

Contractors, definition of mobile home

Number: INFORMAL

Date: June 18, 1996

The Honorable Lori Edwards
Representative, District 65
201 South Main Street
Auburndale, Florida 33823

RE: CONTRACTORS--MOBILE HOMES--BUILDING PERMITS--definition of mobile home for purposes of owner exemption from licensure provisions of contractor statutes. s. 489.103(7), Fla. Stat.

Dear Representative Edwards:

Thank you for contacting this office regarding the definition of "mobile home" as it is used in section 489.103(7), Florida Statutes.

Section 489.103(7), Florida Statutes, provides that:

"Owners of property when acting as their own contractor and providing all material supervision themselves, when building or improving farm outbuildings or one-family or two-family residences on such property for the occupancy or use of such owners and not offered for sale or lease, or building or improving commercial buildings at a cost of under \$25,000 on such property for the occupancy or use of such owners and not offered for sale or lease. . . . This subsection does not exempt any person who is employed by such owner and who acts in the capacity of a contractor. For the purposes of this subsection, the term 'owners of property' includes the owner of a mobile home situated on a leased lot. . . ."

The owners of recreational vehicles and "park model" mobile homes^[1] are using this statute to secure permits for construction associated with their property that is being done by workers who are not licensed contractors. There are health and safety concerns as well as consumer protection issues that have arisen as a result of this practice. While you recognize that the statutory exemption is a valid one for the owners of mobile homes, you question whether it extends to the owners of recreational vehicles and park model mobile homes.

Chapter 489, Florida Statutes, which regulates the contracting industry, was enacted by the Legislature because "the construction and home improvement industries may pose a danger of significant harm to the public when incompetent or dishonest contractors provide unsafe, unstable, or short-lived products or services."^[2] The Legislature recognized that "it is necessary in the interest of the public health, safety, and welfare to regulate the construction industry."^[3]

There is no definition of "mobile home" for the particular purposes of Chapter 489, Florida Statutes, however, a number of other statutes define the term and present a relatively consistent definition of what constitutes a "mobile home" for purposes of Florida law. Chapter 513, Florida

Statutes, the chapter which regulates mobile home and recreational vehicle parks, defines "[m]obile home" as

"a residential structure that is transportable in one or more sections, which structure is 8 body feet (2.4 meters) or more in width, over 35 feet in length with the hitch, built on an integral chassis, and designed to be used as a dwelling when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure." [4]

This statute distinguishes a "[r]ecreational vehicle," including a "park trailer," from a mobile home and defines them separately. [5]

The Florida Mobile Home Act, [6] Chapter 723, Florida Statutes, provides a similar definition of a mobile home:

"The term 'mobile home' means a residential structure, transportable in one or more sections, which is 8 body feet or more in width, over 35 body feet in length with the hitch, built on an integral chassis, designed to be used as a dwelling when connected to the required utilities, and not originally sold as a recreational vehicle, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein." [7]

Finally, section 320.01(2)(a), Florida Statutes, relating to motor vehicle licenses, defines the term "[m]obile home" as follows:

"[A] structure, transportable in one or more sections, which is 8 body feet or more in width and which is built on an integral chassis and designed to be used as a dwelling when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein."

These statutes appear to provide a relatively consistent definition of the term "mobile home" for various purposes in Florida law.

In the absence of a statutory definition of "mobile home" in Chapter 489, the definitions used in Chapters 513 and 723 may be used in determining what constitutes a mobile home for purposes of section 489.103(7), Florida Statutes. [8] It would be in keeping with the intent of Chapter 489, Florida Statutes, to protect the public health and safety to read the term "mobile home" narrowly using these definitions in interpreting the exemption in section 489.103(7), Florida Statutes. [9]

This definition would appear to exclude recreational vehicles, including park model mobile homes, from its terms. Thus, the exemption in section 489.103(7), Florida Statutes, would not apply to the owners of such vehicles, and they may not rely on the exemption in the statute to undertake construction of improvements on these vehicles associated with their occupancy.

I trust that these advisory comments will assist you in representing the interests of your constituents.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tgk

[1] For purposes of the statutes, "park trailers" appear to be considered "recreation vehicle-type units" and are defined in section 320.01(1)(b)7., Fla. Stat., as:

"[A] transportable unit which has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances."

[2] See s. 489.101, Fla. Stat.

[3] *Id.*

[4] See s. 513.01(3), Fla. Stat.

[5] Section 513.01(9), Fla. Stat., defines a "[r]ecreational vehicle" using the definition in s. 320.01(1)(b), Fla. Stat., which includes the "travel trailer," the "camping trailer," the "truck camper," the "motor home," the "private motor coach," the "van conversion," the "park trailer," and the "fifth-wheel trailer." The statute considers all these types as recreational vehicles.

[6] See s. 723.001, Fla. Stat., for the title of the act.

[7] See s. 723.003(3), Fla. Stat.

[8] See *State v. Hagan*, 387 So. 2d 943, 944 (Fla. 1980) (The Legislature's failure to define the terms in a statute does not render the terms unconstitutionally vague. In the absence of a statutory definition, resort may be had to case law or related statutory provisions which define the term, and where a statute does not specifically define words of common usage, such words are construed in their plain and ordinary sense.)

[9] See *Barruzza v. Suddath Van Lines, Inc.*, 474 So. 2d 861 (Fla. 1st DCA 1985), *Philip Crosby Associates, Inc. v. State Board of Independent Colleges*, 506 So. 2d 490-491 (Fla. 5th DCA 1987) (cardinal rule of statutory construction is that statute should be construed so as to ascertain and give effect to legislative intent expressed in statute). And see *Pal-Mar Water Management District v. Board of County Commissioners of Martin County*, 384 So. 2d 232, 233 (Fla. 4th DCA 1980) (a statute is strictly construed against the party claiming a statutory exemption).