



# Manufactured Housing Association for Regulatory Reform

1331 Pennsylvania Avenue, NW • Suite 512 • Washington, DC 20004 • 202-783-4087 • Fax 202-783-4075 • mharrdg@aol.com

June 26, 2019

VIA FEDERAL EXPRESS

Hon. Michael D. Crapo  
Chairman  
Senate Committee on Banking, Housing  
And Urban Affairs  
Suite 538  
Dirksen Senate Office Building  
1<sup>st</sup> and C Streets, N.E.  
Washington, D.C. 20510

Hon. Sherrod Brown  
Ranking Member  
Senate Committee on Banking, Housing  
and Urban Affairs  
Suite 538  
Dirksen Senate Office Building  
1<sup>st</sup> and C Streets, N.E.  
Washington, D.C. 20510

Dear Chairman Crapo and Ranking Member Brown:

The Manufactured Housing Association for Regulatory Reform (MHARR) is a Washington, D.C.-based national trade organization representing the views and interests of independent producers of manufactured housing regulated by the U.S. Department of Housing and Urban Development (HUD) pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 as amended by the Manufactured Housing Improvement Act of 2000. (42 U.S.C. 5401, *et seq.*). MHARR's members are primarily smaller businesses located throughout the United States.

We are writing to apprise you of our serious concerns with – and opposition to – a bill currently pending before your committee, entitled “The HUD Manufactured Housing Modernization Act of 2019” (S. 1804).

While we believe that this bill is well intended and that HUD Code manufactured housing *is* a key part of the solution to the nation's affordable housing crisis, we also believe that the legislative provisions needed to advance the availability and affordability of manufactured housing are already contained in the existing federal manufactured housing law. By contrast, we believe that S. 1804 is not only unnecessary, but could have profoundly damaging unintended consequences for both the mainstream HUD Code manufactured housing industry and the lower and moderate-income American families who rely on those mainstream manufactured homes as the nation's premier source of affordable, non-subsidized homeownership. Indeed, if enacted into law, this bill could ultimately undermine all of the gains, advancements, recognition and acceptance that the industry (and consumers) have achieved under the Manufactured Housing

Improvement Act of 2000 and the reforms within that law designed to transition manufactured homes from the “trailers” of yesteryear to modern, legitimate “housing” for all purposes.

Specifically, this bill -- in light of recent developments concerning the Duty to Serve Underserved Markets (DTS) provision of the Housing and Economic Recovery Act of 2008 (HERA) and the apparent effort by Fannie Mae and Freddie Mac, promoted by some in the industry, to divert DTS support to a supposed “new class” of pseudo-manufactured homes while providing no support whatsoever to existing, mainstream manufactured homes financed through personal property loans (which comprise 80% of the HUD Code manufactured housing market) -- appears to be tailored not only to legitimize the so-called “new class” of pseudo-manufactured home, but also to mandate government support for the utilization of that “new class” of home. The legislation, consequently, if enacted, would legally validate the discriminatory DTS policies adopted by Fannie Mae and Freddie Mac and the establishment of two separate “classes” of “residential manufactured homes” -- the new class of high-cost, site-built-like hybrid homes favored and prioritized for securitization and secondary market support by Fannie Mae and Freddie Mac on the one hand, and a “second class” comprised of existing, affordable, mainstream HUD Code manufactured homes on the other, with continued and worsening discrimination against the “second-class” of mainstream HUD Code manufactured homes.

The legislation would thus sanitize and institutionalize the diversion of DTS support from mainstream manufactured housing to this so-called “new class” of home. It would also pave the way for local jurisdictions to utilize this “new class” of home – while in many, if not most cases, continuing to exclude and discriminate against mainstream, affordable HUD Code manufactured housing -- in order to access HUD grants and other funding. The bill does this through a two-step process of altering the definition of “manufactured home” currently contained in federal law and then requiring the inclusion of homes meeting this altered definition in the “Consolidated Plans” that jurisdictions must submit to HUD in order to receive federal funding under multiple HUD programs.

In relevant part, the bill directs HUD to “issue guidelines for jurisdictions relating to the appropriate inclusion of *residential manufactured homes* in a Consolidated Plan of the jurisdiction.” (Emphasis added). The definition of “*residential manufactured home*” contained in the bill, in turn, while referring to the definition of “manufactured home” contained in the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended by the Manufactured Housing Improvement Act of 2000, would nevertheless alter that definition by using the term “residential,” which is not contained or included in the existing federal law definition. In addition, the bill refers to “residential manufactured homes ... *used* as a dwelling,” while the existing definition refers to manufactured homes “*designed to be used* as a dwelling.” The bill, accordingly, would create a discrepancy between the existing definition of “manufactured home” and what does – or does not – constitute a “residential manufactured home,” potentially without any type of vetting, analysis or due consideration, that would elevate the so-called “new class” of home for use in every jurisdiction receiving HUD grants and other funding, while reducing mainstream, affordable HUD Code manufactured homes, once again, to second-class “trailer” status, contrary to the 2000 reform law.

The bill, accordingly, poses a significant threat to existing, affordable, mainstream HUD Code manufactured housing and the lower and moderate-income families that rely upon those homes. At a minimum, with its altered definition of “*residential manufactured home*,” which is materially different from the definition already contained in federal manufactured housing law, the bill, if enacted, would create immediate market confusion – particularly for existing HUD Code manufactured homes, homeowners, and purchasers that could further suppress the mainstream, affordable HUD Code market -- and could lead to legal liability and litigation over just what does or does not constitute a “manufactured home” for purposes of federal regulation and a multitude of other issues.

Specifically, then, the bill is unnecessary and potentially harmful, in that it:

- Would perpetuate a negative connotation and image of existing, mainstream, HUD Code manufactured housing through its title, which implies that manufactured homes are in need of “modernization” notwithstanding the sweeping institutional reforms of the Manufactured Housing Improvement Act of 2000. In addition, these titles are misleading and inaccurate, in that the HUD program and the legal treatment of manufactured housing itself were already “modernized” by the 2000 reform law, after input from all stakeholders and the National Commission on Manufactured Housing. Consequently, if this bill is advanced in any form, its title should be changed to the “Manufactured Housing Parity and Equality Act of [Insert];”
- Would, by changing the definition of what constitutes a “manufactured home,” create a substantial risk that the so-called “new class” of manufactured homes could lead to the establishment of a new baseline for all federal manufactured home standards, which would destroy the fundamental affordability of manufactured homes;
- Would -- even if it does not lead to more expansive and costly federal standards, as above -- re-relegate existing, mainstream, affordable HUD Code manufactured homes to second-class “trailer” status;
- Would undermine gains and advances made through and as a result of the Manufactured Housing Improvement Act of 2000 to elevate the status of mainstream, affordable manufactured homes to that of legitimate “housing” for all purposes (including federal and federally-sponsored housing programs);
- Would legitimize and institutionalize continuing discrimination against mainstream, HUD Code manufactured home personal property loans under DTS;
- Would legitimize and reinforce the discriminatory exclusion of mainstream, affordable HUD Code manufactured homes in jurisdictions seeking HUD grants and other related funding by effectively directing those jurisdictions instead to higher-cost, “new class,” hybrid-type homes;

bill is stripped away, it becomes apparent that it would do serious harm to existing, mainstream HUD Code manufactured housing and the lower and moderate-income American families who rely on the non-subsidized affordability of those homes.

Consequently, while MHARR recognizes and appreciates the positive intent underlying this bill, it does not and cannot support S. 1804 and urges your committee to take no further action to advance it. If, however, further action *is* taken on this bill, we respectfully urge your committee to hold a full hearing on the highly-damaging potential consequences of such legislation on mainstream, affordable manufactured housing, and would ask that MHARR be provided an opportunity to offer the above proposed language that would actually advance your positive intentions without harming the HUD Code manufactured housing industry as it exists today.

Thank you

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Weiss', with a long horizontal flourish extending to the right.

Mark Weiss  
President and CEO

cc: Hon. Catherine Cortez Masto  
Hon. Kevin Cramer  
Hon. Tim Scott  
Hon. Todd Young  
Hon. Ben Carson  
Hon. Mick Mulvaney  
Hon. Mark Calabria  
HUD Code Manufactured Housing Industry Members