

Chapter 4

What is THA?

This Section Contains:

- ✚ What does THA do?
- ✚ Membership Break-down
- ✚ Legislative and Legal
- ✚ Regulatory Successes

Chapter 4

WHAT IS THE TENNESSEE HOUSING ASSOCIATION?

The Tennessee Housing Association (THA) is a unique entity, as it exists solely to provide a service – not to make money for individuals. THA is a multi-divisional trade Association.

The organization was founded in 1955. THA’s mission statement is ***“TO PROMOTE AND PROTECT THE INDUSTRY AND ITS MEMBERS.”***

The Tennessee Housing Association is a 501(c)6 trade organization under the Internal Revenue Code. A 501(c)6 organization is exempt from paying income taxes. To maintain this income tax exemption, THA must abide by very stringent IRS guidelines, much different than in your business. Sometimes, those rules do not always make sense and THA often discovers areas or items in which the organization is not allowed to expend THA funds. Simply put – ***everything THA spends money on must benefit the entire membership, not a small portion of it... or any one individual.***

The Tennessee Housing Association **is NOT exempt** from paying sales tax.

As a board member, you need to be aware that several legal obligations are woven into board member responsibilities. For example, when setting policies, you must make sure they comply with the letter of the law. You must ensure that THA is run in a legal manner, following the tax-exempt regulations and you must ensure services are delivered appropriately and fairly.

WHAT DOES THA DO?

In short, THA offers leadership, legislative action, industry unity, programs, promotions, business contacts, continuing education, and the most up-to-date industry information available.

GENERAL

THA’s primary source of income is from membership dues. Each segment of the industry pays annual dues. However, manufacturers pay annual dues plus monthly dues of \$175 per floor, based on the number of homes shipped from their facility to Tennessee retailers. (This includes Tennessee manufacturers as well as out-of-state manufacturers shipping into Tennessee.)

- THA currently has 223 members. The break-down by segment is as follows:

- 01.....Builder/Developers
- 59.....Communities and sub-location communities
- 10.....Finance
- 15.....Installer/Transporters
- 01.....Insurance
- 27.....Manufacturers of Manufactured or Modular Homes
- 00.....Realtors
- 97.....Retailers and sub-location centers
- 13.....Service/Suppliers
- 00.....Utility Industry

GENERAL:

- THA's state zoning law was passed in 1980. This law prohibits local government from discriminating against multi-section manufactured homes in any residential area, provided there are no restrictive covenants or deed restrictions. THA sued Nashville/Davidson County over the interpretation of the zoning law in 1990 and won in the Middle Section Court of Appeals.
- THA is one of only a few states which has a state zoning law to protect manufactured homes.
- THA's lobbying firm is McMahan Winstead & Richardson, and the firm has represented THA since 1990.
- THA's legal counsel is Kurtis J. Winstead. Kurt Winstead **is not** on a retainer for the general membership. He represents the Association and its Board of Directors. Direct representation of a member could result in a conflict of interest.

SNAPSHOT: MAJOR LEGISLATIVE AND REGULATORY SUCCESSES

Below are snapshots of some of the more important successes in THA's legislative initiatives. Each year several thousand bills are submitted to the General Assembly. THA submits some initiatives, some directly from legislators, some from the Governor's office (called administrative bills), and others are submitted from third parties.

As THA is a multi-disciplined Association, each legislative session is monitored closely, to ensure predatory legislation is not passed. This requires hours of reading, fact-finding, and continuous review of bill amendments, until the General Assembly (session) closes. Typically, the THA Staff, Legislative Committee, lobbying firm, and attorney assume the lead role in review and monitoring. In some instances, it is necessary to send bill reviews to leaders in the industry, from a specific discipline, to gain feedback on the possible implications if a bill should pass.

1980: Zoning law to prohibit discrimination against multi-sections.

1986: 50% reduction of sales tax on manufactured homes.

1988: 16' wide movement on Tuesday, Wednesday, and Thursday.

1991: Extended 16' wide movement to include Monday.

Successful in defeating a bill in the legislature, which would have repealed our state zoning law and required our homes to be built to local building codes.

Successful in state preemptive set-up standards.

- 1992: Successful in passing bill to allow transporters to purchase annual tags.
- 1994: Defeated a bill to repeal our state zoning law.
- 1996: Successful in legislation to increase 16' wide movement to 6 days.
Successful in legislation to increase the height of homes to 15' 6".
- 1997: Successful in legislation to place sales tax regulations into state law.
- 1999: Defeated bill to repeal our state zoning law.
Defeated a local government bill to prohibit manufactured homes in one city.
Amended law on taxes and rent in manufactured home communities.
- 2000: Defended sales tax exemption in numerous bills.
- 2001: Supported legislation that requires retailers to anchor homes that they sale.
- 2002: Successful in legislation to obtain 16' wide annual permits; increased the height on the annual permit from 13'6" to 14'2".
Successful in re-writing the installation law to require training, continuing education, and increased fines.
Successful in defeating legislation that would require weather radios in all manufactured homes.
- 2003: Successful in legislation to allow titles of manufactured homes to be surrendered.
Successful in defeating predatory lending legislation.
Successful in legislation to extend the overall length of towing vehicle and home from 90' to 120' under the annual permit.
Defeated legislation to require weather radios in manufactured homes.
- 2004: Successful in legislation to define "certified" in our installation law; remove the requirement of moisture vapor barrier from the definition of set-up; and exempt HVAC companies from the installation licensing requirements.
Successful in defeating a bill that would prevent lenders from requiring comprehensive, all peril, or guaranteed replacement coverage insurance.

2005: Successful in defeating legislation that would have repealed our installation preemption law.

Successful in defeating legislation that would have exempted manufactured home communities from having to meet the installation requirements of the law.

Defeated numerous predatory lending bills.

2006 Successful in passing legislation to exempt the manufactured housing installers, manufacturers, and modular building manufacturers from the requirement of obtaining a plumber's limited license, to perform service, maintenance, or home installations.

Successful in defeating multiple legislation on re-establishing local control.

Successful in negotiations for a final bill relative to predatory lending.

Multiple bill reviews for assessed value of homes, ethics, certificate of title, plumbing/mechanical code inspectors, electrical inspections/ inspectors, county adequate facilities tax/impact fees, etc.

Exemption of the requirement for the installation completion of HVAC equipment, prior to electrical connection.

2007: Successful in legislation to allow for 45 days of temporary power/service on designated circuits for home installation completion, testing of equipment, environmental conditioning, and special operational equipment.

Successful with a Supreme Court Ruling which determined "modular homes" are distinct types of structures from "mobile homes" and "trailers," and because a restrictive covenant does not expressly prohibit "modular homes," the plain wording of a covenant cannot be expanded to prohibit a modular home.

Successful in legislation - Mobile homes and manufactured buildings provisions. Authorizes Commissioner of Commerce and insurance to assess penalties, including civil penalties not to exceed \$5,000, for violations of Modular Building Act; specifies that ready-removables are not included in the definition of modular building units; makes other technical changes relative to modular buildings.

2008: Successful in legislative exemption: An introduced bill limited the movement of single-family homes from one foundation to another. THA negotiated a provision exemption which states, 'single family residences do not include manufactured or modular homes.'

THA supported a legislative bill which would allow LEA vocational-technical students to construct and sell five modular buildings instead of one, during their curriculum year. Additionally, the restriction for 'residential' was removed to allow LEA curriculum providers the option to build small commercial applications.

- 2009: THA worked with the administration to pass SAFE Act language in Tennessee, known as the “Tennessee Residential Lending, Brokerage and Servicing Act” and was successful in lobbying for a limited exemption for retailers of manufactured or modular homes..

Successful in defeating a proposed bill which would require a seller and/or landlord to provide buyers and renters with an energy audit of estimated energy usage of a dwelling.

- 2009: Successful in defeating changes to the licensing and installation provisions of manufactured homes standard.

THA supported lenders/bankers in the passage of a process to cancel the certificate of title on a manufactured home, to enable enjoining the home and property as real property.

- 2010: Defeated a bill which would have moved manufactured home inspections from the Department of Commerce and Insurance back to the authority of local codes.

Successfully halted a bill in committee which would have required landlords of rental property in Davidson County to obtain a security deposit for first and last months' water service before allowing a tenant to take occupancy of any separately metered residential unit which is supplied with water by a public utility. The deposit would be based on the average amount of previous water bills for the unit. The bill would have also required the landlord to make an inquiry as to whether the tenant paid the water bill.

Successfully halted the creation of a Class C misdemeanor against any person who removes a movable structure, such as a mobile home, from property when the owner has not paid all monies owed to the property owner.

Successfully defeated the requirement of sprinklers in manufactured housing. THA completed extensive research on the cost and applicability of fire sprinklers in one and two-family dwellings. THA submitted a formal report to the 106th Congress, and those comments were published in their entirety, as an appendix to the final document presented by Commerce & Insurance who introduced and supported the implementation of sprinklers.

- 2011: Successfully defeated an intangible personal property tax (IPPT) enforcement on state-based loan/finance companies.

- 2012: Successfully amended bills, which require local governments seeking more stringent sprinkler requirements in one-family and two-family dwellings to adopt an ordinance or resolution with a two-thirds majority vote. Due to our collective efforts, the bill sponsors and other stakeholders, under the bill as amended (if a local government adopts mandatory sprinkler requirements for one-family and two-family dwellings), agreed to add an additional exemption so the requirements would not apply to manufactured homes constructed or installed under parts 2 and 4 of chapter 126 of Title 68 of the Tennessee Code Annotated, unless the requirements are consistent with the regulations established by the United States Department of Housing and Urban Development (HUD) relating to the installation of sprinkler equipment in manufactured homes. Note an exemption already existed in one

section of the state code; however, the state had never recognized that ‘clause of the law.’

Successful in amending modular construction bills to include language stating, ‘No ready-removable shall be modified for use as residential, recreational, or emergency housing in this state.’

- 2013: Successful in negotiating exemption language which would have required a roofer’s contracting license from the board of licensing contractors before beginning roofing work. The industry successfully negotiated this exception to ensure no additional licensing requirements would be necessary for new, used or warranty work related to roofs for manufactured housing.
- 2014: Successful in defeating a bill in committee which would prohibit the owner of a moveable structure from removing the moveable structure from a rented space in a mobile home park in which the moveable structure is attached, if the owner of the moveable structure has not paid the operator of the park all monies owed for property taxes.
- 2015: Successful in negotiating language to cap fee increases. If the state increases industry licensing fees, it must follow a statutory formula, rather than an arbitrary increased fee amount.
- 2016: Successful in defeating numerous predatory pieces of legislation targeting retailer advertising.
- 2017: Successful in defeating numerous predatory pieces of legislation targeting finance.
- 2018: Successful in defeating numerous predatory pieces of legislation targeting communities.
- 2019: Successful in passing legislation to increase the transportable height of factory-built homes from 15’6” to 16’.

Successful in securing an administrative change which clarifies only one escort vehicle is required for 14’-wide transports on the interstate highway system or highways with four (4) or more lanes.

- 2020: Successful in passing legislation to increase the permitted transportable width of factory-built homes from 16’ to 18’.

Successful in modifying the statutory holiday restrictions of home transport. This change will open four (4) additional shipping weekends for the industry. (January - Martin Luther King Day; February - President’s Day; October – Columbus Day; and November – Veterans Day. This statutory change allows the industry to become more in harmony with other commodity shipments.

Successful in securing an administrative clarification which ensures annual trip permits may be purchased for lengths up to 120’. A loophole found in the statute had reduced the allowance down to 90’.

- 2021: For future purposes, THA entered into a 'Memorandum of Understanding' (MOU) with the Tennessee Rehabilitative Initiative in Correction (TRICOR). That MOU was entered into the legislative record, should future industry leaders need a reference point of original program intent. Due to statutory changes submitted in criminal justice reform in 2021, homebuilding training programs within the correction system, and the sale of products produced in those training programs, were given the authority to sell the products they produce, in the open market. This could create a competitive arena with our homebuilding market, which is strictly disallowed by statute, but programs can expand at any time, out of their intended scope. The MOU serves as the basis for the original intended scope. Among other items, the MOU would require notification to the industry prior to any proposed residential project and prior to proceeding with home placement. TRICOR has stated clearly they have no desire to enter the homebuilding market, but do want to recoup costs of labor, materials, and training, for any structure built under a construction skills program.
- 2022: THA submitted an administrative amendment (HB1668/SB1922) to Title 45, Chapter 13, which requires a sponsoring mortgage lender or mortgage loan broker to ensure that each application for a residential mortgage loan contains the unique identifier, instead of the license number, of the applicable mortgage lender, mortgage loan broker, and the mortgage loan originator. This action corrects the recording of duplicative identifiers, which previously slowed the progress of data processing. HB1668 is now Public Chapter 659, with an effective date of July 1, 2022.
- 2023: Among other significant legislative reviews and monitoring, THA successfully lobbied against a bill which would have removed safeguard language allowing a county or municipal legislative body to pass immediate ordinances or resolutions for the adoption of residential sprinklers. The bill amendment (SA0271 for SB0554) provides if a local government seeks to adopt mandatory sprinkler requirements for one-family and two-family dwellings, then the local government shall adopt the requirements by either ordinance or resolution, as appropriate. As the law is currently written, the process to require sprinklers must pass several readings and votes. This bill failed in the Senate Commerce and Labor Committee.
- 2024: THA monitored multiple legislative bills across each of our disciplines. Several bills in the community, financial, and construction inspection space required comments and meetings. Two specific predatory items of concern centered around MH titling, while a second item capped deposits within our community models. In the end, no predatory bills affecting MH passed this session.
- 2025: THA successfully introduced legislation to update Tennessee's legal definition of a "manufactured home" across three different sections of state code (Titles 47, 55, and 68), by directly referencing the definition found in 42 U.S.C. § 5402(6), a federal statute. This means whenever the federal definition changes, Tennessee's definition will automatically update to match, which currently excludes homes built without a chassis. The change ensures consistency in how manufactured homes are defined across different areas of Tennessee law, including commercial transactions, vehicle (title) registration, and housing regulations. By adopting the federal definition, THA's legislation will provide a standardized and dynamic definition which can adapt to future federal changes without requiring separate state legislative action. This legislation passed both the Senate and House Chambers with unanimous votes. The Governor signed the bill on April 3rd and THA's bill became Public Chapter 112 on April 8th. The act takes effect July 1, 2025.