

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 1764

H. P. 1345

House of Representatives, May 20, 1971

Reported by Mr. Donaghy from Committee on State Government and printed under Joint Rules No. 18.

BERTHA W. JOHNSON, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT to Regulate Industrialized Housing under the Maine State Housing Authority.

Be it enacted by the People of the State of Maine, as follows:

R. S., T. 30, c. 239, sub-c. II, article 7, additional. Subchapter II of chapter 239 of Title 30 of the Revised Statutes is amended by adding a new article 7 to read as follows:

ARTICLE 7. INDUSTRIALIZED HOUSING LAW

§ 4771. Short title

This Article shall be known and be cited as the "Industrialized Housing Law."

§ 4772. Declaration of purpose

It is found and declared that there exists in this State a shortage of decent, safe and sanitary housing at prices which many residents of this State can afford; that this shortage contributes to an increase in urban tension, crime and blight, and constitutes a menace to the health, safety and welfare of the residents of this State; and that increasing the available supply of housing at prices which residents of this State can afford, would alleviate urban tensions and blight, reduce crime, increase the housing inventory subject to property taxes, increase employment, attract new industries and supporting business, and materially improve the health, safety and welfare of the residents of this State.

It is further found and declared that the production of housing using new and improved technology, techniques, methods and materials could lead to an

increase in the available supply of housing at prices which residents of this State can afford.

It is also found and declared that building codes of the communities within this State, as enacted and applied, are not uniform and impede the utilization of new and improved technology, techniques, methods and materials in the production of housing.

§ 4773. Definitions

As used in this Article, unless the context otherwise indicates, the following words shall have the following meanings:

1. Authority. "Authority" means Maine State Housing Authority.
2. Housing component. "Housing component" means any subsystem, subassembly or other component designed for use as a part of a structure designed primarily for residential occupancy.
3. Industrialized housing. "Industrialized housing" means any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation, or assembly and installation on the building site.
4. Installation. "Installation" means the process of affixing, or assembling and affixing, industrialized housing on foundations or footings at the building site.
5. Local government. "Local government" means any county, city, village, town or other jurisdiction within this State with authority to establish standards and requirements applicable to the construction, alteration and repair of buildings.
6. Local enforcement agency. "Local enforcement agency" means the agency or agencies of local governments with authority to make inspections and to enforce the laws, ordinances and regulations enacted by the State and by local governments that establish standards and requirements applicable to the construction, alteration or repair of buildings.
7. Manufacturing facilities. "Manufacturing facilities" means the place or places, either on or away from the building site, at which machinery, equipment and other capital goods are assembled and operated for the purpose of making, fabricating, forming or assembling industrialized housing or housing components.

§ 4774. Components

The authority may approve industrialized housing and housing components. All industrialized housing and housing components approved by the authority pursuant to this article shall be deemed to comply with the requirements of all laws, ordinances and regulations enacted by the State and local governments which govern the matters within the scope of the approval. The determination by the authority of the scope of the approval shall be final. Modifi-

cations of industrialized housing or of housing components that have been approved by the authority may be made only in accordance with the rules and regulations of the authority.

Industrialized housing and housing components which are not approved by the authority shall not be exempt from the laws, ordinances and regulations enacted by the State and by local governments.

§ 4775. Rules and regulations

The authority shall issue and enforce rules and regulations necessary to carry out the provisions of this Article.

The rules and regulations, as far as practicable, shall formulate the standards and requirements for industrialized housing and for housing components in terms of performance objectives so that adequate performance for the intended use is made the test of acceptability. The rules and regulations shall permit the use of new and improved technology, techniques, methods and materials, for both industrialized housing and housing components, consistent with reasonable requirements of the Building Officials Conference of America and the United State Department of Housing and Urban Development, hereinafter referred to as "HUD", applying to industrialized housing and housing components.

The rules and regulations issued by the authority shall provide that industrialized housing and housing components will be approved by the authority only if the authority finds, after consideration of the design and specifications, and the results of such testing as may be prescribed or approved by the authority, that such industrialized housing or housing components meet reasonable requirements of health, safety and welfare and the authority approves the system for quality control established by the manufacturer, including installation methods; provided that the rules and regulations of the authority shall further provide that the industrialized housing or housing components that have been approved or certified by HUD shall be deemed to be approved by the authority for the purposes of this Article, if the authority finds that such HUD approval or certification is granted on the basis of standards substantially equivalent to those stated in this paragraph. If the authority has reason to believe that the manner in which HUD-approved industrialized housing or HUD-approved housing components are being made, fabricated, formed or assembled does not meet the standards and requirements upon which its approval was based, the authority may suspend its approval of such industrialized housing or housing components pending a timely review, after notice to HUD and the parties, and a final determination of acceptability by the authority.

The rules and regulations authorized by this section shall be issued by the authority within 6 months from the date of enactment.

§ 4776. Out-of-state components

Industrialized housing which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities located in another

state for installation on building sites within this State, and housing components which are made, fabricated, formed or assembled in manufacturing facilities in another state for use in housing within this State, may be approved by the authority under this Article through the application of the same standards and requirements as apply to industrialized housing and housing components which are produced in manufacturing facilities within this State.

The authority may also approve any industrialized housing or housing components which are wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities in another state, upon a determination by the authority that such industrialized housing or housing components have been approved by competent authority within such other state or by the research facilities of the model code organizations referenced in section 4775, on the basis of standards and requirements substantially equivalent to those set forth in section 4775. Any subsequent cancellation or suspension of the approval of any such other state or code organization shall cause the suspension of the approval of such industrialized housing or housing components by the authority pending a timely review, after notice to the competent authority within such other state and the parties, and a final determination of acceptability by the authority. If the authority has reason to believe that the manner in which such industrialized housing or housing components are being made, fabricated, formed or assembled in such other state does not meet the standards and requirements upon which its approval was based, the authority may suspend its approval of such industrialized housing or housing components pending a timely review, after notice to the competent authority within such other state and the parties, and a final determination of acceptability by the authority.

§ 4777. Schedule of fees

The authority shall establish a schedule of fees in connection with the administration and enforcement of this Article.

§ 4778. Inspection

The authority may delegate to local enforcement agencies all or part of the inspection functions with respect to industrialized housing and housing components that have been approved by the authority.

§ 4779. State inspection

The authority may set qualifications, employ and fix the compensation of such state inspectors as the authority deems necessary to carry out the functions of this Article.

The authority may establish and require such training programs in the concept, techniques and inspections of industrialized housing and housing components for the personnel of local enforcement agencies, as the authority deems advisable.

The authority may authorize the state inspectors to travel within or without the State for the purpose of inspecting the manufacturing facilities for in-

dustrialized housing and for housing components, or for any other purpose in connection with this Article.

§ 4780. Appeals

The authority shall hear appeals brought by any person or party regarding the application to such person or party of any rule or regulation issued by the authority pursuant to this Article. Final decisions by the authority shall be reviewable before a justice in the Superior Court.

§ 4781. Injunctive relief

The authority may obtain injunctive relief from any court of competent jurisdiction to enjoin the sale, delivery or installation of industrialized housing or housing components approved by the authority or of housing utilizing housing components approved by the authority, upon an affidavit of the authority specifying the manner in which such industrialized housing or housing components do not conform to the requirements of this Article or to the rules and regulations issued by the authority pursuant hereto.

Notwithstanding any other remedies which may be available, any person or party damaged as a result of a violation of this Article or the rules and regulations adopted pursuant hereto, shall have a cause of action in any court of competent jurisdiction against the person or party to whom the insignia of approval by the authority has been issued with respect to the industrialized housing or housing components in issue and any award shall include damages and the cost of litigation, including reasonable attorney's fees.

§ 4782. Standards

Nothing contained in this Article shall be construed to limit in any way the requirement that all installations of electrical equipment in such industrialized housing shall comply with the current edition of the National Electrical Code, pamphlet #70, as amended, published by the National Fire Protection Association and the applicable orders and rules and regulations of the Electricians Examining Board nor to limit in any way the rights and duties of state electrical inspectors, as set forth in Title 32, chapter 17.

Nothing contained in this Article shall be construed to limit in any way the requirement that all installations of plumbing fixtures in such industrialized housing shall comply with the rules and regulations of the Department of Health and Welfare as set forth in the State of Maine Plumbing Code and that the installation of oil burners in such industrialized housing shall comply with the rules, regulations and standards adopted by the Oil Burner Men's Licensing Board and such industrialized housing shall comply with the rules and regulations of the Insurance Commissioner and the Commissioner of Labor and Industry.

§ 4783. Penalty

Any person who violates any of the provisions of this Article or any rules or regulations adopted pursuant hereto shall be guilty of a misdemeanor punishable by a fine not exceeding \$100. For the purpose of applying the penalties of this section, a separate violation shall be deemed to have occurred with respect to each housing unit or each housing component involved.