-OF-STATE INSPECTION PROGRAMS DURING 1978

Locations Where In-Plant Inspections Were Performed	In-State Inspection Program	States Performing In-Plant Inspections								Number of States Performing Similar In-Plant Inspections
		ARIZONA	Colorado	Utah	Kentucky	Idaho	Nebraska	Florida	Kansas*	
ARIZONA	Yes			X						2
California	Yes	X	X	X	X	X				6
Indiana	No	X		X	X	X	X	X	X	7
Kansas*	Yes	X	X	X	X	X	X			7
Michigan	No	X	X	X	X	X	X	X	X	8
Iowa	No	X	X	X	X	X	X		X	7
Pennsylvania	No	X	X	X	X	X	X		X	7
Texas	No	X	X	X	X	X	X		X	7
Alabama	No	X		X	X			X		4
Ohio	No	X	X	X	X	X	X		X	7
Idaho	Yes	X	X	X					X	5
Oregon	Yes	X	X	X		X			X	6
Tennessee	Yes	X	X		X		X	X	X	7
Georgia	No	X	X		X			X		4
Missouri	Yes			X	X				X	4
Washington	Yes		X	X		X				4
Utah	Yes		X			X				3
Colorado	Yes			X			X		X	4
Oklahoma	No		X						X	2
Mississippi	No							X		1
Florida	Yes				X					2
Kentucky	Yes		X							2
Montana	Yes			X		X				3
Wyoming	No			X		X				2
Nebraska	Yes		X							2
Minnesota	No		X		X	X	X		X	5
Wisconsin	No		X		X	X	X		X	5
Illinois	No		X	X	X					3
New York	No				X					1
North Carolina	No		X							1
Canada		X	X	X		X				4
West Germany				X						1
Total Out-of-State Inspections		14	21	20	17	16	11	6	14	

* Kansas State Legislature terminated in-plant inspections, design approvals and insignias for recreational vehicles on April 13, 1979.

As shown in Table 3, Arizona was one of only 14 states that performed in-state inspections for recreational vehicles and one of only eight states that performed out-of-state inspections during 1978. In addition, each of the states visited by Arizona inspectors during 1978 was also visited by inspectors from at least three other states while Michigan was visited by inspectors from seven other states. In 1978, manufacturers in Michigan received a minimum of 14 inspections. (See Appendix I)

Recreational vehicle manufacturers in California shipped more recreational vehicles to Arizona dealers than any other state (See Table 5) California inspectors inspect 75 percent or more of the recreational vehicles manufacturered in California that receive California insignias. Arizona inspectors traveled to 87 recreational vehicle plants in California from January 1, 1978 to March 1, 1979 to perform inspections similar to those performed by the California inspectors. According to one recreational vehicle manufacturer in California, inspectors from Arizona, California and Colorado were in his plant "on the same day and the same time and looked at the same units."

Factory Built Buildings

In July 1977, the Division reinstituted in-plant inspections for factory built buildings. An in-plant inspection of a factory built building manufacturer consists of:

1. A review of the manufacturer's quality control manual, plans and specifications;
2. Examination of units' construction;
3. Observation of the manufacturer's test for gas and plumbing;
4. Review of components for national testing approvals; and
5. Write-up of any non-conformances from quality control manual, plans, specifications and industry standards. Industry standards for the most part are the Uniform Building Code (UBC), Uniform Plumbing Code (UPC), National Electrical Code (NEC), and the Uniform Mechanical Code (UMC).

The purpose of the factory built building inspection is to protect the consumer of such products.

During 1978, the Division conducted 123 in-plant inspections in Arizona and 12 in-plant inspections in five other states. Table 4 summarizes the states that received in-plant inspections from Arizona, the states that shipped units into Arizona in 1978 and the other states that performed inspections in those states.

TABLE 4

STATES THAT SHIP FACTORY BUILT BUILDINGS
TO ARIZONA AND RECEIVE IN-PLANT INSPECTIONS
FROM ARIZONA AND OTHER STATES DURING 1978

Localities Where In-Plant Inspections Were Performed	States That Shipped Units Into Arizona	States Performing In-Plant Inspections					
		ARIZONA	California	Idaho	Colorado	Nebraska	Ohio
California	X	X	X				
Kansas		X			X	X	
Iowa	X	X					X
New Mexico	X	X			X		
Texas	X	X					
Utah	X	X		X			

As shown in Table 4, each of the states, except Texas, visited by Arizona inspectors during 1978 was also visited by inspectors from at least one other state. In addition to Arizona, 15 states perform in-state inspections and 22 states perform out-of-state inspections of factory built building manufacturers. (Appendix II)

It should be noted that third-party inspectors* inspect 25 percent or more of the factory built buildings that have California insignias affixed to them. Division inspectors visited three plants in California during 1978 to perform inspections.

* Inspectors such as those employed by private engineering firms that are certified by the state to conduct inspections on behalf of the state.

Out-of-State Shipments

To Arizona

During 1978, 7,098 recreational vehicles were shipped to Arizona dealers from manufacturers located outside of Arizona. Department inspectors visited 14 states and Canada during 1978 to perform in-plant inspections. However, 11 of these out-of-state localities, including Canada, that were visited by Division inspectors accounted for less than 16 percent of the recreational vehicles shipped to Arizona dealers during 1978. Further, three of these out-of-state localities visited (Georgia, Missouri and Canada) did not ship any recreational vehicles to Arizona during 1978.

Table 5 summarizes the localities that shipped recreational vehicles to Arizona and the localities inspected by Division inspectors during 1978.

TABLE 5

SUMMARY OF THE LOCALITIES THAT SHIPPED RECREATIONAL VEHICLES TO ARIZONA AND THE LOCALITIES INSPECTED BY DIVISION INSPECTORS DURING 1978

Out-of-State Localities	Number of Units Shipped to Arizona	Percentage of Units Shipped to Arizona
Visited By Division Inspectors:		
California	4,128	58.16%
Indiana	688	9.69
Kansas	652	9.19
Michigan	367	5.17
Iowa	323	4.55
Pennsylvania	320	4.51
Texas	204	2.87
Alabama	124	1.75
Ohio	76	1.07
Idaho	48	.68
Oregon	21	.30
Tennessee	15	.21
Georgia	-0-	-0-
Missouri	-0-	-0-
Canada	-0-	-0-
Total Shipments In States Visited	6,966	98.15%
Not Visited By Division Inspectors:		
Oklahoma	45	.63%
Wyoming	29	.41
Washington	20	.28
Minnesota	16	.22
Utah	15	.21
Colorado	7	.10
Total Shipments in States Not Visited	132	1.85%
Total Shipments	7,098	100.00%

As shown in Table 5 California shipped the most number (4,128) of recreational vehicles to Arizona during 1978, and accounted for more than 58 percent of total recreational vehicle imports. Iowa, Pennsylvania, Texas, Alabama, Ohio, Idaho, Oregon, Tennessee, Georgia, Missouri and Canada combined accounted for only 15.93 percent of total 1978 recreational vehicle imports.

Approximately 87 percent of the recreational vehicles shipped to Arizona dealers in 1978 were from out-of-state manufacturers while approximately half of the factory built buildings came from out-of-state manufacturers. (See Appendix III) Division inspectors visit out-of-state manufacturing plants very infrequently and inspect very few units when they do visit a plant.

The Division's policy is to perform one inspection per year for out-of-state manufacturers of recreational vehicles. For factory built buildings the number of out-of-state inspections varied from none to four during 1978*. According to Professor Arthur Dean**:

> "One visit per year per manufacturer is not adequate to insure the reliability of data obtained from inspection.
>
> To rely on the results of the in-plant inspection reports a minimum of 15 samples (visits) per year per manufacturer are necessary. Ideally 25 to 30 samples per year should be made to insure a high degree of reliability."

* Appendix III contains a listing of the out-of-state factory built building manufacturers inspected during 1978.

** Associate Professor of Engineering, Arizona State University; B.A., M.S., Texas Tech University; PH.D., Texas A & M University.

An internal report prepared by the Division of Building Codes (now the Division of Mobile and Manufactured Housing Standards) in fiscal year 1976-77 addressed out-of-state inspections and states, in part:

> "...all the inspector is accomplishing by inspecting the plant is insuring that the plant is following their approved quality control procedures. In no way are they insuring that units coming into this state are built to code as most times they do not even inspect any units which are being set(sic) to Arizona."

Number Of Consumer Complaints

During 1978, the Division received 22 consumer complaints regarding recreational vehicles and one consumer complaint regarding factory built buildings. Table 6, compares the number of consumer complaints filed with the Division for mobile homes, recreational vehicles and factory built buildings.

TABLE 6

SUMMARY OF CONSUMER COMPLAINTS REGARDING RECREATION VEHICLES, FACTORY BUILT BUILDINGS AND MOBILE HOMES FILED WITH THE DIVISION DURING 1978

Type of Consumer Complaints Filed	Number Filed	Ratio of Complaints Filed to Number of Units Shipped** to Arizona Dealers During 1978
Recreational Vehicles	22	.2703
Factory Built Buildings	1	.0834
Mobile Homes	513	5.3599*

* Estimate based upon the number of Housing and Urban Development labels issued to manufacturers that shipped units to Arizona dealers during 1978.

** Units shipped are comprised of units manufactured in Arizona that are first placed in Arizona and units manufactured out-of-state that are first placed in Arizona.

As shown in Table 6 the ratio of consumer complaints to units shipped to Arizona dealers during 1978 was 20 and 64 times greater for mobile homes than for recreational vehicles and factory built buildings, respectively.

Severity Of Consumer Complaints
And In-Plant Inspection Violations

Consumer complaints and in-plant inspection violations regarding recreational vehicles and factory built buildings were categorized into the following groups:

Imminent Safety Hazards - hazards that present an imminent and unreasonable risk of death or severe personal injury that may or may not be related to failure to comply with a safety standard. Examples are liquid petroleum gas tank explosion, broken gas lines and cut tires (from low front end).

Serious Defects - any failure to comply with an applicable safety standard that renders the unit or any part thereof not fit for the ordinary use for which it was intended and which results in an unreasonable risk of injury or death to occupants of the unit. Examples include gas hose leaks and improper wiring to A/C supply.

Defects - any failure to comply with an applicable safety standard that renders the unit or any part or component thereof not fit for the ordinary use for which it was intended, but does not result in an unreasonable risk of injury or death to occupants of the unit. Examples include window leaks, and bad taste and ordor in water.

Non-Compliances - a failure to comply with an inspection standard that does not constitute a defect, serious defect or imminent safety hazard such as cosmetic defects. Examples include loose trim or molding, 110 volt wire in storage area closet not concealed, and problems with drapes.

An analysis of the 23 consumer complaints regarding recreational vehicles and factory built buildings that were filed with the Division during 1978 revealed that 59 specific defects were noted on the 23 complaints. In addition, a sampling of in-plant inspection reports prepared by Division personnel, revealed that no instances of imminent safety hazards were reported. See Table 7 for a detailed analysis of problems from complaints and a sampling of in-plant inspection violations.

TABLE 7

SUMMARY OF A SAMPLING OF 1978-79 IN-PLANT INSPECTION VIOLATIONS AND ALL 1978 COMPLAINTS ON RECREATIONAL VEHICLES AND FACTORY BUILT BUILDINGS PROCESSED BY THE DIVISION

RECREATIONAL VEHICLES

Degree of Seriousness	Sampling of In-Plant Inspection Violations* May 1978 to February 1979		Problems from Complaints January 1978 to December 1978	
	Number	Percent	Number	Percent
Imminent Safety Hazard	0	0%	2	4%
Serious Defect	21	21	9	17
Defect	47	46	19	35
Non-Compliance	33	33	24	44
Total	101	100%	54	100%

FACTORY BUILT BUILDINGS

Degree of Seriousness	Sampling of In-Plant Inspection Violations** May 1978 to April 1979		Problems from Complaints January 1978 to December 1978	
	Number	Percent	Number	Percent
Imminent Safety Hazard	0	0%	0	0%
Serious Defect	0	0	0	0
Defect	17	94	2	40
Non-Compliance	1	6	3	60
Total	18	100%	5	100%

* Twenty-nine percent of the reports examined showed no violations, while 71 percent showed one or more violations.

** Thirty-seven percent of the reports examined showed no violations, 19 percent showed no production to inspect and 44 percent had one or more violations.

Decertification Of Plants

In 1978, the Division conducted 384 recreational vehicle in-plant inspections in approximately 175 plants and 135 factory built building inspections in 19 plants.

During 1978, 18 recreational vehicle manufacturers were decertified because of serious and/or numerous violations of the ANSI 501C Code, manufacturer's quality control or Division rules and regulations noted during an in-plant inspection. No factory built building manufacturers were decertified in 1978.

When a plant is decertified the inspector confiscates all Arizona insignias in the manufacturer's possession preventing the manufacture from shipping units legally to Arizona. The plant may be recertified by requesting and passing a follow-up inspection by the Division. Upon recertification the manufacturer is issued a new supply of insignias.

Costs Of The Program

Manufacturers pay the Division $20 per hour plus travel and per diem for in-plant inspections. Each unit placed in Arizona must have an Arizona insignia affixed to it which costs $15 each. Manufacturers plans and specifications must also be approved by the Division for a fee.

The Division's estimated cost for in-plant inspections of recreational vehicles and factory built buildings is $78,000 per year. The cost of these inspections is initially paid by the recreational vehicle and factory built building manufacturers but is ultimately passed to the purchasers of these units.

THE FOLLOWING INFORMATION IS PERTINENT TO THE POSSIBLE CONSOLIDATION OF THE DIVISION OF MOBILE AND MANUFACTURED HOUSING STANDARDS WITHIN THE OFFICE OF THE REGISTRAR OF CONTRACTORS.

Governor Bruce Babbitt's opening message to the first regular session of the thirty-fourth legislature contained the following statement:

> "I also am proposing legislation to consolidate the authority of the Division of Mobile and Manufactured Housing Standards in the Office of the Registrar of Contractors.
>
> The present situation does not provide for clear lines of authority or responsibility. This proposal will streamline the administration and oversight of this important function."

In addition, ARS 32-1177(B) states:

> "The registrar and the director shall, by mutual agreement, provide for the sharing of professional and clerical support personnel, electronic data processing time and communications, equipment and office space for the purpose of effective and efficient management of the operations of this article."

However, as of June 30, 1979 there was no sharing of equipment, supplies or office space between the Division and the Registrar and sharing of professional and clerical staff exists only in examinations for dealers and mobile home installers.

Both the Division and the Registrar perform many of the same functions for their respective industries which include:

1. Processing complaints
2. Conducting hearings
3. Requiring examinations for trade and business
4. Conducting investigations
5. Administering licenses
6. Accounting for financial transactions and budgets

For both the Division and the Registrar similar technical knowledge is needed in such areas as structure, plumbing and electricity.

Both the Division and the Registrar adhere to the same codes for factory built buildings and site built homes which include:

1. Uniform Building Code (UBC)
2. Uniform Plumbing Code (UPC)
3. National Electrical Code (NEC)

The advantages of combining the Division and the Registrar include:

1. Such a combination would eliminate confused lines of authority that exist between the Division and the Registrar.
2. Consumer confusion as to where to file a complaint would be reduced.
3. The Division Hearing Officer could be used more efficiently. Currently the caseload for the Division Hearing Officer is only one half of that for one of the Registrar's Hearing Officers.
4. The Registrar has six field offices outside of Phoenix located around the state. The field offices could help the Division in handling complaints and inquiries at various localities. Field offices could also aid the implementation of the Division's mobile home set-up program.

It should be noted, however, that there is strong opposition from the manufactured housing industry against combining the Division and the Registrar. For example, Sonny Rickles, Executive Director of the Manufactured Housing Association of Arizona stated:

> "Big builders in site-built homes would have greater influence on the Registrar.
>
> Site-built homes and manufactured housing are two competing industries. In as much as 'stick-built' homes are already in the Registrar's office, we would be in trouble because we are the new guy on the block. The Manufactured Housing Industry is a competitor of stick-built homes and we should not have to contribute to an agency that is dominated by our competitors. To do so would cause us to cut our own throats with our own dollars."

Norm Andrus, Director of Engineering for Roker Industries, stated:

> "Historically, the mobile and factory built homes have been competitors of the 'stick-built' homes. Both types of builders compete for the general public's business. The Manufactured Housing Industry has been the leading producer of low cost housing.
>
> There would be pressures from the stick-built industry to have the manufactured housing industry adopt their high cost practices. An example is the fact that Tempe requires a licensed electrician to hook up the electrical service to a trailer at a cost of $150 to $200 to the consumer. Appeals to the five-man Electrical Board of Tempe and the Registrar of Contractors brought no change in the requirement. Mesa only requires an installer licensed by the Division to perform such a task."

It should also be noted that the disadvantages of combining the Division and the Registrar include:

1. The Division of Mobile and Manufactured Housing Standards has a Board that promulgates rules and regulations whereas the Registrar does not.

The Registrar of Contractors, Aaron Kizer, stated:

> "I would be against combining the Division under the Registrar unless the Mobile and Manufactured Housing Standards Board was eliminated."

2. The Division and the Registrar must be knowledgeable of and adhere to different construction codes. For example, mobile homes must adhere to standards set by the U. S. Department of Housing and Urban Development (HUD), whereas, recreational vehicles must adhere to standards set by the American National Standards Institute (ANSI 501C Code).
3. The agencies are currently located at two separate physical locations. Allocation of space would be a problem if the agencies were combined into one of the two current locations.

STATE OF ARIZONA

DIVISION OF MOBILE AND MANUFACTURED HOUSING STANDARDS

PERFORMANCE AUDIT RESPONSE

October 19, 1979

Richard E. Wolfe
Director

James L. Bond
Assistant Director

DIVISION OF MOBILE AND MANUFACTURED
HOUSING STANDARDS

STATE OF ARIZONA

1645 WEST JEFFERSON
PHOENIX, ARIZONA 85007
(602) 255-4072

BRUCE BABBITT GOVERNOR
RICHARD E. WOLFE, DIRECTOR

October 19, 1979

TO: Mr. Douglas R. Norton, Auditor General

FROM: Mr. Richard E. Wolfe, Director, Division of Modilbe and Manufactured Housing Standards

SUBJECT: PERFORMANCE AUDIT RESPONSE

A thorough review has been made of the draft report of the performance audit conducted of the Division of Mobile and Manufactured Housing Standards. Each Board member of the Division was contacted individually and their response to the draft was solicited. The following is the consensus response of the Division and four of the five Board members (Board Member Aaron Kizer has responded independently).

In the draft report, the Auditor General has made four findings, conclusions and recommendations. Following that they have related "pertinent information". Our response will address each issue separately and in the same order.

Richard E. Wolfe
Director

REW/fs

FINDING I

The Auditor General recommends that the law be amended to eliminate the use of trust accounts and that future sales be processed through an escrow agent. He further recommends that bonds be increased to a level that would provide adequate protection to consumers.

The Division and four members of the Board disagree that the law be changed to require an escrow agent or service. This would increase the cost to the consumer, and in our opinion, would offer little more protection than the existing trust account requirement. There is no assurance that earnest monies being deposited by a customer or buyer is being put into the escrow account. Therefore, such a change would still have to be monitored by the Division to insure that the consumer's money is being protected.

We also disagree that an increase in bond level is needed. If the bonds were to be doubled from their existing limits, there still is inadequate protection for the buyer. It takes only one or two significant claims to liquidate such a bond.

In the alternative, the Division and the four Board members recommend that a recovery fund be set up by statute with an initial appropriation and then an assessment against each unit sold for its perpetuation. This is a system that has proven effective in other jurisdictions in protecting buyers. This proposal has been submitted and received favorably by the industry and the Division is currently obtaining information from other jurisdictions in preparation of drafting proposed legislation.

The Division has already implemented increased audits of the existing trust accounts to insure compliance to the law. It is the Divisions intent to vigorously enforce those statutes and recommend a prosecution for those cases that evidence criminal conduct.

It is our recommendation that the existing trust account statutes, rules and regulations, be left as written.

FINDING II

The Auditor General makes four recommendations:

A. The Board establish a rule or regulation to conduct investigation on receipt of a specified excessive number of verified complaints.

B. The Director after notice and a hearing suspend or revoke a license based upon a finding that a licensee has received an excessive number of verified complaints.

C. The statutes be amended to provide for intervention of civil penalties by court if the licensee commits certain acts or omissions such as an accumulation of excessive complaints.

D. The Division continue to develop strong program to regulate the installation of mobile homes.

In reference to recommendation A., the Division and four members of the Board agree that such a rule is possible but that it should not specifiy the specific number of verified complaints upon which to base an investigation. Experience has shown that the number of complaints is not the issue, but rather the type of complaint that is being made. By way of further explanation, if a manufacturer has received a large number of so-called "cosmetic" type complaints, then the Division should not have to target that manufacturer for investigation in lieu of taking a hard look at a manufacturer who has one or two complaints that are safety related or hazardous in nature.

In response to recommendation B. Again, the Director and the four members of the Board do not agree that the mere fact that a licensee has received an excessive number of complaints would be grounds for a suspension or revocation of a license. Each complaint should be analyzed on its own merits and appropriate action taken.

In response to recommendation C., the Division and four members of the Board have no objection to such an amendment to the statutes; but, again, the same argument would be raised as to setting specific numbers of complaints as a basis for action.

The Division and four members of the Board concur with recommendation D. The Division has an ongoing program in which we are entering into Intergovenmental Agreements with local jurisdictions pursuant to law to issue permits and inspect the installation of mobile homes statewide. Experience with the processing of consumer complaints has shown that a very high incidence of complaints are related directly or indirectly to the installation of mobile homes. Experience by other states who have implemented similar installation inspection programs have shown that these complaints can be significantly reduced. The Division's objection as to the implementation of the installation section program would be approximately the early fall of 1980, if the budget request is approved to implement the State's inspection portion of the program.

FINDING III

The Auditor General recommends that the public be made more aware of the Division's complaint review process and toward that end contact the Arizona media and arrange for a series of public service announcements, and in addition distribute a letter to purchasers of new homes, recreational vehicles and factory-built buildings informing them of the Division's complaint review process.

The Division and four Board members agree that a program is needed to advise the consumers of the Division's presence and complaint handling ability. It is our intention to have public service tapes prepared for distribution to radio stations as public service announcements and to prepare news releases for distribution to the local newspapers and trade papers.

The Division disagrees with the proposal of the distribution of letters to purchasers of mobile homes, recreational vehicles and factory-built buildings as it would involve a considerable outlay of funds plus would involve an ongoing program that would tie up personnel and future funding.

The Division and four Board members will be proposing a rule requiring such a notification form be made part of the purchase package that is given to buyers by the dealers. The Division would furnish the dealers a two-part notification or disclosure form that would ask the consumer to fill out and return one portion to the Division to assure notification.

It should be noted that this Finding would in all probability generate a much greater number of complaints while Finding II of the Auditor General's report is proposing a system to decrease the number of complaints. Obviously if both programs are implemented, the workload in the Complaint and Investigation Bureau would be increased along with the number of hearings.

FINDING IV

The Auditor General recommends that the Board establish performance or construction standards for recreational vehicles being used as permanent residences.

The Division and four Board members agree with the findings of the Auditor General in that there does exist the problem in the area of those recreational vehicles that commonly are referred to as "park models". These are the larger camping trailers that a segment of the community is using as permanent living quarters when in fact they were not designed to be used as such when manufactured. The Department of Housing and Urban Development, who regulates the standards for the construction of mobile homes, has recognized this problem and is currently involved in finding solutions for the problem.

The Division is heavily involved in working with HUD, the industry, and industry associations to work out a solution to the problem that this recreational vehicle raises.

The recommendation of the Auditor General has merit; but such a proposal, as it relates to construction standards, would require a considerable amount of time and funds for studies to determine answers to the enumerable questions that will arise when this issue is faced. Currently, there are no standards in the country that can be utilized for this purpose and the Division under its present statute is not authorized to set such standards.

The Division and four Board members would recommend that if a solution is not forthcoming from HUD and the industry that we try to approach the problems in terms of setting performance standards on those particular units referred to as "park models" once this particular segment is segregated from the rest of the recreational vehicle models.

OTHER PERTINENT INFORMATION

The Auditor General addresses the issue of the in-State and out-of-State plant inspections of the manufacturers of recreational vehicles and factory-built buildings.

The Division and four Board members believe that the health and safety of the citizens of the State of Arizona who purchase the various types of recreational vehicles and who elect to make their residence in a factory-built building will suffer if the State of Arizona elects to disband its inspection program. This State is proving to be one of the fastest growing markets for recreational vehicles and alternative housing such as factory-built buildings, and we believe that increased inspections, not decreased, is in order. It should be noted that all thirteen states contacted indicated that in-plant inspections are necessary.

The Auditor General's report inferred that the Division duplicates inspection work of other states in those manufacturing plants. Our survey indicated that no other state inspected those units or vehicles, to Arizona's approved plans, destined for sale in Arizona.

The Division in the past has attempted to set up reciprocity for inspections with other states, but the proposal failed due to the inconsistency in inspection procedures by those states involved. Therefore, the Division and the four Board members do not believe, based on prior experience, that we can rely on other jurisdictions conducting inspections acceptable to our inspection standards. It should be noted in support of this that the Division decertified eighteen (18) recreational vehicle manufacturers in calendar year 1978 for failing to meet their Arizona approved plans and quality assurance program. A list of those manufacturers and a summary of the problems found during inspection is attached to this report for reference. In all of these cases cited, the plants had apparently, according to the Auditor General's survey and tables had been inspected by other states.

The report further states that one visit per year per manufacturer is not adequate to insure the reliability of data obtained from the inspection.

The Division and the four Board members agree that once-a-year inspection is not adequate and in fact has requested in its 1980-81 budget additional funding to allow four inspections per year which is in line with those states surveyed who conduct out-of-state inspections.

In response to that area of the report that addresses the complaints against recreational vehicles, the Division and the four Board members wish to reply as follows. The Auditor General's figures are misleading in that one must recognize a difference in usage between the mobile home and the recreational vehicle. A mobile home is utilized for year-round permanent residency, as in a conventional home, whereas the typical recreational vehicle is used for very short usage of days rather than years in length. This fact alone would dictate that a mobile home will be the subject of a considerably proportionate larger number of complaints. In addition, the purchaser of a recreational vehicle can be compared in many respects to the purchaser of an automobile in that when complaints or problems are encountered, the purchaser would normally return the unit to the dealer where it is repaired. This is not true with the purchaser of a mobile home who looks to a dealer that is traditionally not set up to handle complaints as a dealer of automobiles or recreational vehicles would be. The result is that the consumer comes to the State for help. To utilize such a survey as the Auditor General is relying upon, it should have been made of random purchasers of recreational vehicles rather than only those who finally complained to the Division.

The Auditor General has also pointed out that the State discontinue the in-plant inspection of factory-built buildings by inferring that there was a duplication of effort as other states also inspect these plants. The Division in contacting those states involved in factory-built building inspection programs determined that they were not inspecting those units being shipped to Arizona. They only inspect those units going to their own particular state. In fact the state shipping the largest amount of factory-built buildings to Arizona, the State of Texas, has no inspection program whatever. It should be noted that factory-built buildings constructed for placement in Arizona are designed to the Uniform Building Code, which requires rigid inspections of such units. It is obvious to this Division and the four Board members that we serve basically the same purpose as the local building inspectors serve to the conventional housing industry. If we

pull out of this program, the public will be receiving a home with no inspection whatever. Once the unit is constructed and delivered there is no way it can then be inspected by local enforcement officials as all construction and systems are hidden from view.

This concludes the Division and four Board members' response to the issue of in-State and out-of-State inspection of recreational vehicle and factory-built building manufacturers.

The Auditor General's report discusses the possible consolidation of the Division of Mobile and Manufactured Housing Standards within the Office of the Registrar of Contractors. The Division and four members of the Board oppose such a merger. Obviously there would be no cost savings in such a merger as the Registrar of Contractors would be required to hire additional personnel to pick up the functions of this Division. It would also necessitate a considerable increase for space for such personnel.

The report states that there is a duplication of effort in that there are six functions which the two agencies perform that are similar. It should be noted that these listed six functions are also conducted by each and every regulatory agency in State government to the best of our knowledge.

The statement that the Division's Hearing Officer workload is one-half that of the Registrar is misleading in that the Registrar's case load is far above what can be properly handled. Our case load is increasing monthly along with the increase in consumer complaints and is currently at a full case load level.

The statement that there is consumer confusion as to where to file a complaint is not supported by the Division complaint records. The majority of complaints that are referred to the Division from other State agencies are from the Consumer Protection Division of the Attorney General and the Pima County Attorney's Office. The proposed public relations program that the Division will implement should eliminate any such problem if it exists.

It is the position of the Division and the four members of the Board, and the industry we regulate, that this Division should not be dictated to by an agency that serves a

competitive industry. The similarities between the two agencies are very slight in that this Division serves an inspection and regulatory function whereas the Registrar of Contractors has no inspection enforcement. The Division is also the State authorized agent under the HUD Program for mobile homes, which was a very difficult certification to receive. The Division would oppose putting the certification in jeopardy by merging with another agency and having to submit to the lengthy and costly process again.

It is the intention of the Division and the entire Board to request the legislation be enacted to delete those portions of the existing statutes that associate the Division with the Registrar's office. In all respects, the Division has been operating as a separate entity with its own budget since enactment of the present statute and inception of the Division of Building Codes in September 1972 and it is felt that a clarification is needed.

This concludes our response to the performance audit of the Division of Mobile and Manufactured Housing Standards by the Office of the Auditor General and reflects the thoughts of the Director of the Division, Richard E. Wolfe, the Chairman of the Board, Howard A. Shiff, and Board Members, Donald E. Armstrong, George Piersol, and Leonard Sobel.

In closing I would like to thank the Auditor General and his staff, particularly Dwight A. Ochocki, for the spirit of cooperation they have displayed in their contacts with this Division in the preparation of the report.

DIVISION OF MOBILE AND MANUFACTURED
HOUSING STANDARDS

STATE OF ARIZONA

1645 WEST JEFFERSON
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(602) 255-4072

BRUCE BABBITT GOVERNOR
RICHARD E. WOLFE, DIRECTOR

October 12, 1979

A. Reason for decertification: Number of violations and severity of electrical violations.
Examples:
1. Not grounding connector.
2. No ground clamps on receptacles and switches.
3. No ground splices.
4. Metal J boxes not grounded.

"Possible electrical shock hazard."

B. Reason for decertification: Number of violations and severity of violations.
Examples:
1. Improper electrical testing of complete electrical system.
2. Microwave oven on wrong circuit, not to approved plans.
3. Nonmetallic electric cable in generator compartment.
4. No separation of 12 volt and 110 circuits.
5. Not complying to Q. A. manual.

"Possible shorting of electrical system and overheating of electrical system."

C. Reason for decertification: Not following Q. A. manual and plan approval; number of violations and seriousness of violations.
Examples:
1. Not using proper wire size for ground.
2. Not properly securing wires.
3. Converter not properly grounded.
4. Converter not installed to manufacturer specifications.
5. Refrigerator compartment not sealed to inside of units.

"Possible electrical shock hazard and possible asphyxiation or gas explosion."

D. Reason for decertification: Not complying to approved plans and no approved plans for some systems.
Examples:
1. LPG tank below frame on rear of units.
2. Refrigerator compartment not sealed to inside of units.
3. Converter not grounded.
4. Generator not grounded.
5. Receptacles facing up on counter tops.

"Possible electrical shock, possible asphyxiation and gas explosion."

E. Reason for decertification: Not following approved Q.A. manual and plan approval; numerous violations.

Examples:
1. Not connecting A/C as required by plans.
2. Drain venting not to approved plans.
3. Not properly grounding J boxes/receptacles.

"Possible electrical shock and possible severe gas leakage."

F. Reason for decertification: Serious electrical defects.

Examples:
1. Converter not grounded.
2. Wire not properly supported.
3. Not protecting wire from damage.

"Possible electrical shock."

G. Reason for decertification: Serious electrical problems.

Examples:
1. Not grounding converter.
2. Not separating 110 and 12 volt wire.
3. Wire stripped too far, exposing underwire.
4. Not properly securing wire.

"Possible electrical hazard."

H. Reason for decertification: Not complying with plan approvals, Q.A. manual - Serious electrical problems.

Examples:
1. Plumbing systems not installed to approved plans.
2. No plan approval for monitoring panel.
3. Q.C. manual not being signed at all stations.
4. Using wrong size wire for converter.
5. Converter not grounded.
6. 110 wiring not protected in storage areas.
7. Improper securing of wiring.
8. 110 and 12 volt wires not separated.

"Possible electrical shock and hazard."

I. Reason for decertification: Serious electrical violations.

Examples:
1. 110 volt wire exposed in outside storage.
2. Converter not grounded.
3. 110 volt wire stripped, outside receptacle.
4. Crimped gas line.
5. Generator compartment not sealed.
6. Gas line not secured.
7. 110 and 12 volt not separated.

"Severe shock hazard, fire hazard, electrical short and overheating condition."

October 12, 1979

J. Reason for decertification: Numerous violations.
Examples:
1. Furnace on carpet.
2. Converter on carpet.
3. Converter not grounded.
4. Gas line not secure.
5. 110 wire not protected under sink.
6. Refrigeration compartment not vented properly.
7. No plan approval for microwave.
8. Generator not grounded properly.

"Fire hazard, electrical shock hazard"

K. Reason for decertification: Serious electrical violation and venting violation.
Examples:
1. Converter not grounded to specifications.
2. 110 wire not protected in outside walls.
3. Metal J box not grounded.
4. Furnace on carpet.
5. Refrigeration compartment not sealed.
6. Wires stripped outside panel for generator.
7. Generator compartment not sealed.
8. 110 wire not protected in roof.
9. 110 and 12 volt wire not separated.
10. Converter mounted on carpet.
11. Refrigeration compartment not sealed.

"Possible electrical shock and gas asphyxiation or explosion."

L. Reason for decertification: Seriousness of violations.
Examples:
1. Refrigeration compartment not sealed.
2. J box not grounded.

"Possible electrical shock and possible gas asphyxiation."

M. Reason for decertification: Seriousness of electrical violations.
Examples:
1. 110 wire in storage compartment.
2. Microwave circuit not to plan.
3. No plan in plant for plumbing system.

"Possible shock hazard."

N. Reason for decertification: Seriousness of violations.
Examples:
1. Clean out trap exposed in bedroom.
2. Converter not grounded to specifications.
3. Cutout for box receptacle oversized, exposing combustible material.

"Possible electrical shock and possible exposure to sewer gas."

October 12, 1979

O. Reason for decertification: No plans for 5th wheel models. Manufacturer only manufactures 5th wheels.

P. Reason for decertification: Not complying with approved plans and Q.A. manual.
Examples:
1. Refrigeration not installed to manufacturer specifications.
2. Electrical receptacles not installed to plans.
3. Heating duct not installed to plans.
4. Not testing gas lines as required by Q.A. manual.

"Not building unit to standards."

Q. Reason for decertification: Not following Q.A. manual and numerous violations.

"Factory not building units to Arizona approved plans and procedures."

R. Reason for decertification: Numerous violations, Q.A. manual not up-dated for use and not following approved plans.

"Factory not building units to Arizona approved plans and procedures."

BRUCE BABBITT
GOVERNOR

AARON KIZER
REGISTRAR

Registrar of Contractors

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October 19, 1979

Douglas R. Norton, Auditor General
112 N. Central Avenue, Suite 600
Phoenix, Arizona 85004

RE: Registrar's response to Auditor General's report on the Division of Mobile and Manufactured Housing Standards

Dear Mr. Norton:

Having reviewed the draft of the Auditor General's report on the Division of Mobile and Manufactured Housing Standards, I will respond briefly to each finding.

FINDING I

Rampant inflation has further weakened the Division's bonding system, whose dollar amounts were too low to begin with. It seems that the Division should look for alternatives to its present system such as a recovery fund or the use of escrow accounts only.

FINDING II

It appears that both the Division and the Registrar have been too lenient in allowing licensees to accumulate in an inordinate number of complaints prior to instituting disciplinary action. As with any profession or occupation, the mere issuance of the license is no guarantee that the licensee is going to obey the law. Once a licensee indicates by his track record that he is unable or unwilling to follow the standards of conduct that have been set by the State, that license should be revoked without delay and follow-up should be done to insure that that person does not continue to work without a license. Dick Wolfe has a law enforcement background and has already demonstrated a committment to stronger policing of violations.

FINDING III

It is clearly the responsibility of State agencies to act as public information centers. Anything the Division can do to further this goal should be actively encouraged.

FINDING IV

I was not aware of the problems involving travel trailers being used as permanent residences. The Division should look into whether construction standards should be established for recreational vehicles being used as permanent residences.

OTHER PERTINENT INFORMATION

Whether the Division of Mobile and Manufactured Housing Standards should be more completely combined with the Registrar of Contractors is a perennial question about which I have a mixed reaction.

One factor cutting against consolidation is that the bulk of the Division's work is in areas which are foreign to the Registrar of Contractor's activities. The inspection and regulation of manufacturers and dealers of the various units, as well as the HUD and ANSI code standards, are not dealt with by the Registrar's office, yet constitute a majority of the Division's efforts.

Conversely, it is clear that some duplication in administration, licensing and policing could be reduced by a merger.

Even if the agencies are not combined, one area that more logically would fall under the jurisdiction of the Registrar is the installation of mobile homes. The Division is presently attempting to set up a statewide inspection program in this area. It appears that the duplication here would be even more pronounced since the Registrar already has a statewide inspection program for construction compliance which is similar to the inspection of mobile home setups. Transferring this area of responsibility to the Registrar's office may be worth considering whether or not there is a merger of the agencies. Another possibility is to provide for the sharing of inspectors in this area. For example, in those outlying communities in which the Registrar presently has an inspector, our inspector could be responsible for monitoring installation of mobile homes. In areas where the Registrar's office is not present, either the Division could contract with the local jurisdiction to enforce the installation standards or possibly hire its own inspector.

Another major reservation I have about the combining the agencies is the retention of the Mobile and Manufactured Housing Standards Board. Let me preface my remarks by stating that I have a great deal of respect for the individuals who presently serve on the Board. They have given countless voluntary hours of service to the State, while grappling with some very tough issues. My comments are totally reserved for the structure and function of the Board and I believe it is my duty to be as frank as possible.

First of all, regardless of how the composition of the Board looks on paper, it is industry-dominated. The interest of the industry carries too much weight with the Board and therefore the classic problem of the regulated creating the rules of the game exists. This is compounded by the fact that the Board is given sole rule-making responsibility. Often, due to the competing factions involved, the Board is unable to promulgate rules in contro-

versial areas resulting in a gap in the Division's authority. Presently, the Division's rules are not comprehensive enough to provide for proper regulation. There are many areas in which the Division is holding hearings and finding violations of the law when in fact no standards for that particular area have been established. If challenged in court, the Division is vulnerable in that regard.

Regardless of whether the agencies are combined, I would recommend that the Board be only advisory at best and that the authority to promulgate rules be given to the executive officer.

In summary, some change from the present situation is necessary. Either the Division and the Registrar's office should be completely severed or there should be a merger. More compelling than any cost savings is the fact that the present structure does not clarify the respective authority or responsibility of the agencies, resulting in an inability to act decisively in certain situations, or even worse, in buck-passing between the two agencies.

This concludes my response to the Auditor General's report on the Division of Mobile and Manufactured Housing Standards. Thank you for the opportunity to comment.

Sincerely,

Aaron Kizer

AARON KIZER
REGISTRAR OF CONTRACTORS

/hmb

APPENDIX I

FREQUENCY OF INSPECTIONS AND MONITORING INSPECTION PROCEDURES PERFORMED BY STATES WITH RECREATIONAL VEHICLE INSPECTION PROGRAMS

APPENDIX I

State	In-State Inspections: Frequency	In-State Inspections: All Units On Line	In-State Inspections: Not All Units On Line	Out-of-State Inspections: Frequency	Out-of-State Inspections: All Units On Line	Out-of-State Inspections: Not All Units On Line	Monitoring Inspection Procedures: Inspect To 1977 ANSI 50IC?	Monitoring Inspection Procedures: Allow Exceptions to ANSI 50IC?	Monitoring Inspection Procedures: Observe Tests On Gas Water and Electricity	Monitoring Inspection Procedures: Examine Approvals of National Listing Agency	Monitoring Inspection Procedures: Write-up Non-Conformance of ANSI 50IC	Monitoring Inspection Procedures: Action Taken On Non-Conformances On Unit Destined For State Other Than Yours	Monitoring Inspection Procedures: Also Inspect To Manufacturers' Approved Plans And Specifications: Yes	Monitoring Inspection Procedures: Also Inspect To Manufacturers' Approved Plans And Specifications: No
ARIZONA	Few to many per year per manufacturer	Yes		At least one per manufacturer	Yes		Yes	No	Yes	Yes	Yes	Have manufacturer fix it	Check to approvals of all States with units on line	
California	75% to 100%		Only those with California insignia	14, when deemed necessary			Yes	Accept unlisted low voltage flourescent light fixtures	Yes, as part of quality control	Yes, except low voltage flourescent light fixtures	Yes	Examine only units with California insignia	To California approved plans in manufacturer's plant	
Colorado	6 per year per manufacturer	Yes		4 per year per manufacturer	Yes		Yes	No	Yes	Yes	Yes	Note on report but no follow-up	To Colorado approved plans in manufacturer's plant	
Florida	721, 100%	Yes		227, a minimum of 4 to 6 per manufacturer	Yes		Yes	No	Yes	Yes	Yes	In-state manufacturers have manufacturer fix it. Out-of-state manufacturer note it but no follow-up		Do not certify plans
Idaho	Try to see 100%		Only units destined for Idaho	1 per year per manufacturer		Only units destined for Idaho	Yes	No	Yes	Yes	Yes	Only look at Idaho units	To Idaho approved plans	
Kentucky	1 per year per manufacturer	Yes		1 per year per manufacturer	Yes		Yes	No	Yes	Yes	Yes	Manufacturer must respond in 10 days. Send notice to states with RV inspections and RVIA.		X
Missouri	4 per year per manufacturer	Yes		NONE			Yes	No	No	Manufacturer certifies	Yes	Have manufacturer fix it	X	
Montana	4 per year per manufacturer	Yes		NONE			Now use 1974, will use 1977 code 11-1-79	No	Yes	Yes	Yes	Have manufacturer fix it	To Montana approved plans	
Nebraska	Approximately 50 per year per manufacturer. Required to see each unit.	Yes		1 per year per manufacturer	Yes		Yes	No	Yes	Yes	Yes	Have manufacturer fix unit	To Nebraska approved plans	
Oregon	800 total, frequency depends on number of units produced	Yes		NONE			Yes	No	Yes	Yes	Yes	Notify agency in state where units are shipped		Inspect to code, if violation check plans
Tennessee	12 per year per manufacturer	Yes		NONE			Now use 1976, will use 1977 code 1-1-80	No	Yes	Yes	Yes	Have manufacturer fix it	X	
Utah	12 per year per manufacturer	Yes		1 to 2 per year per manufacturer	Yes		Yes	Incandescent light fixture	Yes	Yes	Yes	No action taken	X	
Washington	25 per year		Only units for Washington	Rarely, when deemed necessary			No, 1975	12 exceptions	Yes	Yes	Yes	May notify destination state if a unit line has a problem	X	

APPENDIX II

STATE INSPECTION PROGRAMS OF FACTORY BUILT BUILDINGS

APPENDIX II

State Inspection Programs of
Factory Built Buildings

State	Occupancies Affected By Program	Predominant Technical Basis of Regulations	PRODUCTION CERTIFICATION AND INSPECTION: In-State Production: State Agency Certification Inspection	In-State Production: State Agency Monitoring Inspection	In-State Production: Independent Agency Inspection	In-State Production: Local Agency Inspection	In-State Production: Manufacturer Self-Certification	Out-of-State Production: State Agency Certification Inspection	Out-of-State Production: State Agency Monitoring Inspection	Out-of-State Production: Independent Agency Inspection	Out-of-State Production: Local Agency Inspection	Out-of-State Production: Manufacturer Self-Certification
Alabama	R	SBC	X			X			X			
Alaska	A	UBS										
ARIZONA	A	UBC	X	X				X	X			
Arkansas*												
California	R	UBC	X	X	X			X	X	X		
Colorado	R	UBC	X						X			
Connecticut	A	BBC		X	X				X	X		
Delaware*												
Florida	R	SBC		X	X				X			
Georgia	R	SBC			X				X			
Hawaii	R	UBC			X							
Idaho	R	UBC	X						X			
Illinois		BBC										
Indiana	A	UBC		X	X				X			
Iowa	A	UBC							X			
Kansas*												
Kentucky*												
Louisiana*												
Maine	R	BBC			X					X		
Maryland	A	BBC			X				X			
Massachusetts	A	BBC										
Michigan	A	BBC	X						X			
Minnesota	A	UBS		X	X				X	X		
Mississippi*												
Missouri												
Montana	A	UBC		X								
Nebraska	R	UBC	X	X				X	X	X		
Nevada	R	UBC		X	X							
New Hampshire*												
New Jersey	A	BBC			X					X		
New Mexico	A	UBC	X									
New York	R	ST			X					X		
North Carolina	A	ST		X	X				X	X		
North Dakota*												
Ohio	A	ST	X						X			
Oklahoma*												
Oregon	A	UBC	X					X	X			
Pennsylvania	R	BBC		X	X				X	X		
Rhode Island	A	BBC							X	X		
South Carolina**												
South Dakota												
Tennessee*												
Texas*												
Utah*												
Vermont*												
Virginia	A	BBC		X	X				X	X		
Washington	A	UBC	X	X	X				X			
West Virginia*												
Wisconsin		ST	X	X	X			X	X	X		
Wyoming*												

BBC - Basic Building Code
SBC - Standard Building Code
UBC - Uniform Building Code
ST - State Written Codes
R - Residential Occupancies
A - All occupancy classifications including educational, business, residential, factory and industrial, merchantile, and storage

* Enabling legislation has not been adopted
** Factory-built housing acceptable to the Federal Department of Housing and Urban Development is approved for use in this state. No operable program utilizing the law.

Source: U. S. Department of Commerce Bureau of Standards

APPENDIX III

FACTORY-BUILT BUILDING MANUFACTURERS INSPECTED IN CALENDAR YEAR 1978

APPENDIX III

FACTORY BUILT BUILDING MANUFACTURERS INSPECTED IN CALENDAR YEAR 1978

Manufacturer[1]	I - In-State O - Out-of-State	Number of Units Shipped into Arizona in 1978	Number of Inspections in 1978
A	O	381	4
B	I	114	15
C	I	107	14
D	O	97	0
E	I	91	18
F	I	84	6
G	I	81	18
H	I	50	1
I	I	44	5
J	I	41	7
K	O	29	1
L	I	26	2
M	I	20	25
N	I	16	11
O	O	10	1
P	O	5	1
Q	O	3	1
R	O	-	2
S	O	-	2
T	I	-	1

[1] Listed from largest to smallest based on the number of units shipped into Arizona in the 1978 calendar year.

APPENDIX IV

LEGISLATIVE COUNCIL OPINION
September 25, 1979

ARIZONA LEGISLATIVE COUNCIL

MEMO

September 25, 1979

TO: Douglas R. Norton, Auditor General

FROM: Arizona Legislative Council

RE: Request for Research and Statutory Interpretation (0-79-56)

This is in response to a request submitted on your behalf by Gerald A. Silva in a memo dated September 17, 1979.

FACT SITUATION:

Some Arizona manufacturers /of mobile homes, recreational vehicles, factory built buildings or subassemblies/ receive significantly more complaints per units manufactured than the average for all Arizona manufacturers.

QUESTIONS PRESENTED:

1. Does Arizona Revised Statutes /section/ 32-1188, /subsection/ G, give the Division /of mobile and manufactured housing standards/ authority to fine manufacturers who receive /against whom it receives/ significantly more complaints than the average, regardless of whether the complaint is settled or not?

2. Do any sections of the Division's enabling statutes give the Division authority to suspend or revoke the license of a manufacturer who /against whom it/ receives an excessive number of complaints?

3. If the Division does not have the authority to pursue manufacturers with /against whom it receives/ an excessive number of complaints, what statutory changes would you recommend to give the Division such authority?

DISCUSSION:

1. Arizona Revised Statutes section 32-1188, subsection G provides that:

> G. Any mobile home manufacturer, dealer or installer who knowingly violates any provision of this article or the rules and regulations promulgated pursuant to section 32-1178, paragraph 2, 3 or 11 shall be liable for a fine of not more than one thousand dollars for each violation. Each violation of this article shall constitute a separate violation with respect to each failure or refusal to allow or perform an act required by this article, except that the

> maximum fine may not exceed one million dollars for any related series of violations occurring within one year from the date of the first violation.

The sanction imposed in subsection G is stated as a fine rather than a civil penalty. The Arizona Supreme Court has held that a:

> "Penalty" and "fine" are not the same in law. A penalty is always recoverable in a civil action. A fine never is. A penalty, when recovered, goes to the party suing; a fine, to the people. A fine is defined in law to be a pecuniary punishment imposed by a lawful tribunal upon a person convicted of a crime or misdemeanor. Frazier v. Terrill, 65 Ariz. 131, 136, 175 P. 2d 438 (1946).

Arizona Revised Statutes section 13-602, subsection E provides that:

> E. Any offense defined within or outside this title without designation as a felony, misdemeanor or petty offense is punishable according to the penalty prescribed for such offense.

Therefore, subsection G, which imposes a fine for a specific criminal offense, does not conflict with Arizona Revised Statutes section 32-1188, subsections E and H, which provide that:

> E. Except as provided in subsection G of this section, a person who violates any provision of this article, or any such rule, regulation or standard, is guilty of a class 2 misdemeanor.
>
> H. An individual or a director, officer or agent of a corporation who knowingly violates the provisions of this article or the rules and regulations promulgated pursuant to section 32-1178, paragraph 2, 3 or 11 in a manner which threatens the health or safety of any purchaser shall be fined not more than one thousand dollars, imprisoned not more than one year or both.

The division of mobile and manufactured housing standards (through the attorney general) may initiate a criminal action against a mobile home manufacturer, dealer or installer for violations of Arizona Revised Statutes title 32, chapter 10.1, article 1 or certain rules and regulations promulgated by the board, and a court, upon conviction, may impose a fine for each violation as provided in subsection G. The status of complaints registered against a manufacturer would not affect the authority of the division to initiate a criminal action. In addition, the division may initiate a criminal action pursuant to one complaint as well as many complaints.

The significant point to be noted is that subsection G does not relate to an administrative proceeding or a civil action in a court of this state.

Any fine imposed upon a manufacturer must be pursuant to his conviction in a criminal proceeding. The receipt of a significantly higher number of complaints against one particular manufacturer by itself bears no relationship to the manufacturer's criminal liability. Each complaint must be individually evaluated to determine if the initiation of a criminal action is warranted.

2. Arizona Revised Statutes section 32-1189 provides for the filing of a written complaint with the division against a manufacturer, dealer or installer. The division must investigate and verify the complaint and notify the licensee that the complaint must be satisfied as the division specifies. If the licensee fails to respond to the complaint, the division directs the licensee to either respond to a citation or file an answer to the complaint showing cause why his license should not be revoked or suspended.

In addition to an investigation by the division pursuant to a complaint, the director may initiate an investigation of a licensee and issue a citation directing the licensee to show cause why his license should not be revoked or suspended. If the licensee fails to respond or file an answer, the division may suspend or revoke his license without a hearing (Arizona Revised Statutes section 32-1189, subsection G).

After the licensee files an answer, a hearing is scheduled. Only after the hearing is concluded and the matter is submitted to a hearing officer, may the license of a manufacturer, dealer or installer be suspended or revoked. If the decision of the hearing officer is to suspend or revoke a license, the licensee may apply for a rehearing. An order denying a rehearing or a decision given upon a rehearing is a final administrative decision which may be appealed to the superior court (see Arizona Revised Statutes section 32-1188, subsection F and sections 32-1191 through 32-1194).

The grounds upon which a hearing officer may base his decision and the director may suspend or revoke a license are prescribed in Arizona Revised Statutes section 32-1195:

> The director may upon the director's own motion and shall, upon the complaint in writing of any person, cause to be investigated by the division the acts of any manufacturer, dealer or installer licensed with the division and may temporarily suspend, or permanently revoke, any or all licenses issued under this article, if the holder thereof, while a licensee, is guilty of or commits any of the following acts or omissions:
>
> 1. Failure in any material respect to comply with the provisions of this article.
>
> 2. Violation of any rule or regulation lawfully promulgated by the board pertaining to construction of any unit, or of any rule or regulation lawfully promulgated by the board which is necessary to effectively carry out the provisions and intent of this

article, the laws of the United States or of this state.

3. Misrepresentation of a material fact by the applicant in obtaining a license.

4. Aiding or abetting an unlicensed person or knowingly combining or conspiring with an unlicensed person to evade the provisions of this article, or allowing one's license to be used by an unlicensed person or acting as an agent, partner or associate of an unlicensed person with intent to evade provisions of this article.

5. Conviction of a felony.

6. The doing of a wrongful or fraudulent act by a licensee which relates to this article.

7. Departure from or disregard of any code or any rule or regulation promulgated by the board.

8. Failure to disclose facts which if known at the time of issuance of a license or the renewal of a license would have been grounds to deny the issuance or renewal of a license.

9. Knowingly entering into a contract with a person not duly licensed in the required classification for work to be performed for which a license is required.

10. Acting in the capacity of a licensee under any license issued under this article in a name other than as set forth upon the license.

11. Acting as a licensee while the license is under suspension.

12. Failure to respond relative to a verified complaint after notice of such complaint.

In addition, Arizona Revised Statutes section 32-1188, subsection F provides that:

> F. The director may, after notice and hearing pursuant to the provisions of title 41, chapter 6, deny the issuance of a license, revoke or suspend the license of any manufacturer, dealer or installer who has violated any provision of this article or any standards, rules and regulations issued pursuant to this article. The director may, after notice and hearing pursuant to the provisions of title 41, chapter 6, place a licensee on probation upon a finding that the licensee has violated any provision of this article or any standards, rules or regulations issued pursuant to this article.

The procedures outlined above are designed to accord a licensee due process in the consideration of suspension or revocation of his license. The division has no authority to summarily suspend or revoke the license of a manufacturer, dealer or installer against whom it receives an excessive

number of complaints. As stated above in point 1 of this opinion, the receipt of a significantly higher number of complaints by one particular licensee bears no relationship to the licensee's culpability.

Each complaint against a licensee must be investigated and verified. If the licensee satisfied the complaint, there is no hearing. If the licensee fails to respond to the complaint, he is directed to answer and a hearing follows. It should be within the discretion of the hearing officer to consider the excessive number of prior verified complaints in determining whether the license should be suspended or revoked, even if the licensee satisfied the prior complaints. However, the number of prior complaints alone, if unverified, is not relevant evidence upon which the hearing officer may base a decision to suspend or revoke a license (see Arizona Revised Statutes section 32-1192).

The director could probably initiate an investigation of a licensee on the basis of an excessive number of complaints. The board may even promulgate a rule pursuant to Arizona Revised Statutes section 32-1178, paragraph 12, which would require an investigation of all licensees against whom the division receives a certain number of complaints, thereby establishing minimum "policing" standards to protect the public. However, at a hearing upon a citation issued pursuant to an investigation only relevant and competent evidence can be heard and considered by the hearing officer in reaching his decision. The number of prior unverified complaints against a manufacturer, dealer or installer would not constitute relevant and competent evidence.

3. Arizona Revised Statutes section 32-1179 is the only provision which authorizes a court to impose a civil penalty. The authorization is limited to the circumstance in which the court issues a permanent injunction against a person engaging in or about to engage in an act in violation of Arizona Revised Statutes title 32, chapter 10.1, article 1. You may wish to recommend that the statutes be amended to provide for the imposition of civil penalties by the court if a licensee commits certain acts or omissions.

In response to the specific question posed, the division has the authority to investigate manufacturers, dealers and installers against whom it receives an excessive number of complaints and to pursue manufacturers, dealers and installers against whom a complaint is verified.

In summary, you may wish to recommend a review of the entire statutory framework regarding the division of mobile and manufactured housing standards. Provisions imposing civil penalties and criminal fines and prescribing who may impose them need to be clarified. In addition, the authority of the board, the director, the division, the registrar of contractors and a hearing officer in relationship to all of the due process provisions, from the filing of a complaint to the suspension or revocation of a license, could be better delineated.

CONCLUSIONS:

1. The division of mobile and manufactured housing standards is not authorized to levy fines against licensees. The division may initiate a

criminal action upon one or more complaints, whether satisfied or not, and a court may impose a fine for each violation for which a licensee is convicted.

2. The division has the authority to investigate manufacturers, dealers and installers against whom it receives an excessive number of complaints and may, after notice and a hearing, suspend or revoke the license based upon a finding that a licensee has committed certain acts or omissions. Further, a policy could be established by the board to conduct an investigation on receipt of a specified excessive number of verified complaints.

3. The division has the authority to investigate manufacturers, dealers and installers on its own motion and is mandated to pursue manufacturers, dealers and installers against whom a complaint is verified. However, you may wish to recommend that the statutes be amended to provide for imposition of civil penalties by a court if a licensee commits certain acts or omissions. In addition, the entire statutory framework regarding the division should be reviewed and amendments recommended to clarify the procedures and the authority of the parties involved.

cc: Gerald A. Silva, Performance Audit Manager

APPENDIX V

ANALYSIS OF COMPLAINT REVIEW
(sample only)
January 1, 1978 to December 31, 1978

APPENDIX V

ANALYSIS OF COMPLAINT REVIEW (SAMPLE ONLY)
JANUARY 1, 1978 TO DECEMBER 31, 1978

Percent Reviewed:	
Mobile Homes	10%
Recreational Vehicles	100
Factory Built Buildings	100
Each complaint may have one or more problems listed. Problems by type:	
Non-conformance	38%
Defect	46
Serious Defect	15
Imminent Safety Hazard	1
	100%
Complaints with at least one Serious Defect or Imminent Safety Hazard	44%
Complaints not within the jurisdiction of the Division (longer than one year after date of purchase and others)	13%
Average time to process complaint	62 days
Longest time to process complaint	207 days
Shortest time to process complaint	1 day
Complaints with evidence of Registrar of Contractors being contacted first	6%
Complaints settled after contacting Division	37%
Complaints settled after verification by Division	47
Complaints settled after citation	3
Complaints settled after hearing	13
	100%

APPENDIX VI

COMPARISON OF MANUFACTURERS DEALERS AND COMPAINANTS TREATMENT BY DIVISION IN RESOLVING COMPLAINTS

APPENDIX VI

COMPARISON OF MANUFACTURERS , DEALERS AND COMPLAINANTS TREATMENT BY DIVISION IN RESOLVING COMPLAINTS

Question	Manufacturer	Dealer	Complainant
If you were the subject of a complaint, how would you rate the manner in which your case was handled?			
Excellent	21%	31%	
Satisfactory	36	42	
Neutral or no opinion	36	19	
Poor	1	2	
Unacceptable	6	6	
	100%	100%	
Evaluate your inspector as to his ability to be fair and impartial in his work			
Very fair and impartial			47%
Above average			17
Average			22
Below average			6
Biased			8
			100%

SUMMARY OF COMPLAINANT QUESTIONNAIRE

	Mobile Homes	Recreational Vehicles	Factory Built Buildings	Total
Did you experience any difficulties in learning where to register your complaint?				
Yes	17	5	1	23
No	17	6	2	25
Who did you contact initially? (Open Ended Answer)				
Better Business Bureau	4			4
Attorney General	2	3		5
Dealer or Manufacturer	13	1		14
Action Line or Action Information Service		2		2
Registrar of Contractors	3		1	4
City	1			1
Mobile and Manufactured Housing Standards Board	7		1	8
Attorney		2		2
Housing and Urban Development or Other Federal Agency	1	1		2
Other	4	2	1	7
How did you learn of the Mobile and Manufactured Housing Standards Board? (Open Ended Answer)				
Friends or relatives	9	2		11
Salesman or dealer	11			11
Better Business Bureau	2			2
Registrar of Contractors	3		1	4
Attorney		2		2
Attorney General	2	2		4
Mobile Home Park Manager or Owner	2			2
Savings and Loan	3			3
Newspaper or Mobile Home Association	2	1		3
Other	3	2	2	7
Evaluate the inspector assigned to your complaint as to his competence in performing his job.				
High	11	3	1	15
Above Average	6	2		8
Average	11	2		13
Below Average				
Incompetent	4	2		6
No opinion	2			2
Evaluate your inspector as to his ability to be fair and impartial in his work				
Very fair and impartial	11	5	1	17
Above Average	6			6
Average	7	1		8
Below Average	2			2
Biased	1	2		3
No opinion				

SUMMARY OF COMPLAINANT QUESTIONNAIRE

	Mobile Homes	Recreational Vehicles	Factory Built Buildings	Total
Approximately how long did it take to process your complaint, starting with the time you submitted the complaint through the time it was resolved?				
0-2 months	17	2	2	21
3-4 months	3	2		5
5-6 months	2			2
7-8 months	3			3
9-10 months				
11-12 months	1			1
Still not resolved*	13	5		18
Did the delay in processing your complaint cause any hardships (financial or otherwise) on you?				
Yes	14	8		22
No	16	2	1	19
If yes, please explain - Various	16	9		25
Please rate the usefulness of the Mobile and Manufactured Housing Standards Board in resolving your complaint.				
Very Useful	19	3	1	23
Useful	2	1		3
Not Useful	10	7	1	18
Did any other organization or governmental agency assist you with your complaint?				
Yes	3		1	4
No	20	6	1	27
If yes, please specify which organization or agency.				
Attorney General or County Attorney	1		1	2
Do you believe the Mobile and Manufactured Housing Standards Board effectively protects the consumer against incompetent or unethical dealers, manufacturers, and installers of mobile homes, recreational vehicles, and factory built buildings?				
Yes	19	2	2	23
No	13	8	1	22

* A number of complaints selected to be surveyed were in various stages of processing by the Division when the questionnaires were distributed.

SUMMARY OF COMPLAINANT QUESTIONNAIRE

	Mobile Homes	Recreational Vehicles	Factory Built Buildings	Total
Please indicate what changes, if any, you feel should be made in the regulation of mobile homes, recreational vehicles and factory-built buildings to better protect the consumer.				
Levy fines for not backing up warranty	1			1
Post label on unit with MMHSB phone number	1	1		2
Only enact laws that can be enforced		1		1
Make consumer aware of agency	2	1		3
Warranty should be longer than one year	1			1
Inspect mobile home set-up	2			2
Inspect unit on dealer lot	1			1
Shorten complaint processing time	6			6
Make dealer or manufacturer stand by warranty	2			2
Improve factory inspections	4	1		5
Establish code for park model		1		1
Clarify jurisdictional authority			1	1
Stop 1977 units sold as 1978		1		1
Better working relationship between Registrar of Contractors and MMHSB	1		1	2

APPENDIX VIII

LISTING OF STATE ADMINISTRATIVE AGENCIES TAKEN FROM MANUFACTURER'S CONSUMER MANUAL

STATE ADMINISTRATIVE AGENCIES (SAA's)

The following states had been approved or conditionally approved to act as SAA's as of March 31, 1977. If you desire a current list of SAA's, write to the Department of Housing and Urban Development, Mobile Home Standards Division, Washington, D.C. 20410.

Alabama—State Fire Marshal, Insurance Department, 445 South McDonough Street, Montgomery, Alabama 36130.

Arizona—Director, Arizona Division of Building Codes, 1645 West Jefferson, Phoenix, Arizona 85007.

Arkansas—Public Health Administrator, Arkansas State Board of Health, Mobile Homes Standards Section, 4815 West Markham Street, Little Rock, Arkansas 72201.

California—Director, Department of Housing and Community Development, 1807 13th Street, Sacramento, California 95814.

Colorado—Director, Colorado Division of Housing, Department of Local Affairs, 623 Centennial Building, 1313 Sherman Street, Room 523, Denver, Colorado 80203.

Georgia—State Fire Marshal, Office of the Comptroller General, 238 State Capitol, Atlanta, Georgia 30334.

Idaho—Director, Idaho Department of Labor and Industrial Service, 317 Main Street, Room 400, Boise, Idaho 83720.

Illinois—Chief, Illinois Dept. of Public Health, Office of Consumer Health Protection, Division of General Sanitation, 535 West Jefferson Street, Springfield, Illinois 62761.

Indiana—State Building Commissioner, State of Indiana, Manufactured Building Division, Administrative Building Council, 300 Graphics Art Building, 215 North Senate Avenue, Room 300, Indianapolis, Indiana 46204.

Iowa—State Building Code Commissioner, Office of Planning and Programming State Planning Code Section, 523 East 12th Street, Des Moines, Iowa 50319.

Kentucky—State Fire Marshall, Mobile Home Section, Capital Plaza, Frankfort, Kentucky 40601.

Louisiana—State Fire Marshal, 106 Louisiana State Office Building, New Orleans, Louisiana 70112.

Maryland—Director, Codes Administration, Department of Economic and Community Development—Division of Housing, 1748 Forest Drive, Annapolis, Maryland 21401.

Michigan—Executive Director, Construction Code Commission, Department of Labor, 7150 Harris Drive, Lansing, Michigan 48926.

Minnesota—Section Chief, State of Minnesota, Building Codes Division, Department of Administration, 408 Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101.

Mississippi—Director, Mobile Home Inspection Division, Office of the Fire Marshal, 416 Woolfolk Building, P.O. Box 22542, Jackson, Mississippi 39205.

Missouri—Director, Mobile Home and Recreational Vehicles Division, Missouri Public Service Commission, P.O. Box 360, Jefferson City, Missouri 65101.

Nebraska—Director, Division of Housing and Environmental Health, State Department of Health, Lincoln Building, 3rd Floor, 1003 "O" Street, Lincoln, Nebraska 66508.

Nevada—State Fire Marshal, State Department of Commerce, Mobile Home Section, 505 East King Street, Room 302, Carson City, Nevada 89701.

New Jersey—Director, Bureau of Housing Inspection, Division of Housing and Urban Renewal, Department of Community Affairs, 363 West State Street, Trenton, New Jersey 08625.

New Mexico—Executive Director, Mobile Housing Commission, State of New Mexico, P.O. Box 5759, Santa Fe, New Mexico 87502.

New York—Director, Codes Bureau, Division of Housing and Community Renewal, Two World Trade Center, New York, New York 10047.

North Carolina—Commissioner of Insurance, North Carolina Department of Insurance, P.O. Box 26387, Raleigh, North Carolina 27611.

Oregon—Chief, Mobile Home and Recreational Vehicle Section, State of Oregon, Department of Commerce, Building Codes Division, 401 Labor and Industries Building, Salem, Oregon 97310.

Rhode Island—State Building Code Commissioner, State of Rhode Island, Building Code Commission, 12 Humbert Street, North Providence, Rhode Island 02904.

South Carolina—Director, Division of Inspections Services, South Carolina Budget and Control Board, 300 Gervais Street, Columbia, South Carolina 29201.

South Dakota—Secretary, Commerce and Consumer Affairs, Division of Consumer Protection, State Capitol, Pierra, South Dakota 57501.

Tennessee—Director, State of Tennessee, Department of Insurance, Division of Fire Prevention, 202 Capitol Towers Building, Nashville, Tennessee 37219.

Texas—Administrator, Texas Department of Labor and Standards, Mobile Home Division, P.O. Box 12157, Capitol Station, Austin, Texas 78711.

Utah—Director of Mobile Homes and Recreational Vehicles Division, Department of Business Regulation, State of Utah, 330 East 4th, South, Salt Lake City, Utah 84111.

Virginia—Chief Fire Marshal, State Corporation Commission, Commonwealth of Virginia, 521 Blanton Building, P.O. Box 1157, Richmond, Virginia 23209.

Washington—Assistant Director, State of Washington, Department of Labor and Industries, Mobile Home and Recreational Vehicles Section, 300 West Harrison Street, Seattle, Washington 98119.

Wisconsin—Chief, Mobile Home Section, Department of Industry, Labor and Human Relations, P.O. Box 2209, Madison, Wisconsin 53701.

APPENDIX IX

COST OF ESCROW SERVICE TO PURCHASERS OF NEW MOBILE HOMES AND FACTORY BUILT BUILDINGS

APPENDIX IX

COST OF ESCROW SERVICE TO PURCHASERS OF NEW MOBILE HOMES AND FACTORY BUILT BUILDINGS

Amount of Purchase	Escrow Service Fee	Escrow Fee As a Percent of Purchase Amount	Amount of Purchase	Escrow Service Fee	Escrow Fee As a Percent of Purchase Amount
$ 1,000	$ 38	3.8%	$41,000	$106	
2,000	42		42,000	107	
3,000	48		43,000	108	
4,000	52		44,000	109	
5,000	55		45,000	110	
6,000	58		46,000	111	
7,000	61		47,000	112	
8,000	64		48,000	113	
9,000	67		49,000	114	
10,000	70	.7%	50,000	115	.23%
11,000	72		51,000	116	
12,000	74		52,000	117	
13,000	76		53,000	118	
14,000	78		54,000	119	
15,000	80	.5%	55,000	120	
16,000	81		56,000	121	
17,000	82		57,000	122	
18,000	83		58,000	123	
19,000	84		59,000	124	
20,000	85	.4%	60,000	125	.21%
21,000	86				
22,000	87				
23,000	88				
24,000	89				
25,000	90				
26,000	91				
27,000	92				
28,000	93				
29,000	94				
30,000	95	.3%			
31,000	96				
32,000	97				
33,000	98				
34,000	99				
35,000	100				
36,000	101				
37,000	102				
38,000	103				
39,000	104				
40,000	105	.26%			

Source: Transamerica Title Insurance Company