

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 2316

S. P. 820

In Senate, January 8, 1974

Referred to Committee on State Government. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Clifford of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FOUR

AN ACT to Revise the Industrialized Housing Law.

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

Sec. 1. R. S., T. 30, § 4773, sub-§ 2, repealed. Subsection 2 of section 4773 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 456 of the public laws of 1971, is repealed.

Sec. 2. R. S., T. 30, § 4773, sub-§§ 9 - 12, additional. Section 4773 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 456 of the public laws of 1971, and as amended by section 1 of chapter 446 of the public laws of 1973, is further amended by adding 4 new subsections, 9, 10, 11 and 12, to read as follows:

9. **Evaluation agency.** "Evaluation agency" means an approved person or organization qualified by reason of facilities, personnel, experience and demonstrated reliability and judgment, to investigate, analyze and approve industrialized housing building systems.

10. **Inspection agency.** An "inspection agency" means an approved person or organization qualified by reason of facilities, personnel, experience and demonstrated reliability and judgment, to provide adequate follow-up service for industrialized housing at the point of manufacture, to insure that production units are in full compliance with the Industrialized Housing Law, and to seal such units with a seal of approval.

11. **H.U.D.** "H.U.D." means the United States Department of Housing and Urban Development.

12. State of Maine Seal of Approval. A "State of Maine Seal of Approval" means an insignia label issued by the authority to be displayed on the industrialized housing and shall indicate compliance with the Industrialized Housing Law and the rules and regulations adopted thereunder and shall be prima facie evidence of such compliance.

Sec. 3. R. S., T. 30, § 4774, repealed and replaced. Section 4774 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 456 of the public laws of 1971 and as amended by section 2 of chapter 446 of the public laws of 1973, is repealed and the following enacted in place thereof:

§ 4774. Approval

The authority may approve industrialized housing, either by delegating the evaluation of a building system to an approved evaluation agency or by evaluating a building system itself. The authority shall adopt rules and regulations necessary to ensure that the evaluation agencies are qualified and that a sufficient number of such agencies are available to perform such evaluations and approvals.

All industrialized housing approved by the authority, or evaluation agency or H.U.D., pursuant to this Article, shall be deemed to comply with the requirements of all ordinances and regulations enacted by local governments which govern the matters within the scope of section 4775. Modifications of industrialized housing that have been approved by the authority or an evaluating agency or H.U.D. may be made only in accordance with the rules and regulations of the authority.

Industrialized housing which does not display the Maine State Seal of Approval shall not be exempt from ordinances and regulations enacted by local governments.

New industrialized housing and mobile homes which are not approved by the authority, an approved evaluation agency or H.U.D., shall not be sold in this State more than 6 months after the authority adopts a resolution stating that its inspection program under this Article has achieved maximum coverage and effectiveness; provided that new industrialized housing may be sold without a State of Maine Seal of Approval in municipalities which have adopted building codes.

Sec. 4. R. S., T. 30, § 4775, repealed and replaced. Section 4775 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 456 of the public laws of 1971, and as amended by section 3 of chapter 446 of the public laws of 1973, is repealed and the following enacted in place thereof:

§ 4775. Rules and regulations

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

The rules and regulations, as far as practicable, shall formulate the standards and requirements for industrialized housing 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 industrialized housing consistent with reasonable requirements of either the Building Officials Conference of America or the United States Department of Housing and Urban Development, which apply to industrialized housing.

The rules and regulations shall provide that industrialized housing will be approved by the authority or by an evaluation agency or by H.U.D. only if they find, after consideration of the design and specifications, and the results of such testing as they may prescribe or approve, that such industrialized housing meets reasonable requirement of health, safety and welfare; provided that the rules and regulations of the authority shall further provide that the industrialized housing that has been evaluated, approved or certified by H.U.D. shall be deemed to be approved by the authority for the purposes of this Article and shall be entitled to display the State of Maine Seal of Approval.

The authority shall adopt separate rules and regulations for mobile homes which shall recognize the unique qualities of mobile homes. The authority may refer to such nationally recognized codes as the Standard for Mobile Homes published by the American National Standards Institute or other similar codes.

Before adopting the regulations governing mobile homes or industrialized housing, the authority shall publish notice of intent to adopt regulations for at least 5 consecutive days in the state paper and shall thereafter have available for inspection at the office of the authority a copy of said proposed regulations for a period of 30 days. Any person desiring to make a statement of record opposing the adoption of all or any part of said regulations may appear at the next regular meeting, or a special meeting, of the Commissioners of the Housing Authority to present said statement, which shall be presented in writing.

Any meeting for the adoption of or amending any rules and regulations shall be a public hearing and specific notice of the objective of such meeting shall be given in the manner hereinabove provided.

Sec. 5. R. S., T. 30, § 4776, amended. Section 4776 of Title 30 of the Revised Statutes, as enacted by section I of chapter 456 of the public laws of 1971, is amended to read as follows:

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 ~~or reasonably consistent~~ 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.

Sec. 6. R. S., T. 30, § 4778, repealed and replaced. Section 4778 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 456 of the public laws of 1971, is repealed and the following enacted in place thereof:

§ 4778. Inspection

The authority may inspect industrialized housing to ensure that the units are built according to their approved building system by delegating the inspection to an approved inspection agency, or by delegating the inspection to a local enforcement agency or by inspecting the unit itself. The authority shall adopt rules and regulations necessary to ensure that the inspection agency or local enforcement agency is qualified and that a sufficient number of such agencies are available to perform such inspections.

Sec. 7. R. S., T. 30, § 4779, amended. The 2nd and 3rd paragraphs of section 4779 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 456 of the public laws of 1971, are amended to read as follows:

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 industrialized housing ~~and for housing components~~ or for any other purpose in connection with this Article.

Sec. 8. R. S., T. 30, § 4779, amended. The first sentence of the last paragraph of section 4779 of Title 30 of the Revised Statutes, as enacted by section 5 of chapter 446 of the public laws of 1973, is amended to read as follows:

Upon complaint by a purchaser or resident of any unit bearing ~~certification~~ the Seal of Approval of the Maine State Housing Authority concerning an

alleged defect in construction ~~or an alleged defective component~~ of any system, such as heating or wiring or plumbing, in any such unit sold, manufactured or delivered in the State of Maine after ~~the effective date of this Act~~ **October 3, 1973**, the authority shall send an inspector to investigate and determine whether said unit complies with established regulations.

Sec. 9. R. S., T. 30, § 4780, amended. Section 4780 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 456 of the public laws of 1971, and as amended by section 4 of chapter 446 of the public laws of 1973, is further amended to read as follows:

§ 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. **The authority may establish a Board of Appeals to decide such appeals.** Final decisions by the authority ~~or the Board of Appeals~~ shall be reviewable before a Justice in the Superior Court.

If any party appeals a decision of the authority to adopt any **industrialized housing** or mobile home regulation within 30 days after the official adoption of said regulation, and files notice of said appeal with the authority, the challenged regulation shall not be **effective or enforced** until final determination by the reviewing Justice in the Superior Court. The appeal of any one regulation shall not affect the validity of the other adopted regulations.

Sec. 10. R. S., T. 30, § 4781, amended. The first 2 paragraphs of section 4781 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 456 of the public laws of 1971, are amended to read as follows:

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~~ **does 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.

Sec. 11. R. S., T. 30, § 4782, amended. The first sentence of the 3rd paragraph of section 4782 of Title 30 of the Revised Statutes, as enacted by section 7 of chapter 446 of the public laws of 1973, is amended to read as follows:

Inspectors for the Maine State Housing Authority ~~or an inspection agency or H.U.D.~~ shall insure that units are built at least to the standards specified in this section.

Sec. 12. R. S., T. 30, § 4783, amended. The 2nd sentence of section 4783 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 456 of the public laws of 1971, is amended to read as follows:

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.

STATEMENT OF FACT

The purpose of this bill is to ensure that Maine citizens will have an ample supply of certified industrialized housing, which was the intent of the original law. The bill will further result in savings to the taxpayers of Maine by reducing the size of the inspection division in the Maine Housing Authority by utilizing the existing inspection agencies of the United States Department of Housing and Urban Development. This bill will also enable the State to use third-party inspection agencies, such as Underwriters Laboratories, for the inspection and approval of industrialized housing. It will further remove housing components from the Industrialized Housing Law. It will clarify the Legislature's former recognition of the United States Department of Housing and Urban Development as an inspection and evaluation agency and will provide the manufacturers of industrialized housing the option of using local inspection agencies in those municipalities which have a building code.