

## Give Manufactured Home Consumers Access to Mortgages

Sold like a car or a couch, consumers in the manufactured home market end up with high cost “chattel” loans, although the homes long ago stopped being mobile and most consumers see their manufactured home as a long term real estate investment like any site built home.

The 77<sup>th</sup> Legislature significantly reformed the market for manufactured housing by making manufactured homes outside rental parks ‘real property.’ Industry officials would like to undo these reforms.

In essence, HB 1869 moved lending for some manufactured homes into the same market as conventional homes. By doing so, the bill extended important consumer protections to manufactured homebuyers in the state of Texas that will ultimately reduce foreclosures and make manufactured housing a more reasonable choice for low income consumers.

### REDUCING REPOSESSION

The leading manufactured home lender estimated in 2001 that 20 percent of the homes it sold would be repossessed. Lenders have cited poor lender and dealer discipline in the chattel loan (retail installment contract) market as a major factor leading to such high repossession

### In Short

Manufactured housing still struggles to shrug off its travel trailer roots, in part because the industry remains wedded to high cost chattel lending. Manufactured homes have long been sold like cars, although they are no longer really “mobile.” Consumers who get real estate loans save money and enjoy added protections.

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Repossession rates are high in part because dealers loaded costly extras onto loans, leaving consumers “under water” for years into their loan. When consumers with no equity

find themselves in over their heads, they have less incentive to find a way to make the payments and default on the loan instead.

Repossession may also be a function of predatory loans with undisclosed or misleading fees, papers signed but not provided to consumers, and even outright fraud. HB 1869 took the first steps to curb practices that lead to repossession.

- While the HB 1869 did not directly require full disclosure of financing terms, sale of property as real estate triggers the disclosure of a Good Faith Estimate of Charges (required by the Real Estate Settlement and Procedures Act).

- Similarly, while HB 1869 did not directly require appraisals, mortgage lenders generally do require appraisals, and this will help curb dealer practices that sink consumers under loans totaling far more than the home is worth.

- Real property cannot be hauled away at the whim of the dealership. By granting manufactured housing ‘real property’ status, these homeowners are protected by the same foreclosure procedures as conventional home owners.

### OTHER BENEFITS

The conversion to real property triggers other benefits.

- Mortgage loans are generally less expensive than standard chattel loans.

- Consumers who “rate shop” for a mortgage loan will generally not see their credit score suffer. Consumers who shop for a chattel loan are not



necessarily protected by current credit scoring models.

- Land sales are less likely to be based on a contract-for-deed, which builds no equity for consumer until the entire note is paid.

- The opportunity for high-pressure sales tactics is somewhat reduced by moving the closing to a third party location.

### RECOMMENDATIONS

The industry has indicated it wishes to re-open the law this session and bring back the chattel loan system for these homes.

- Chattel loans should not be used for housing except under very limited and clearly defined circumstances.

- All purchases of land and home should remain real property purchases.

- Retain prohibition on using funds from land loans as false down payments.

- Retain key consumer protections, including prohibitions on kickbacks, a good faith estimate disclosure, and third party closing; and

- Extend these protections to all manufactured home buyers, including those who choose to place their home in a rental community.

- Allow innovative “leasehold” conventional loans for park dwellers.

- Avoid creating new loopholes through which the industry can return to the failures of the past.

Approximately 1.2 million Texans live in manufactured housing. Some live in rental communities, others have placed their home on lots that they own. All of these homeowners seek safe, durable housing for themselves and their families.

Manufactured housing is unique in that it is “tied down” using a system of anchors and straps. Unlike site-built housing, which receives a series of inspections as it is built to local building codes, only a quarter of manufactured homes must be inspected under state law after they leave the factory. All Texas manufactured home buyers pay a fee to support inspections.

And unlike site built homes, the site is never certified by a professional as suitable for placement of a home. A

## Install Safe, Stable Manufactured Housing in Texas

Inspectors look over a site built home at several points in the construction process and upon completion. Most manufactured homes are not inspected after assembly on the consumer’s site, and problems with the site, the tie downs, and the foundation construction can affect the long term value and durability of the home.

poor site can cause the home to shift, the concrete block piers to fail, or the chassis to lift from its supports. A stable foundation is critical to the long-term value and durability of a home.

Residents of manufactured homes die at 20 times the rate of site-built home residents when tornadoes blow through their neighborhoods. While no home will survive a direct hit from a tornado, proper tie-downs help homes survive near misses and other high wind events. A program in Orange County, Florida which inspected the tie down systems of older homes found that 80% of the

homes it inspected had problems with the tie-downs—ranging from loose, rusty straps to unstable foundation piers.

### RECOMMENDATIONS

To properly regulate and protect the foundations of manufactured home owners:

- require installers to certify that a site is suitable to have a home placed on it;
- inspect 100% of installations; and
- provide for inspections of existing home tie downs where inhabited by older and low-income residents.

## Prevent Depreciation by Providing Tenant Rights

Manufactured home owners can choose to place their home on a private lot, or in a rental community. Those that place their homes in a park can be evicted—which means picking up that not-so-mobile home and finding a new site—if the park owner chooses to do something else with the land.

As Texas’ cities sprawl outward and once distant lands increase in value, such evictions are increasingly frequent. If homeowners must pick up and move the whole house, it can be costly—double-wide homes, for example, cost thousands of dollars to move.

Further, a shortage of rental spaces for used homes and the high cost of moving give park owners extraordinary leverage to impose unreasonable rules and extract large increases in rents and fees from their

tenants. Recently, homeowners say that park operators bar them from selling their homes within the parks, instead requiring homes to be removed when they go on the market. This makes the home far less attractive to a buyer—who must find a park that will take a used home—and homeowners must take steep price cuts.

Manufactured homes will never appreciate like site built homes if the homeowner cannot certify to a buyer that the home and neighborhood will be stable into the future.

### RECOMMENDATIONS

- Limit park rules to those reasonably related to the health, safety and quiet enjoyment of the residents of the park and require a minimum lease term of one year.
- Limit eviction to “just cause.”

- If a park goes up for sale, provide 180 days notice and let tenants match any offer on the community. This right has led to an increase in resident-owned parks in other states.
- Prevent park owners from forcing a home from the park based on the age, architectural style or construction materials, as long as the home meets the codes in place at the date of manufacture and is maintained in accordance with park rules. Residents should be able to sell a home “in place” to preserve value.

### In Short

Across the country, manufactured home owners are starting to take control of their communities through cooperative purchasing. With mandatory notice laws in place, home owners have time to form a nonprofit organization and seek financing to make the owner a counter offer.

# End Equity Stripping and Protect Manufactured Home Value

Although the industry wants to shed its travel trailer roots, manufactured home transactions still resemble auto deals and significant market reforms must be implemented before these homes will be a good deal for families.

**A** home is usually a family's biggest purchase, and over time, its biggest asset. Over 1.2 million Texas today live in manufactured housing. Yet, this market has been long troubled with problems at the point of sale that lead to depreciation and dissatisfaction.

Over the last year, Consumers Union reviewed information about manufactured home transactions at three state agencies that regulate the marketplace: The Texas Department of Housing and Community Affairs Manufactured Housing Division (TDHCA), the Office of the Attorney General, and the Office of the Consumer Credit Commissioner. We found a pattern of problems shared among many consumers that should be addressed through a stronger and more coherent regulatory system

Buyers are locked into a deal before they discover the true price of the home. Consumers reported being confronted with higher interest rates, fees, and monthly payments when they sat down to close the deal in writing.

Some families start off owing more than the home is worth. Dealers offer expensive extras like trips,

## In Short

Many consumers pay too much, get too little, and load their high cost loan with expensive extras. When the home is first installed, it may not be set up correctly, leading to long term durability problems. These problems can cause homes to depreciate, making them a poor investment for low income families.

rebates, insurance, or even offer to pay off credit cards. They add thousands of dollars to a consumer loan to pay for these extras.

The product is often not what they ordered or expected.

Consumers said the dealer switched the house with a different make, model, year or size, or a completely different home.

Limited duration warranties, coverage limits, blame shifting among parties, and poor service left many consumers unsatisfied with the warranty service and a brand new home already on the decline.

### RECOMMENDATIONS

- Require a sticker price posted on each home at the dealership, similar to the one required by the federal Automobile Information Disclosure Act.

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- Give consumers five days to review all contracts—including financing terms—before signing.
- Mandate an independent third party inspection of the home before loan funds can be released to the retailer.
- Require provision of all contracts in the language in which the deal was negotiated.
- Hold installers responsible for certifying that the site upon which they install homes is suitable for that use, properly prepared, and will not void warranties.

## Focus TDHCA on Consumer Protection

Thousands of consumers turn to TDHCA for help when they have problems with their manufactured home—the department received 3,627 complaints over the two-year period ending last June. However, consumers reported to us that they did not believe TDHCA was acting in their best interests. Hundreds of complaints were closed without investigation (not even a letter to the company inquiring about the problem) and more than two thirds of complainants who corresponded with us said they were “completely dissatisfied” with the resolution of their case when it was closed.

Low fines, slow enforcement, and lax regulations regarding violations of warranty law make TDHCA a “paper tiger.”

### RECOMMENDATIONS

- Re-write the purpose of the manufactured housing division's governing statute of the department to focus its work on consumer protection.
- Fund 100% inspection of all homes after they are installed on the consumer's lot. Currently, statute only requires one quarter of homes to be inspected.
- Direct the department to use economic value rather than use value considerations when evaluating warranty complaints. Currently the department ignores complaints it considers “cosmetic” even if they have significant negative impact on the value of the consumer's home.
- Direct the department to make complaint and enforcement information about licensees more accessible by issuing a regular report of complaint ratios for retailers.