

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

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**Legislative Document**

**No. 1702**

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H. P. 1376

House of Representatives, April 13, 1977

On Motion of Mrs. Boudreau of Portland, referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Boudreau of Portland.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SEVEN

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**AN ACT to Provide for the Licensing of Mobile Homes and  
Modular Housing Dealers and Mechanics.**

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

Sec. 1. 10 MRSA Pt. 11, c. 951, is enacted to read:

**PART 11**

**HOUSING**

**CHAPTER 951**

**MANUFACTURED HOUSING ACT**

§ 9061. Declaration of purpose

1. Declaration. It is found and declared that:

A. The production and utilization of manufactured housing, including mobile home and modular housing, and the use of new and improving technologies, techniques, methods and materials has and will increase the available supply of housing at prices which residents of this State can afford;

B. It is in the interest of the people of this State that such housing be safe from hazardous defects and that its construction and installation should include adequate regulation to establish minimum safety standards which can reduce defects and also provide uniformity of standards to reduce costs and provide widespread reliance upon such housing;

C. That the production and use of manufactured housing utilizing production technologies, techniques, methods and materials requires the application and enforcement of uniform building codes and installation standards within this State; and

D. The people of this State rely on this State for the fair enforcement of necessary rights and for the elimination of costly, unnecessary duplicative and oftentimes contradictory regulations and have learned that they may rely on fair, objective regulation which has as its sole purpose the protection and enforcement of obvious duties and rights which are indicated.

2. Intent. It is therefore declared that the State of Maine, with the passage of this Act, intends:

A. To provide protection to the public against hazards from poorly constructed or installed manufactured housing;

B. To provide uniform performance standards for construction and installation of manufactured housing which encourage the use of new, improved technologies, techniques, methods and materials throughout the State;

C. To eliminate all costly, duplicative regulations and to promulgate regulations which provide for minimum performance necessary to provide safe, adequate housing at prices that people in this State can afford and to establish regulations which shall govern such matters within this State;

D. To establish an administrative board for the purpose of administering and enforcing this Act;

E. To require this board to assume such responsibilities as are consistent with this Act, including administration and enforcement of its own regulations or others, investigations of complaints and any other acts which are consistent with the purposes of this Act; and

F. To have this board, in the administration of this Act, give consideration to all economic factors which may result in additional costs to home buyers and eliminate any unnecessary costs which may occur from the enforcement of this or any other act.

#### § 9062. Definitions

As used in this chapter, unless the context otherwise indicates, the following words and terms shall have the following meanings.

1. Board. "Board" means the Manufactured Housing Board.

2. Dealer. "Dealer" means any person engaged in the retail selling, leasing or distribution of new manufactured homes, primarily to a person who, in good faith, purchases or leases such homes for purposes other than resale.

3. Federal Mobile Home Construction and Safety Standard. "Federal Mobile Home Construction and Safety Standard" means the standard for construction, design and performance of a mobile home which has been duly adopted by the Federal Government pursuant to the National Mobile Home Construction and Safety Standards Act of 1974 (P.L. 93-383, Title VI), or any successive legislation.

4. H.U.D. "H.U.D." means United States Department of Housing and Urban Development.

5. Inspection agency. "Inspection agency" means an approved person or organization, public or private, determined by the board to be qualified by reason of facilities, personnel and demonstrated ability and independence of judgment to provide for inspection and approval of the construction or installation of manufactured housing in compliance with the standards and the regulations promulgated in accordance with this Act.

6. Installation. "Installation" means the process of affixing or assembling or setting up manufactured housing on foundations or supports at a building site and includes the installation or connection of necessary systems, such as electrical, oil burner, gas, water, sewage and any others which are necessary for the use of the house for dwelling or commercial purposes.

7. Manufactured housing. "Manufactured housing" means a structural unit or units designed for occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis or placement on an independent chassis to a building site. The term includes mobile homes, modular homes and any other type of building or housing component which is constructed at a manufacturing facility and then transported to a building site where it is utilized for housing and may be purchased or sold by a dealer in the interim.

8. Manufacturer. "Manufacturer" means any person engaged in manufacturing or producing manufactured housing and then selling it to a dealer.

9. Mechanic. "Mechanic" means any person engaged in servicing or installing manufactured housing and is not a regular employee of a manufacturer or a dealer.

10. Mobile home. "Mobile home" means a structure which is a type of manufactured housing and is transportable in one or more sections, which is 8 body feet or more in width and is 32 body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning or electrical systems contained therein.

11. Modular home. "Modular home" means a structure which is a type of manufactured housing, transportable in one or more sections, which is 8 body feet or more in width and is 32 body feet or more in length, and which is not constructed on a permanent chassis and is designed to be used as a dwelling on a foundation when connected to required utilities and includes the plumbing, heating, air-conditioning or electrical systems contained therein.

#### § 9063. Manufactured Housing Board

1. Established. There is created and established in the Department of Business Regulation the Manufactured Housing Board which shall have the responsibility of administering and enforcing this chapter. The board shall consist of 5 members, including the Commissioner of Business Regulation and 4 additional members appointed by the Governor.

2. **Composition and terms of the members.** The members of the board appointed by the Governor shall include a representative who may be a manufactured housing owner; a representative who is a professional engineer with experience in construction and building; a representative employed in the manufactured housing industry; a representative with a minimum of 2-years experience in code enforcement; and the Commissioner of Business Regulation. The term of office of the appointed members is for 4 years, except that initially one member shall be appointed for one year, the 2nd member for 2 years, the 3rd member for 3 years and the 4th member for 4 years. Members may be appointed to successive terms.

3. **Vacancies.** Any vacancy in the board caused by death, resignation, removal or any other means shall be filled by the Governor. Any member of the board may be removed for cause by the Governor with a concurring vote of the majority of the board.

4. **Duties.** The board shall administer and enforce this Act.

5. **Compensation.** The appointed members of the board are entitled to \$50 per day and their necessary travelling expenses for actual attendance at meetings and hearings or for any other official business of the board.

6. **Organization.** The members of the board shall annually in the month of January elect one of its members as a chairman and one of its members as a vice-chairman. The chairman, or in his absence the vice-chairman, shall call and preside at all meetings and hearings.

7. **Meetings.** The board shall hold at least 6 meetings per year and may hold special meetings in addition.

8. **Administration.** The board shall cause to be prepared a budget for the administration and enforcement of this Act which shall be presented to the Commissioner of Business Regulation upon his required date.

#### § 9064. Employees

1. **Commissioner; appointment.** The Commissioner of Business Regulation, with the advice and consent of the board, may appoint or remove, subject to the Personnel Law, employees necessary to carry out this chapter.

2. **Executive Director.** The commissioner may appoint an executive director who may be principal administrative, operational and executive employee of the board. The director shall attend the meetings of the board, shall keep a record of all proceedings of the board and shall direct the personnel and the operations of the office.

#### § 9065. Rules and regulations

1. **Rule-making.** The board shall propose, revise and adopt and enforce rules and regulations necessary to carry out this chapter. The board may delegate the enforcement authority to employees and shall consider the adoption of proposed rules from its employees or the public.

2. Rules and regulations. Rules and regulations of the board shall be adopted, amended or repealed only in accordance with the following procedure.

A. Notice of intended action to adopt, amend or repeal rules shall be published for at least 5 days in the state paper, beginning at least 35 days before the rule-making action proposed by the board, and shall indicate the time and place for the public hearing and a general description of the proposed rules.

B. For at least 30 days prior to the hearing, the board shall make available copies of the proposed rule changes.

C. The board shall hold a public hearing for interested parties to present oral or written comments.

D. The board then may adopt, by affirmative vote of at least 3 of its members, the regulations at a public hearing or at a subsequent meeting of the board. The regulations may be rejected or amended by a majority vote of 3 or more members.

3. Register. The board shall establish and maintain a register of persons who are licensed, regulated or otherwise interested in the actions of the board and these persons shall be notified of the meetings and hearings of the board.

#### § 9066. Licenses

1. License required. Any person who engages in the business of manufacturing, selling, installing or servicing shall first obtain a license on or after the effective date of this Act. Licenses shall be issued by the board within a reasonable time following application by any person who intends to manufacture, sell, install or service manufactured homes in this State, except any person who is licensed to conduct such activities by other state or federal law are exempt from this requirement when such law provides for specific authority to provide a particular service or preempts the requirement for such a license.

#### 2. License fees.

A. The license fee for manufacturers of manufactured housing who deliver or sell manufactured housing in this State is \$100.

B. Dealers who sell or lease manufactured housing shall pay a license fee of \$100.

C. Mechanics who service or install manufactured housing shall pay a license fee of \$75.

3. License term. The term for each license shall be for a period of one year from the day of issuance, and shall be renewed annually upon payment of a license fee.

4. Revocation of license. Licenses may be revoked upon a finding by the board and a majority vote of at least 3 of its members that the licensee

has engaged in prohibitive practices, or the board may, by majority vote, suspend the license for a period not exceeding 30 days if circumstances warrant.

#### § 9067. Standards

1. Standards. The board shall, by regulation, adopt standards for construction and the installation of manufactured housing.

2. Approval. The board shall approve for sale or installation all manufactured housing which complies with the regulations and standards or shall delegate the authority to inspect and approve the manufacturer for installation of manufactured housing by inspection agencies approved by the board.

3. Exemption. Manufactured housing which is inspected and approved in compliance with these regulations and standards shall be exempt from all state or other political subdivision codes, standards or regulations which regulate the same matters or procedures.

#### § 9068. Service and installations

1. Dealers. Dealers who are licensed according to this chapter may install or service, or may have their employees install or service any manufactured home in compliance with this chapter and the dealer and his employees shall be exempt from any requirements for trade or mechanic licenses of any other type. The dealer is not exempt from any requirements for a permit which any state or political subdivision may require.

2. Manufacturers. A manufacturer may manufacture and sell to dealers when licensed as a manufacturer and may repair defects and is exempt from any licensing requirements of other state or political subdivision.

3. Mechanics. Licensed mechanics may install or service manufactured housing and are exempt from any other licensing requirements of any state or political subdivisions, but must obtain any permits required.

#### § 9069. Complaints

1. Violation. The board shall cause to be investigated any complaint of an alleged violation by any licensee or of any regulations adopted by the board, either by its own inspector or any approved inspection agency, to determine the validity of the violation.

A. Any home buyer of manufactured housing may, within one year and 10 days, complain about any defective construction or installation defect.

B. Any person having knowledge of a violation of the rules and regulations, the standards or the conduct of a prohibitive practice which has occurred within one year may complain.

2. Form. Complaints are to be made on a form prescribed by the board providing whatever information the board deems necessary.

#### § 9070. Suspension or revocation of license

If, after investigation, the board determines that the licensee has violated this chapter, the board may suspend or revoke a license.

### § 9071. Appeals

Any person aggrieved by any decision or action of the board may petition the administrative court for a hearing in the manner provided by Title 5, chapters 301-307, and the action or decision of the board shall be stayed until the decision is rendered by the administrative court.

### § 9072. Fees

The board may establish and collect the following fees:

1. Fee for new units. A fee not exceeding \$25 for each new unit which is installed in this State;
2. Fee for inspection. A fee not exceeding \$15 per hour for inspection and approval of manufactured housing or for the investigation of a complaint which is proven valid; and
3. Other license fees. The license fees provided for in section 9066. All fees collected under this chapter shall be paid to the Treasurer of State for deposit in the General Fund.

### § 9073. Prohibited practices

1. Licenses. No person shall manufacture, sell, lease, install or service any new manufactured home in this State without first obtaining a license from the board as required in this chapter.
2. Violation of rules, regulations and standards. No person shall knowingly manufacture, sell, lease, install or service manufactured homes in the State of Maine in violation of the rules and regulations and standards which are promulgated by the board.

### § 9074. Enforcement

1. Injunction. The board may upon indication of a violation of this chapter cause to be inspected the manufactured home, manufacturing facilities, a licensee's business facilities or such records as may be necessary to verify such violation. The board may obtain a court injunction permitting such investigation.
2. Petition to initiate legal action. The board may petition the Attorney General to initiate legal action in the Superior Court for appropriate monetary or injunctive relief to enforce this chapter.
3. Penalties. Any person found guilty of violation of this chapter may be required to pay a civil penalty of not more than \$1,000 for each such violation, but not more than \$5,000 for an action consisting of separate violations.
4. Private actions. Any person damaged as a result of a violation of this chapter shall also have a cause of action in the Superior Court against the person responsible for the manufacture, sale, lease, installation or service, and the court may award appropriate damages and cost for litigation in its judgment.



## § 9075. Report to the Governor

The board shall, annually, prepare and submit its report to the Governor on its activities carries in the administration and enforcement of this chapter. This report may include recommendations for legislative action which it may determine is necessary to improve this chapter or its enforcement.

**Sec. 2. Appropriation.** There is appropriated from the general fund to the Department of Business Regulation, Manufactured Housing Board, for the fiscal years ending June 30, 1978 and June 30, 1979 the sum of \$94,600 to carry out the purposes of this Act. The breakdown shall be as follows:

## BUSINESS REGULATION, DEPARTMENT OF

	1977-78	1978-79
Manufactured Housing Board		
Personal Services	(2) \$23,500	(2) \$25,000
All Other	21,200	22,300
Capital Expenditures	1,300	1,300
	<hr/>	<hr/>
Total	\$46,000	\$48,600

## STATEMENT OF FACT

Mobile home dealers are presently required to obtain a license as a dealer in motor vehicles. Modular housing dealers may, in some instances, have been licensed as realtors. There is no single agency which maintains a particular interest in the operations of either type of seller of manufactured housing. Standards for construction are now regulated by the Federal Government for mobile homes and by the Maine State Housing Authority for modular and certain types of prefabricated housing. The problem arises when irresponsible dealers of either type set up a place of business and then fail to provide for proper set-up and maintenance of homes, or honor conditions of contract causing unresolved problems for home buyers and government agencies who lack jurisdiction. This bill would provide for regulation of business practices and enforcement of licensing requirements by establishing a board within the Department of Business Regulation for these purposes.

This bill also eliminates the requirements for a variety of licensed mechanics which are presently required in order to set-up these homes and places the responsibility for proper set-ups within the provisions of retaining a license as a dealer, subject to revocation in the event of abuse or intentional violation of standards required for installations. Dealers in mobile homes are required to provide certain repairs and service for the terms of the warrantee. This bill will allow those dealers to provide the services that the Law requires.