

STATE OF WEST VIRGINIA

**PRELIMINARY PERFORMANCE REVIEW OF THE
Manufactured Housing Construction and Safety Board**

**Manufactured Housing Construction and Safety Board
helps Protect the Citizens of West Virginia.**

**Board has made Progress in Completing the
Consumer Complaint Process Within 90 days**

**Board is not Performing Dealer Lot Audits and
has had a Reduction in Installation Audits**

**OFFICE OF LEGISLATIVE AUDITOR
Performance Evaluation and Research Division
Building 1, Room W-314
State Capitol Complex**

**CHARLESTON, WEST VIRGINIA 25305
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May 2002

PE02-01-234

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Executive Summary

The West Virginia Manufactured Housing Construction and Safety Board was created by the 1988 Acts of the Legislature (West Virginia *Code* §21-9-3). The Board is designated as the state administrative agency for the administration and enforcement of Federal HUD Code Manufactured Home Construction and Safety Standards and the West Virginia Manufactured Housing Construction Standards.

Issue 1: The Manufactured Housing Construction and Safety Board helps Protect the Citizens of West Virginia.

The main services provided by the Manufactured Housing Construction and Safety Board include: 1) The licensing of all manufactured housing manufacturers, dealers, or contractors in West Virginia; 2) Site inspection of consumers' homes to determine non-compliance; and 3) Conducting licensee disciplinary hearings to ensure consumer effective recourse. Each of these services plays an integral role in the safety and protection of consumers. As of January 2002, there are 188 active dealers who are licensed in West Virginia, 88 active manufacturers, and 150 active contractors. The Board conducted 241 disciplinary hearings from 1999 to 2001. Most of these have resulted in fines and reprimands. In addition, there have been three licenses suspended and four licenses revoked since 1999. If the Board was not in existence, manufactured housing standards would decline; consumers would have a more difficult time in getting any defects repaired; and they would have limited assurance of recourse against unscrupulous representatives of the industry.

Recommendation 1

The Legislative Auditor recommends that the Manufactured Housing Construction and Safety Board be continued. The Legislative Auditor also determines that conducting a full performance evaluation is not in the public's interest.

Issue 2: The Board has made Progress in Completing the Consumer Complaint Process Within 90 days.

The Manufactured Housing Construction and Safety Board is mandated by statute to investigate all written complaints and take administrative action within 90 days. The Board received 151 written complaints in FY 2001 and investigated 141 of them. It took the Board an average of 119 days to investigate and take administrative action on those 141 complaints. However, the Board has made progress in the amount of time it takes to complete the consumer complaint process. This is evident in the first six months of FY 2002, in which the Board inspected

72 complaints. The average time to investigate and take administrative action fell to 82 days for those complaints. While the drop in the average number of days shows significant improvement, there are still individual cases that exceeded 90 days; therefore, there is still room for improvement.

Recommendation 2

The Manufactured Housing Construction and Safety Board should strive to complete the investigation and take appropriate action within the 90 day mandate in West Virginia Code §21-9-11a.

Issue 3: The Board is not Performing Dealer Lot Audits and has had a Reduction in Installation Audits.

The Division of Labor receives \$9 a floor from the Department of Housing and Urban Development (HUD) for every home shipped into West Virginia each year for the enforcement of the HUD Code. This revenue is used in part to conduct dealer lot audits on an annual basis to assure product compliance with standards and regulations. The compliance officers use a checklist when conducting these audits to look for any transit damage. They also check for any dealer alterations such as missing appliances or smoke detectors. There are 188 active dealers currently licensed in West Virginia. The Board's goal is to complete an audit on all of the active, licensed dealers who are located in West Virginia, which amount to 111. However, no dealer lot audits have been conducted since FY 1999. The Board also has a goal of completing a certain number of installation audits each fiscal year. These installation audits are conducted to ensure licensee compliance with standards and regulations pertaining to things such as the foundation and construction of the home. Forty-eight installation audits were performed in FY 1999. This number fell to 35 in FY 2000 and dropped to just two in FY 2001.

Recommendation 3

The Manufactured Housing Section should start conducting dealer lot audits and needs to increase the number of installation audits performed in order to maximize the safety and protection of consumers as well as to abide by HUD requirements.

Review, Objective, Scope and Methodology

This preliminary performance review of the West Virginia Manufactured Housing Construction and Safety Board is required and authorized by the West Virginia Sunset Law, Chapter 4, Article 10 of the West Virginia *Code*, as amended. The Board provides for the safety and protection of consumers purchasing manufactured homes by the enforcement of Federal HUD Code Manufactured Home Construction and Safety Standards and the West Virginia Manufactured Housing Construction Standards.

Objective

As stated in the Code, a performance evaluation is to determine for an agency whether or not the agency is operating in an efficient and effective manner and to determine whether or not there is a demonstrable need for the continuation of the agency.

Scope

The performance evaluation covers the period from July 1994 to December 2001. The Legislative Auditor determined if the Board is investigating consumer complaints in a timely manner and determined if the Board is conducting dealer lot audits as required by HUD and accomplishing its goal of completing installation audits.

Methodology

Information compiled in this report has been acquired through interviews, conversations and correspondence with the Deputy Commissioner of the Division of Labor. Documents obtained from the Board's staff included: 1) The number of active licensed dealers, manufacturers, and contractors; 2) The amount of complaints received from consumers from July 1, 2000 to December 31, 2001; and 3) The number of times the Recovery Fund was utilized since 1995. The review also involved analyzing Board meeting minutes from January 1999 to December 2001; annual reports from FY 1998 to FY 2000; West Virginia *Code* §21-9-1; and Legislative Rule, Title 42, Series 19. Every aspect of this review complied with Generally Accepted Government Auditing Standards (GAGAS).

Issue 1: The Manufactured Housing Construction and Safety Board helps Protect the Citizens of West Virginia.

The West Virginia Manufactured Housing Construction and Safety Board was created by 1988 legislation under §21-9-1 of the West Virginia *Code* to enforce the Manufactured Housing Construction and Safety Standards Act. The Board consists of six members, with the Commissioner of the Division of Labor serving as Chairman. The Board meets at least once in each calendar quarter on a date fixed by the Board. The Board provides for the safety and protection of consumers purchasing manufactured homes by the enforcement of Federal HUD Code Manufactured Home Construction and Safety Standards and the West Virginia Manufactured Housing Construction Standards.

The Board Provides Necessary and Ongoing Services

The main services provided by the Manufactured Housing Construction and Safety Board include: 1) The licensing of all manufactured housing manufacturers, dealers, or contractors in West Virginia; 2) Site inspection of consumers' homes to determine non-compliance; and 3) Conducting licensee disciplinary hearings to ensure consumer effective recourse. Each of these services plays an integral role in the safety and protection of consumers. As of January 2002, there are 188 active dealers who are licensed in West Virginia, 88 active manufacturers, and 150 active contractors. The Board conducted 241 disciplinary hearings from 1999 to 2001. Most of these have resulted in fines and reprimands. In addition, there have been three licenses suspended and four licenses revoked since 1999. If the Board was not in existence, manufactured housing standards would decline; consumers would have a more difficult time in getting any defects repaired; and they would not be assured any type of recourse against unscrupulous representatives of the industry.

Recovery Fund has a \$1.3 Million Balance

When a licensee fails to correct the consumers' problems, as directed by statute, following a disciplinary hearing, the Board will then utilize the Manufactured Housing Recovery Fund (Fund). The Fund was established in 1991 and is comprised of one-time deposits made by licensees at the time of initial licensure (\$2,500 for a manufacturer, \$1,000 for a dealer, and \$500 for a contractor) and fines paid as a result of any disciplinary action. However, if the Fund drops below \$250,000, the Board may assess each licensee an additional fee to restore the fund back to at least \$250,000. In addition to the initial fees deposited to the Fund, the licensees pay an annual license fee (\$300 for a manufacturer, \$100 for a dealer, and \$50 for a contractor). The annual license fees are not deposited into the Fund. The Recovery Fund has been utilized a total of 14 times since 1995 with a payout of \$78,098 (See Table 1). The Fund has not dropped below \$250,000; therefore, no assessments have ever been made, and the Fund currently maintains a balance of over \$1.3 million, which includes interest earned. Although the Fund's balance may appear to be rather large, it could be reduced significantly in a short period of time if one or more manufacturer were to go out of business which could have a sizeable impact on the balance of the Fund.

Table 1 Utilization of Recovery Fund Since FY 1995		
Calendar Year	No. of Times Fund Utilized	Amount of Money Disbursed
1995	1	\$8,900
1996	4	\$25,448
1998	1	\$5,000
1999	1	\$5,000
2000	6	\$28,750
2001	1	\$5,000
Total	14	\$78,098

The Board Provides a Need to Consumers

All manufacturers, dealers, and contractors need to be licensed and monitored to ensure that they are complying with standards and regulations. Given the actual and potential harm to consumers, the Board is needed. The Board provides administrative recourse to all consumers of manufactured homes and helps to assure consumers that they will not be taken advantage of by representatives of the manufactured housing industry. Therefore, the Manufactured Housing Construction and Safety Board serves a needed purpose and should be continued.

Recommendation 1

The Legislative Auditor recommends that the Manufactured Housing Construction and Safety Board be continued. The Legislative Auditor also determines that conducting a full performance evaluation is not in the public's interest.

Issue 2: The Board has made Progress in Completing the Consumer Complaint Process Within 90 days.

To provide safety and protection to consumers, the Manufactured Housing Construction and Safety Board is mandated by statute to investigate all written complaints initiated by consumers who have purchased manufactured homes. Once a complaint is investigated, if warranted, the Division of Labor’s Manufactured Housing Section will take the necessary administrative action. The Board has made strides in decreasing the amount of time it takes to investigate consumer complaints and take the appropriate administrative action.

Statute Requirement and Improvement of Consumer Complaint Process

Investigating consumer complaints and taking the appropriate administrative action is paramount in determining how effective and efficient the Board is functioning. Complaints need to be handled in a timely manner in order to truly protect consumers from unethical or dishonest manufacturers, dealers, and/or contractors. This is addressed in West Virginia Code §21-9-11a, which states in part,

The board has a period of ninety days, commencing with the date of filing of the complaint, to investigate and take administrative action to order the correction of any defects in the manufacture or installation of a manufactured home.

The Board received 151 written complaints in FY 2001 and investigated 141 of them. It took the Board an average of **119** days to investigate and take administrative action on those 141 complaints. However, the Board has made progress in the amount of time it takes to complete the consumer complaint process. This is evident in the first six months of FY 2002, in which the Board inspected 72 complaints. The average time to investigate and take administrative action fell to **82** days for those complaints (See Table 2). While the drop in the average number of days shows significant improvement, there are still individual cases that exceeded 90 days; therefore, there is still room for improvement.

Time Period	No. of Investigated Complaints	Avg. Days for Completion
7/1/2000 - 6/30/2001	141	119
7/1/2001 - 12/31/2001*	72	82

**First half of FY 2002.*

Limited Data Available to Conduct Analysis

The Board's administrative staff compiles data on the number of complaints received and the number of manufactured homes investigated as a result of those complaints. On January 1, 2001, the Manufactured Housing Section converted to a new database in order to track consumer complaints and licensing data. The software for this database has provided more extensive tracking regarding consumer complaints. Following the conversion of existing information, the files did not contain all of the data necessary to track a complaint in an efficient manner. Due to having only one office assistant, the Director of Manufactured Housing made the decision to update the existing data beginning with July 1, 2000. Therefore, the Legislative Auditor obtained data from July 1, 2000 through December 31, 2001.

Reason for Improvement

The improvement in the amount of time it takes to complete the consumer complaint process can be largely attributed to the increase in compliance officers for the Manufactured Housing Section. For the majority of FY 2000, the Manufactured Housing Section had only one compliance officer. This resulted in a backlog of consumer complaints. Therefore, in FY 2001, the Legislature allocated approximately \$154,000 to provide for three additional compliance officers. As a result, these additional positions have enabled the Manufactured Housing Section to handle consumer complaints in a timely manner and ensure that both federal and state safety and construction laws are being enforced.

Recommendation 2

The Manufactured Housing Construction and Safety Board should strive to complete the investigation and take appropriate action within the 90 day mandate in West Virginia Code §21-9-11a.

Issue 3: The Board is not Performing Dealer Lot Audits and has had a Reduction in Installation Audits.

Conducting dealer lot audits is a performance requirement that the Manufactured Housing Construction and Safety Board is required to do via its agreement with the U.S. Department of Housing and Urban Development (HUD). In addition, performing dealer lot audits is listed as a goal and objective of the Board. The Board also conducts installation audits at the home sites of manufactured home owners. The installation audit is a pro-active measure that the Board uses to ensure compliance with standards and regulations. **The Legislative Auditor agrees with the Board that installation audits would promote protection for the public and that such audits should be conducted. However, in recent years the Board has not been adhering to the dealer lot requirement and has had a significant reduction in the number of installation audits completed.**

Dealer Lot Audits and Installation Audits

The Division of Labor receives \$9 a floor from the Department of Housing and Urban Development (HUD) for every home shipped into West Virginia each year for the enforcement of the HUD Code. This revenue is used in part to conduct dealer lot audits on an annual basis to assure product compliance with standards and regulations. The compliance officers use a checklist when conducting these audits to look for any transit damage. They also check for any dealer alterations such as missing appliances or smoke detectors. There are 188 active dealers currently licensed in West Virginia. The Board's goal is to complete an audit on all of the active, licensed dealers who are located in West Virginia, which amount to 111. However, no dealer lot audits have been conducted since FY 1999.

The Board also has a goal of completing a certain number of installation audits each fiscal year. These installation audits are conducted to ensure licensee compliance with standards and regulations pertaining to things such as the foundation and construction of the home. Forty-eight installation audits were performed in FY 1999. This number fell to 35 in FY 2000 and dropped to just two in FY 2001. Table 3 illustrates the lack of dealer lot audits being conducted as well as the reduction in the number of installation audits being performed.

Fiscal Year	Dealer Lot Audits	Installation Audits
1999	0	48
2000	0	35
2001	0	2

Reasons for not Meeting Requirements and Accomplishing Goals

The lack of conducting dealer lot audits can mainly be attributed to a lack of compliance officers and lack of funding from FY 1999 to FY 2000. As mentioned previously, for the majority of FY 2000, the Manufactured Housing Section had only one compliance officer. Consequently, in FY 2001, the Legislature allocated approximately \$154,000 to provide for three additional compliance officers. The decrease in the number of installation audits conducted from FY 1999 to FY 2000 can be attributed to the Board going from two compliance officers to only one for most of FY 2000. With the hiring of the three additional officers in FY 2001, the Board currently has four compliance officers. The priority of the Manufactured Housing Section in FY 2001 was to resolve a backlog of consumer complaints created by the lack of compliance officers in previous years which resulted in a further reduction of installation audits completed. Since the enforcement staff has been increased by three positions, this should have a positive impact on the completion of dealer lot audits and installation audits. However, no dealer lot audits have been performed as of the issuance of this report, while only two installation audits have been conducted since FY 2001.

Conclusion

By not conducting dealer lot audits, the Manufactured Housing Section is not adhering to a performance measurement required by HUD, and the drop off in installation audits implies that goals and objectives are not being met as they should. As a result, the chances of not detecting transit damage, dealer alterations, and improper installation are increased. This could have an adverse impact on the consumer by way of safety concerns as well as having to wait longer to have any problems corrected. Although this has never happened, HUD does have the authority to impose sanctions such as withholding some or all of the portion of the funding that it provides to the Manufactured Housing Section. Therefore, it is essential that the Manufactured Housing Section start conducting dealer lot audits and increase the number of installation audits performed.

Recommendation 3

The Manufactured Housing Section should start conducting dealer lot audits and needs to increase the number of installation audits performed in order to maximize the safety and protection of consumers as well as to abide by HUD requirements.