

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Corrected Copy
1/9/81

FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 90

S. P. 63

In Senate, January 7, 1981

Submitted by the Department of Business Regulation pursuant to Joint Rule
24.

Referred to the Committee on Business Legislation. Sent down for
concurrence and ordered printed.

MAY M. ROSS, Secretary of the Senate

Presented by Senator Clark of Cumberland.

Cosponsor: Senator Carpenter of Aroostook.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Amend the Manufactured Housing Act.

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

Sec. 1. 10 MRSA § 9002, sub-§ 3, as enacted by PL 1977, c. 550, § 1, is repealed and the following enacted in its place:

3. Federal Manufactured Housing Construction and Safety Standard. "Federal Manufactured Housing Construction and Safety Standard" means a reasonable standard for the construction, design and performance of a manufactured home which meets the needs of the public including the need for quality, durability and safety which has been duly adopted by the Federal Government pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 United States Code 5401, et seq.

Sec. 2. 10 MRSA § 9002, sub-§ 7, as amended by PL 1979, c. 365, is repealed and the following enacted in its place:

7. Manufactured housing. "Manufactured housing" means a structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, 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 and

electrical systems contained therein; except that the term includes any structure which meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 United States Code 5401 et seq. Although modular homes fall within this definition, they are excepted to the extent that different standards or procedures are mandated which are not preempted by the federal standard.

Sec. 3. 10 MRSA § 9002, sub-§ 11, as enacted by PL 1977, c. 550, § 1, is amended to read:

11. **Modular housing.** "Modular home housing" means a structure which is a type of manufactured housing, transportable in one or more sections, 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.

Sec. 4. 10 MRSA § 9002, sub-§ 12 is enacted to read:

12. **State administrative agency.** "State administrative agency" means an agency of a state which has been approved or conditionally approved to carry out the state plan for enforcement of the standards pursuant to section 623 of the Housing and Community Development Act of 1974, PL 93-383, 42 United States Code, § 5422 and 24 Code of Federal Regulations, Part 3282, subpart G.

Sec. 5. 10 MRSA § 9003, sub-§ 4, as enacted by PL 1977, c. 550, § 1, is amended to read:

4. **Duties.** The board shall administer and enforce this Act, except that the board delegates the sole responsibility for administering the state administrative agency program to the Commissioner of Business Regulation. The board is vested with the authority to give appropriate notice to discontinue participation in the federal enforcement program as a state administrative agency for this State.

Sec. 6. 10 MRSA § 9005, sub-§ 1, as enacted by PL 1977, c. 550, § 1, is repealed.

Sec. 7. 10 MRSA § 9005, sub-§ 2, as repealed and replaced by PL 1977, c. 694, § 191, is amended to read:

2. **Regulations.** ~~Rules and regulations~~ Regulations of the board shall be adopted, amended or repealed in accordance with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II.

Sec. 8. 10 MRSA § 9005, sub-§ 5 is enacted to read:

5. **Authorized to issue, amend and revoke regulations.** The board is authorized to issue, amend and revoke such regulations as it deems necessary to implement all procedures required of a state administrative agency pursuant to 24 Code of Federal Regulations, paragraph 3282 and 42 United States Code 5401 et

seq, including the implementation of consumer complaint handling process and the holding of hearings. In the event of a conflict between the Manufactured Housing Act and the National Manufactured Housing Construction and Safety Standards Act of 1974, involving the state administrative agency program, the Manufactured Housing Construction and Safety Standards Act shall prevail.

Sec. 9. 10 MRSA § 9006, sub-§ 1, as enacted by PL 1977, c. 550, § 1, is repealed and the following enacted in its place:

1. Standards. The board shall, by regulation, adopt a standard.

A. The board shall, by regulation, adopt a nationally recognized standard, where available and not incompatible with local needs, for construction and the installation of new modular housing.

B. The commissioner shall adopt, by reference or otherwise, the National Manufactured Housing Construction and Safety Standards Act of 1974 for manufactured housing constructed under that program.

Sec. 10. 10 MRSA § 9007, sub-§ 2, first ¶, as repealed and replaced by PL 1977, c. 694, § 194, is amended to read:

The board may file a complaint with the Administrative Court to suspend or revoke the board's acceptance or certification, or both, of ~~manufactured modular~~ housing certified under the reciprocal provisions of this section, for the following causes:

Sec. 11. 10 MRSA § 9007, sub-§ 2, ¶ A, as enacted by PL 1977, c. 694, § 194, is amended to read:

A. If the board determines that the standards for the manufacture and inspection of the ~~manufactured modular~~ housing of another state or governmental agency do not meet the objectives of this chapter and the rules and regulations promulgated pursuant hereto;

Sec. 12. 10 MRSA § 9007, sub-§§ 4 and 5, as enacted by PL 1977, c. 550, § 1, are amended to read:

4. Cooperation. In order to encourage reciprocity, the board shall cooperate with similar authorities in other jurisdictions, with national standards organizations and with model code procedures for testing, evaluating, approving and inspecting ~~manufactured modular~~ housing, and otherwise encouraging their production and acceptance.

5. Agreement. The board shall not grant this reciprocity unless the recipient state enters into an agreement with the board whereby ~~manufactured modular~~ housing manufactured within Maine and regulated under ~~the provisions of~~ this chapter shall be deemed approved for sale in that recipient state.

Sec. 13. 10 MRSA § 9011, sub-§ 3, as enacted by PL 1977, c. 550, § 1, is repealed and the following enacted in its place:

3. Penalties. Any person found guilty of violation of this chapter is subject to the following penalties.

A. A person found guilty of violation of this chapter, excepting those violations pertaining to the National Manufactured Housing Construction and Safety Standards Act of 1974, is subject to a civil penalty of not more than \$1,000 for each violation, but not more than \$5,000 for an action consisting of separate violations, payable to the State to be recovered in a civil action.

B. Any person who violates any of the following provisions relating to homes manufactured in compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974, or any regulation pursuant to it, is subject to a civil penalty not to exceed \$1,000 for each violation, payable to the State to be recovered in a civil action. Each violation constitutes a separate violation with respect to each home, except that the maximum penalty shall not exceed \$1,000 for any related series of violations occurring within one year from the date of the first violation. No person may:

- (1) Manufacture for sale, lease, sell, offer for sale, or lease, or introduce or deliver, or import into the State, any home which is manufactured on or after the effective date of any applicable federal manufactured home construction and safety standard which does not comply with that standard;
- (2) Fail or refuse to permit access to or copying of records, fail to make reports or provide information, fail or refuse to permit entry or inspection as required by subsection 1;
- (3) Fail to furnish notification of any defect as required by 42 United States Code, section 5414;
- (4) Fail to issue a certification required by 42 United States Code, section 5415, or issue a certification to the effect that a home conforms to all applicable federal manufactured housing construction and safety standards, if the person in the exercise of due care has reason to know that the certification is false or misleading in a material respect;
- (5) Fail to establish and maintain the records, make the reports and provide such information as the commissioner may reasonably require to enable him to determine whether there is compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974; or fail to permit, upon request of a person duly authorized by the commissioner, inspection of appropriate books, papers, records and documents relative to determining whether a manufacturer, distributor or dealer has acted or is acting in compliance with this Act or with the National Manufactured Housing Construction and Safety Standards Act of 1974; or
- (6) Issue a certification pursuant to 42 United States Code 5403 (h), if the person in the exercise of due care has reason to know that the certification is false or misleading in a material respect.

C. Any person, officer, director or agent of a corporation who intentionally or knowingly violates any of the provisions enumerated in paragraph B, in any manner which threatens the health or safety of any purchaser is guilty of a Class D crime.

D. Paragraph B does not apply to any person who establishes that he did not have reason to know in the exercise of due care that the home is not in conformity with applicable federal manufactured housing construction and safety standards, or to any person who, prior to the first purchase, holds a certificate issued by the manufacturer or importer of the mobile home to the effect that the mobile home conforms to all applicable federal manufactured housing construction and safety standards, unless the person knows that the manufactured home does not so conform.

Sec. 14. 10 MRSA § 9013, sub-§ 4 is enacted to read:

4. State administrative agency monitoring inspection fees. The board shall establish a monitoring inspection fee in an amount established by the Secretary of the United States Department of Housing and Urban Development. This monitoring inspection fee shall be an amount paid by the manufacturer for each home produced in Maine.

The monitoring inspection fee shall be paid by the manufacturer to the Secretary of the United States Department of Housing and Urban Development, who shall distribute the fees collected from all home manufacturers among the approved and conditionally approved states, based on the number of new homes whose first location after leaving the manufacturing plant is on the premises of a distributor, dealer or purchaser in that state.

Sec. 15. 10 MRSA § 9015 is enacted to read:

§ 9015. Report

Each manufacturer, distributor and dealer of manufactured housing constructed under the federal standards shall establish and maintain the records, make the reports and provide such information as the Secretary of the United States Department of Housing and Urban Development may reasonably require in order for the secretary to be able to determine whether the manufacturer, distributor or dealer has acted or is acting in compliance with this chapter or the National Manufactured Housing Construction and Safety Standards Act of 1974 and shall, upon request of a person duly designated by the secretary, permit the person to inspect appropriate books, papers, records and documents relevant to determining whether the manufacturer, distributor or dealer has acted or is acting in compliance with this chapter or the National Manufactured Housing Construction and Safety Standards Act of 1974.

Sec. 16. 10 MRSA § 9051, sub-§ 3 is enacted to read:

3. Manufactured housing. For purposes of this subchapter, manufactured housing includes modular housing and mobile homes not built to standards

contained in the National Manufactured Housing and Construction Safety Standards Act of 1974. All manufactured housing complaints concerning units built after June 15, 1976, shall be handled in compliance with subpart I of the National Manufactured Housing Construction and Safety Standards Act of 1974.

STATEMENT OF FACT

Congress has recently amended the National Mobile Home Construction and Safety Standards Act of 1974, 42 United States Code 5401, et seq by changing the definition of mobile home and by changing "mobile home" to "manufactured home" everywhere it appears in the Act. It is important that similar changes be made in the State statutes and regulations in order to be consistent with the federal act and regulations.

In addition, the manufactured housing board is in the process of applying for conditional approval as a state administrative agency for the enforcement of manufactured housing construction and safety standards promulgated pursuant to the National Mobile Home Construction and Safety Standards Act of 1974, federal act, 42 United States Code 5401 et seq, which is administered by the United States Department of Housing and Urban Development.

Their preliminary determination is that the submittal does not fully meet the requirements for conditional approval status. Two main areas of concern are the entwinement of the definitions of mobile and modular housing and a possible conflict of interest of the board with 2 members who represent the industry. This amendment attempts to separate the 2 programs and delegates the authority of the mobile home program to the Commissioner of Business Regulation. H.U.D. representatives urge and approve of the changes.

Currently, the State has no statutory authority in the mobile home program since the national mobile home construction standard was adopted June 15, 1976. The state administrative agency program will provide the State the statutory power and allow it to better serve the interests of the 40,000 mobile home owners in the State.