



# SENATE BILL No. 158

January 31, 1995, Introduced by Senator SHUGARS  
and referred to the Committee on Local, Urban  
and State Affairs.

A bill to establish a manufactured housing recovery fund in this state; to prescribe the powers and duties of certain persons and agencies; to prescribe certain fees; and to prescribe remedies and penalties.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. This act shall be known and may be cited as the  
2 "manufactured housing recovery fund act".

3       Sec. 2. As used in this act:

4       (a) "Commission" means the mobile home commission created  
5 under the mobile home commission act.

6       (b) "Department" means the department of commerce.

7       (c) "Manufactured home" means a structure that is transport-  
8 able in 1 or more sections and that is built on a chassis and  
9 designed to be used as a dwelling with or without permanent  
10 foundation if connected to the required utilities, and includes

1 the plumbing, heating, air-conditioning, and electrical systems  
2 contained in the structure.

3 (d) "Manufactured home dealer" means a person other than a  
4 manufacturer engaged in the business of buying manufactured homes  
5 for resale, exchange, lease, or rent or offering manufactured  
6 homes for sale, lease, rent, or exchange to customers.

7 (e) "Manufactured home installer and repairer" means a  
8 person, including a manufactured home dealer, who for compensa-  
9 tion installs or repairs manufactured homes.

10 (f) "Manufactured home manufacturer" means a person engaged  
11 in manufacturing or assembling manufactured homes or a person  
12 engaged in importing manufactured homes into the United States  
13 for resale.

14 (g) "Manufactured housing recovery fund" or "recovery fund"  
15 means the manufactured housing recovery fund created in section  
16 3.

17 (h) "Mobile home commission act" means Act No. 96 of the  
18 Public Acts of 1987, being sections 125.2301 to 125.2349 of the  
19 Michigan Compiled Laws.

20 Sec. 3. The manufactured housing recovery fund is created  
21 in the department of treasury. The recovery fund shall be admin-  
22 istered by the department as provided in this act. All money  
23 remaining in the recovery fund at the end of a fiscal year,  
24 including interest earned by the recovery fund, shall be carried  
25 over in the recovery fund to the next and succeeding fiscal years  
26 and shall not lapse to the general fund.

1       Sec. 4. (1) A purchaser who obtains a final judgment in a  
2 court of record against a manufactured home manufacturer or  
3 against a manufactured home installer and repairer or dealer  
4 licensed under the mobile home commission act for a failure to  
5 honor warranties or contractual obligations, or for fraud, will-  
6 ful misrepresentation, or a violation of the mobile home commis-  
7 sion act or rules promulgated under that act, may apply to the  
8 court in which the judgment was entered for an order directing  
9 payment from the recovery fund pursuant to section 5 if the pur-  
10 chaser meets all of the requirements set forth in subsection  
11 (3).

12       (2) A manufactured home dealer or installer and repairer  
13 licensed under the mobile home commission act who obtains a final  
14 judgment in a court of record against a manufactured home manu-  
15 facturer for a failure to honor warranties or contractual obliga-  
16 tions, or for failure to pay the manufactured home dealer or man-  
17 ufactured home installer and repairer for warranty work performed  
18 for or on behalf of the manufactured home manufacturer, or for  
19 fraud, willful misrepresentation, or a violation of the mobile  
20 home commission act or rules promulgated under that act, may  
21 apply to the court in which the judgment was entered for an order  
22 directing payment from the recovery fund pursuant to section 5 if  
23 the manufactured home dealer or manufactured home installer and  
24 repairer meets all of the requirements set forth in subsection  
25 (3).

26       (3) A purchaser described in subsection (1) or a  
27 manufactured home dealer or manufactured home installer and

1 repairer described in subsection (2) is eligible for payment from  
2 the recovery fund if all of the following are met:

3 (a) The manufactured home that was the subject of the law-  
4 suit was purchased for personal or family residential purposes.

5 (b) The judgment was entered in a civil action based on a  
6 transaction that occurred at least 6 months after the effective  
7 date of this act.

8 (c) The civil action in which the judgment was entered was  
9 brought within 1 year after the transaction on which the action  
10 was based.

11 (d) Notice of the application made under this section was  
12 given to the department by service of a copy of the application  
13 filed with the court.

14 (e) The application under this section is filed after the  
15 time for appeal of the judgment has expired and not more than 1  
16 year after the termination of all proceedings in the civil action  
17 in which the judgment was entered.

18 (f) The judgment debtor has failed to pay all or part of the  
19 judgment.

20 (g) All reasonably available legal remedies, including all  
21 postjudgment remedies, have been pursued and the judgment remains  
22 unpaid.

23 (h) The claimant is not a spouse of the judgment debtor or a  
24 person representing the spouse of the judgment debtor.

25 Sec. 5. (1) Upon receipt of an application filed pursuant  
26 to section 4, verification that all of the requirements of  
27 section 4(3)(a) to (h) have been met, and a hearing at which the

1 department is represented, the court shall order payment from the  
2 recovery fund. Except as otherwise provided in subsection (3),  
3 the order shall direct the department to issue a payment warrant  
4 in the amount of the actual and direct loss suffered by the  
5 claimant, plus court costs and reasonable attorney fees in an  
6 amount of not more than 15% of the amount of the judgment that  
7 remains unpaid.

8 (2) Upon request of the department, the court may require  
9 all claimants against a single manufactured home manufacturer,  
10 manufactured home dealer, or manufactured home installer and  
11 repairer to be joined in 1 application so that all claims may be  
12 determined and settled equitably. If the recovery fund has  
13 insufficient funds to pay the unpaid portion of each judgment in  
14 full, or if the total amount of the combined unpaid judgments  
15 exceeds the limitation prescribed by subsection (3), the court  
16 may order that payment from the recovery fund be distributed  
17 among the claimants in the same ratio as their respective claims  
18 bear to the total amount of claims against the manufactured home  
19 manufacturer, manufactured home dealer, or manufactured home  
20 installer and repairer or that payments be distributed in some  
21 other equitable manner.

22 (3) An order issued pursuant to this section shall be for an  
23 amount of not more than \$25,000.00 for an individual claim or not  
24 more than \$100,000.00 for a group of claims against a single man-  
25 ufactured home manufacturer, manufactured home dealer, or manu-  
26 factured home installer and repairer in a 12-month period.

1 (4) Payment of a claim as a result of an order under this  
2 section shall not be made unless the requirements of section 9  
3 are met.

4 Sec. 6. (1) Except as provided in subsection (2), the  
5 department shall pay claims against the recovery fund in the  
6 order in which the department receives the orders directing pay-  
7 ment, without regard to the order in which the civil actions were  
8 commenced, judgments entered, or applications filed under section  
9 4.

10 (2) If the amount of money in the recovery fund at a partic-  
11 ular time is insufficient to satisfy an order for payment issued  
12 pursuant to section 5, the department shall distribute the avail-  
13 able money to the claimant. If the order is for combined claims,  
14 the department shall distribute the available money according to  
15 the terms of the order or, if the order does not address the  
16 issue of distribution, on a pro rata basis. If sufficient money  
17 is subsequently deposited in the recovery fund, the department  
18 shall satisfy the unpaid claims or portions of claims in the  
19 order that the orders directing payment were received by the  
20 department.

21 Sec. 7. (1) A manufactured home dealer or manufactured home  
22 installer and repairer who receives or renews a license under the  
23 mobile home commission act before the effective date of this act  
24 and upon whom service cannot be made with reasonable diligence  
25 shall be considered to have appointed the department as its  
26 attorney in fact upon whom service of process may be made in  
27 civil actions described in section 4.

1           (2) A manufactured home dealer or manufactured home  
2 installer and repairer who receives or renews a license under the  
3 mobile home commission act after the effective date of this act  
4 shall sign an irrevocable consent with the department appointing  
5 the department as its attorney in fact upon whom service of pro-  
6 cess may be made in a civil action described in section 4 if  
7 service cannot be made with reasonable diligence on the manufac-  
8 tured home dealer or manufactured home installer and repairer.  
9 The consent shall contain the acknowledged signature of an offi-  
10 cer, owner, or partner of the manufactured home dealer or manu-  
11 factured home installer and repairer.

12           Sec. 8. (1) If the department pays an amount from the  
13 recovery fund pursuant to section 5 to satisfy a judgment against  
14 a manufactured home dealer or manufactured home installer and  
15 repairer, the commission shall suspend the license issued under  
16 the mobile home commission act of the manufactured home dealer or  
17 manufactured home installer and repairer on the effective date of  
18 the order or settlement. The commission shall not reinstate the  
19 license until the manufactured home dealer or manufactured home  
20 installer and repairer has repaid in full the amount paid by the  
21 recovery fund plus interest at the rate of 12% per annum.

22           (2) If the department pays an amount from the recovery fund  
23 pursuant to section 5 to satisfy a judgment against a manufac-  
24 tured home manufacturer, the manufactured home manufacturer shall  
25 not sell a manufactured home in this state until it has repaid in  
26 full the amount paid by the recovery fund plus interest at the  
27 rate of 12% per annum.

1 (3) This section does not prevent the department from taking  
2 disciplinary action against a licensee or a manufactured home  
3 manufacturer for a violation of the mobile home commission act or  
4 rules promulgated under that act. The repayment by a licensee of  
5 an obligation to the recovery fund does not nullify or modify the  
6 effect of another disciplinary proceeding brought under the  
7 mobile home commission act or rules promulgated pursuant to that  
8 act.

9 Sec. 9. The recovery fund shall be capitalized at  
10 \$2,000,000.00 and shall be funded by fees collected pursuant to  
11 section 10. A claim shall not be paid from the fund until the  
12 fund contains at least \$500,000.00.

13 Sec. 10. Except as otherwise provided in this section, at  
14 the time the purchaser of a manufactured home that is subject to  
15 the certificate of title provisions of the mobile home commission  
16 act makes application to the department of commerce for the issu-  
17 ance of the certificate of title, the department shall collect  
18 from the purchaser, in addition to the fee under section 30a of  
19 the mobile home commission act, being section 125.2330a of the  
20 Michigan Compiled Laws, a \$15.00 transaction fee and shall  
21 deposit that fee in the recovery fund created in section 3.  
22 After the balance in the recovery fund reaches \$2,000,000.00, the  
23 department shall cease collection of the \$15.00 transaction fee.  
24 However, if the balance in the recovery fund drops below  
25 \$500,000.00, the department again shall collect the \$15.00 trans-  
26 action fee until the balance in the recovery fund again reaches  
27 \$2,000,000.00.