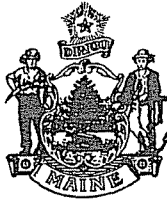


MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 1453

S.P. 461

In Senate, May 6, 1993

An Act to Make Changes in the Manufactured Housing Laws.

(EMERGENCY)

Reference to the Committee on Legal Affairs suggested and ordered printed.

A handwritten signature in cursive script, reading 'Joy J. O'Brien'.

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BUSTIN of Kennebec.
Cosponsored by Representatives: BOWERS of Washington, DAGGETT of Augusta, STEVENS of Sabattus.

2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4
6 Whereas, the Manufactured Housing Board is required to set
certain uniform installation standards by July 4, 1993; and

8 Whereas, in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
10 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
12 safety; now, therefore,

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

16 **Sec. 1. 10 MRSA §9001**, as amended by PL 1981, c. 152, §1, is
further amended to read:

18 **§9001. Declaration of purpose**

20 1. **Declaration.** It is found and declared that:

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

28 B. It is in the interest of the people of this State that
30 such housing be safe from hazardous defects and that its
construction and installation should include adequate
32 regulation to establish minimum safety standards, which can
reduce defects ~~and also~~, provide uniformity of standards to
34 reduce costs and, provide confidence in such housing and
ensure that the housing is durable for a least the length of
36 a mortgage; and

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

44 D. Because of the manner of construction, assembly and use
of manufactured homes and their systems, components and
46 appliances, including heating, plumbing and electrical
systems, these types of dwellings may, like other finished
48 products having concealed vital parts, present hazards to
the health, life and safety of persons and to the safety of
50 property unless properly manufactured. In the sale of

2 manufactured homes, there is also the possibility of defects
4 not readily ascertainable when inspected by purchasers.
6 Accordingly, it is the policy and purpose of this State to
8 provide protection to the public against those possible
10 hazards and, for that purpose, to forbid the manufacture and
12 sale of manufactured homes that are not constructed so as to
14 provide reasonable safety and protection to their owners and
16 users; and

10 E. There is a need for advocacy on behalf of citizens who
12 purchase manufactured housing that is unsafe because of
14 hazardous defects, or the construction and installation of
16 which fail to meet minimum safety standards, and who may
18 incur significant costs in correcting the defects and
20 hazards.

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

20 A. To provide protection to the public against, and
22 advocacy on behalf of persons who face, hazards from poorly
24 constructed or installed manufactured housing;

24 B. To provide and enforce uniform performance standards for
26 construction and installation of manufactured housing which
28 ~~encourage--the--use--of--new--and--improved--technologies,~~
~~techniques,--methods--and--materials--throughout--the--State~~ that
ensure durability and safety of manufactured housing;

30 C. To eliminate all costly, duplicative regulations and to
32 ~~promulgate--regulations--which~~ adopt rules that provide for
34 minimum the performance necessary to provide decent, safe
36 and sanitary housing at prices that people of this State can
38 afford and to establish regulations ~~which--shall~~ that govern
40 such matters within this State;

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

40 E. To require this board to assume such responsibilities as
42 are consistent with this Act chapter, including
44 administration and enforcement of regulations rules,
46 investigations of complaints, administration of the
48 Manufactured Housing Recovery Fund and any other acts which
50 are consistent with the purposes of this Act, ~~including all~~
~~responsibilities of the Maine State Housing Authority under~~
~~the--Industrialized--Housing--Law,--Title--30,--chapter--239,~~
~~subchapter II,--article 7,--as heretofore enacted and modified~~
chapter;

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

8 G. To grant to such board the investigative, legal and
regulatory powers it may reasonably require to accomplish
10 the foregoing purposes and intent, including making
decisions, in accordance with the Maine Administrative
12 Procedure Act, as are necessary to carry out the provisions
of this chapter; and

14 H. To have this board oversee the laws relating to
manufactured housing recovery.

16 Sec. 2. 10 MRSA §9002, sub-§1-A is enacted to read:

18 1-A. Claimant. "Claimant" means any person who has filed a
20 verified claim under this chapter.

22 Sec. 3. 10 MRSA §9003, as amended by PL 1991, c. 391, §1, is
further amended to read:

24 **§9003. Manufactured Housing Board**

26 1. Established. The Manufactured Housing Board,
28 established by Title 5, section 12004-A, subsection 22 and
located in within the Department of Professional--and--Financial
30 Regulation---shall---have the Attorney General, has the
responsibility of administering and enforcing this chapter. The
32 board shall--consist--of--9 consists of 11 members appointed by the
Governor and confirmed by the Legislature.

34 2. Composition and terms of members. The members of the
36 board shall must include:

38 A. A--representative Four representatives who is--a are
40 manufactured housing owner, owners and whose home--is homes
are not located in a mobile home park or similar rental
community;

42 B. Two Four representatives who are manufactured housing
44 owners, and the manufactured housing units in which the
owners live are located on lots within mobile home parks or
46 similar rental communities which that the manufactured
housing owners do not own;

2 C. A representative who is a professional engineer with
demonstrated experience in construction and building
technology; and

4
6 D. ~~A representative who is a dealer;~~ Two representatives
who are active in the manufactured housing industry or who
own or operate a mobile home park.

8
10 E. ~~A representative who is an owner or operator of a mobile~~
~~home park with 15 or fewer lots;~~

12 F. ~~A representative who is an owner or operator of a mobile~~
~~home park with more than 15 lots;~~

14 G. ~~A representative who is a builder of manufactured~~
~~housing; and~~

16
18 H. ~~A representative with a minimum of 2 years of practical~~
~~experience in building code administration and enforcement~~
~~and is currently employed as a code enforcement officer.~~

20
22 The term of office of the members is 4 years. Members may be
appointed to successive terms. Members shall serve for their
24 appointed terms and until their successors are appointed and duly
qualified, except that any member of the board may be removed for
26 cause by the Governor. No A board member may not serve more than
2 consecutive terms.

28
30 3. **Vacancies.** If, by virtue of death, removal, resignation
or otherwise, a vacancy occurs prior to the expiration of a term
or appointment, the Governor shall appoint a ~~successor to serve~~
32 ~~the balance of the unexpired term.~~ The Governor may appoint
a temporary member to fill any vacancy occurring on the board; such
34 temporary member may serve for a period of not exceeding 120 days
from the date of such appointment or until that member is
36 confirmed by the Legislature.

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

40
42 5. **Compensation.** The appointed members of the board shall
be are compensated as provided in Title 5, chapter 379.

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

2 7. **Meetings.** Five ~~Six~~ members of the board constitute a
quorum. The board shall meet at the written request of the
4 director or of a majority of the members of the board. The board
shall determine the time and place of meetings. At least 6
6 meetings per calendar year must be held.

8 8. **Administration.** Not later than August 1st of each year,
the board shall submit to the ~~Commissioner of Professional and
Financial Regulation~~ Attorney General for the preceding fiscal
10 year ending June 30th an annual report of its operations and
financial position, together with such comments and
12 recommendations as the board ~~deems~~ considers essential.

14 9. **Federal funds and other funding sources.** The board shall
have ~~authority to~~ may seek and receive funds from the Federal
16 Government and other public or private funds from the Federal
Government and other public or private sources to further its
18 activities under this chapter, subject to the approval of the
~~commissioner~~ Attorney General.

20 10. **Manufactured Housing Fund.** All ~~fees~~ Fees collected
22 under this chapter shall must be paid by the board to the
Treasurer of State with a detailed statement thereof and shall
24 constitute a fund ~~to be~~ known as the "Manufactured Housing
Fund." The fund shall must be kept as a separate account by the
26 Treasurer of State, who shall pay therefrom all costs and
expenditures incurred by the board in carrying out its
28 responsibilities under this chapter. Any ~~moneys~~ money remaining
in the Manufactured Housing Fund at the end of the fiscal year
30 shall must be carried forward to the credit of that fund for the
succeeding year.

32 **Sec. 4. 10 MRSA §9003-A is enacted to read:**

34 **§9003-A. Manufactured Housing Recovery Fund**

36 There is created on the books of the Treasurer of State, the
38 State Auditor and the Chief Fiscal Officer of the State a trust
to be known as the "Manufactured Housing Recovery Fund." This
40 fund consists of trust fund receipts derived from assessments
made under the authority of this chapter. The fund must be used
42 for such purposes as are set out in this section. Money may not
be expended from this fund for any purpose except at the
44 direction of the board. The fund is administered, disbursed and
invested under the direction of the board. All income derived
46 through investment of money in the fund must be credited to the
fund as investment income. For the purposes of investment, money
48 invested and interest earned on that investment must be
administered as trust funds. Money deposited to the fund is not
50 subject to any deduction, tax, levy or other type of assessment.

2 1. Assessments. The board shall establish by rule
4 assessment fees for manufacturers in this State, manufacturers in
6 other states selling manufactured homes in this State and
8 mechanics and dealers of manufactured homes. The board shall
10 collect the assessment fees at the time of submission of
12 licensure applications. The assessments as the follows:

14 A. For a mechanic, \$500 per location;

16 B. For a dealer, \$1,000 per location; and

18 C. For a manufacturer, \$3,000 per location.

20 Assessment must be collected within 30 days after notice to all
22 licensed manufacturers, dealers and mechanics.

24 2. Balance. If the balance of the Manufactured Housing
26 Recovery Fund falls below \$250,000, the board shall determine and
28 collect such assessment as may be necessary to restore the fund
30 to a minimum level of \$250,000.

32 3. Refunds. A person against whom an assessment is made
34 under this section is entitled to receive a refund of the initial
36 assessment after a 2-year waiting period after that person ceases
38 operation of the business in this State if there are not claims
40 pending against the person. To receive the refund, the person
42 must notify the board by certified mail within 45 days after the
44 2-year waiting period and request the refund. For the purposes
46 of this subsection, the 2-year waiting period begins on the
48 person's next licensing anniversary date after the operation of
50 business in the State ceases. If the participant fails to
satisfy the provisions of this subsection, the assessment fee is
forfeited and remains in the Manufactured Housing Recovery Fund.
Interest does not accrue to the benefit of the person.

4. Complaints; amount of damages. All consumer, licensee,
mechanic, dealer or manufacturer complaints must be filed with
the board. The board shall determine, by hearing or whatever
procedure the board may establish, if any standard adopted by the
board has been violated and, if so, the actual cost of repairs to
the manufactured home, if any, suffered by the aggrieved party or
parties. The amount of damages awarded by the board is limited
to the actual cost of repairs to the manufactured home and may
not include attorney's fees. On an appeal to the District Court
from an award of the board, the jurisdiction of the District
Court is limited to the actual cost of repairs to the
manufactured home. The District Court does not have jurisdiction
to award punitive or exemplary damages for claims covered by the
provisions of this chapter, attorney's fees or court costs. The

2 question of what constitutes a continuing series of violations is
3 a matter solely within the discretion and judgment of the board.

4 5. Payment of damages; award from fund when damages not
5 paid. Upon a finding by the board that a standard has been
6 violated, the board shall direct the respondent licensee, dealer,
7 mechanic or manufacturer to pay the awarded amount to the
8 complainant. If the amount is not paid within 30 days following
9 the written decision of the board and an appeal of the decision
10 has not been filed in Superior Court, the board shall, upon
11 request, pay from the Manufactured Housing Recovery Fund the
12 amount of the award to the complainant if:

14 A. The amount is not in excess of \$10,000 for any one
15 violation of the respondent licensee, mechanic, dealer or
16 manufacturer;

18 B. The fund balance is sufficient to pay the award;

20 C. The complainant has assigned all rights and claims that
21 the complainant has against the respondent to the board; and

22 D. The complainant agrees to subrogate the board to all
23 rights of the complainant to the extent of the payment.

26 Nothing in this subsection obligates the fund for any amount in
27 excess of \$12,500 per mechanic, \$25,000 per dealership or \$75,000
28 per manufacturer with respect to the actions of any one licensee,
29 mechanic, dealer or manufacturer.

30 Upon payment to a claimant from the fund, the board shall
31 immediately revoke the license of the person whose conduct
32 resulted in the payment. Any person whose license is revoked is
33 not eligible to apply for a license under this chapter until the
34 person has repaid in full the amount paid from the fund on that
35 person's account, plus interest.

38 6. Appeals. An appeal from a decision of the board must be
39 taken to the District Court in accordance with the Maine
40 Administrative Procedure Act. The appeal stays that portion of
41 the board order that directs payment of the damages. Neither the
42 respondent nor the board is required to pay damages to the
43 complainant until such time as a final order of the District
44 Court, the Superior Court or the Supreme Judicial Court is
45 issued. On appeal, the Superior Court jurisdiction in awarding
46 damages to be paid from the Manufactured Housing Recovery Fund is
47 limited in amount to:

48 A. The amount determined by the board; or
49

50

2 B. The limits set forth in subsection 8. The Superior
3 Court may not award attorneys' fees or court costs to be
4 paid by the fund.

6 7. Suspension of license pending reimbursement or appeal.
7 The board shall suspend the license or certificate of each
8 licensee, mechanic, dealer or manufacturer until such time as the
9 licensee, mechanic, dealer or manufacturer reimburses award
10 amounts paid on its behalf to the Manufactured Housing Recovery
11 Fund plus interest at a rate determined by the board, but not to
12 exceed 10% per annum. The board may permanently suspend the
13 license of the respondent upon failure to pay an order of the
14 board or court. The board may move the District Court to suspend
15 the license of the respondent during pendency of an appeal from a
16 board order.

18 8. Suspension, revocation or nonrenewal of license
19 generally; monetary penalty. The board may suspend, revoke or
20 refuse to renew the license under this chapter of any person who
21 is found to have:

22 A. Committed fraud, misrepresentation or deception in
23 obtaining a license;

24 B. Accepted a manufactured home, directly or indirectly,
25 from a manufacturer not licensed by this State pursuant to
26 this chapter;

27 C. Sold or delivered, directly or indirectly, a
28 manufactured home to a dealer not licensed by this State
29 pursuant to this chapter; or

30 D. Violated any provision of this chapter or rules adopted
31 under this chapter.

32 In lieu of suspension, revocation or refusal to renew a license,
33 the board may impose a monetary penalty and may suspend, refuse
34 to renew or revoke the license until the penalty is paid to the
35 board. The penalty may be imposed only if the board formally
36 finds that the public welfare would not be impaired by the
37 imposition of a monetary penalty rather than suspension, refusal
38 to renew or revocation of the license and that payment of the
39 penalty should achieve the desired disciplinary purpose. A
40 monetary penalty imposed by the board may not exceed \$1,000 per
41 violation. Each separate transaction constitutes a separate
42 violation. The board may not impose a civil penalty upon any
43 person whose license is suspended, revoked or not renewed under
44 paragraph A.

2 9. Enforcement. The board may file suit in the District
4 Court for the division where the violation has occurred to obtain
6 a judgment for the amount of any penalty not paid within 30 days
8 of service of the order assessing the monetary penalty unless the
10 order is stayed pursuant to the provisions of subsection 6. All
12 hearings and appeals under this chapter must be pursuant to the
14 Maine Administrative Procedure Act. Nothing in this chapter may
16 be construed to restrict in any manner other civil or criminal
18 remedies available under other laws to any other person.

20 10. Rules. The board may adopt rules, pursuant to the
22 Maine Administrative Procedure Act, for implementation of the
24 Manufactured Housing Recovery Fund.

26 **Sec. 5. 10 MRSA §9004**, as amended by PL 1987, c. 395, Pt. A,
28 §37, is further amended to read:

30 **§9004. Employees**

32 1. **Executive director.** The ~~commissiener~~ Attorney General
34 may appoint, or remove, for cause with the advice of the board,
36 an executive director who shall--be is the principal
38 administrative and supervisory employee of the board. He ~~The~~
40 executive director shall attend meetings of the board, keep
42 records of the proceedings of the board and direct and supervise
44 the personnel employed to carry out the purposes of this chapter.

46 2. **Employees.** The executive director, with the advice of
48 the board and the ~~commissiener~~ Attorney General, may employ,
50 subject to the Civil Service Law, persons necessary to carry out
this chapter. Any person so employed shall--be is an employee of
the Department of Professional--and--Financial--Regulation,--except
that--they--shall--be--under--the--direction--and--supervision--of--the
executive--director--of--the--board the Attorney General.

36 **Sec. 6. 10 MRSA §9005, sub-§1**, as enacted by PL 1977, c. 550,
38 §1, is amended to read:

40 1. **Rulemaking.** The board shall propose, revise, adopt and
42 enforce rules and--regulations necessary to carry out this
44 chapter. ~~The--board--may--delegate--the--enforcement--authority--to~~
46 ~~employees.~~

48 **Sec. 7. 10 MRSA §9006, sub-§1**, as repealed and replaced by PL
50 1981, c. 152, §8, is amended to read:

1. **Standards.** The No later than July 4, 1993, the board
may, by regulation rule, ~~adopt a nationally recognized standard,~~
~~where available and not incompatible with local needs, for the~~
~~installation of manufactured housing~~ set uniform reasonable

standards for the installation of manufactured homes, including, but not limited to, standards for foundations, supports, anchoring and underpinning of manufactured homes installed in this State.

Sec. 8. 10 MRSA §9006, sub-§4 is enacted to read:

4. Warranties. A dealer or a contractor who installs manufactured homes shall warrant the setup of each manufactured home, in accordance with the installation requirements prescribed by this chapter, for a period of at least 12 months, measured from the date of delivery of the manufactured home to the buyer.

Sec. 9. 10 MRSA §9006-A, sub-§1, as enacted by PL 1989, c. 271, §3, is amended to read:

1. Notice of installation. ~~All dealers and mechanics~~ A dealer or mechanic shall notify the Manufactured Housing Board every month of the installations completed by that dealer or mechanic that month. The notice must include the location of each unit of manufactured housing, the owner of each unit at the time of installation, the type or model of unit and the manufacturer of that unit, written certification that the installation meets standards that conform to those required by the manufacturer and to those set by the board, and the name and address of the dealer or mechanic who installed the unit. The information must be submitted within 10 days after the end of each month in the form and manner prescribed by the board by rule.

Sec. 10. 10 MRSA §9008, sub-§§3 to 5 are enacted to read:

3. Failure to correct. A manufacturer or dealer of manufactured homes must correct a code violation within a reasonable time not to exceed 90 days of being ordered to do so in writing by an authorized representative of the executive director of the board if the manufacturer or dealer manufactured or sold the manufactured home after March 14, 1977.

4. Obstruction. A person may not interfere with, obstruct or hinder any authorized representative of the executive director of the board in performance of that person's duty.

5. Disclosure. A person may not sell a manufactured home that contains hardboard siding unless that fact is disclosed to the purchaser in writing.

Sec. 11. 10 MRSA §9009, sub-§2, as repealed and replaced by PL 1977, c. 694, §196, is amended to read:

2 **2. Investigation of complaints; revocation or suspension of**
3 **licenses.** The board shall investigate or cause to be
4 investigated all complaints made to ~~it~~ the board and all cases of
5 noncompliance with or violation of this chapter. If the board
6 finds reason to believe that the manufacturer, dealer or mechanic
7 has violated this chapter, or the rules ~~and--regulations~~
8 ~~promulgated~~ adopted pursuant to this chapter, ~~it~~ the board may
9 ~~file--a--complaint--with--the--Administrative--Court--to~~ revoke or
10 suspend the license or approval of the manufacturer, dealer or
11 mechanic. The board, ~~for--reasons--it--may--deem--sufficient~~
12 following a hearing as outlined in section 9062, may reissue a
13 license to any person whose license has been revoked, providing 3
14 or more members of the board vote in favor of this reissuance.

15 **Sec. 12. 10 MRSA §9009, sub-§3**, as enacted by PL 1989, c. 690,
16 §1, is amended to read:

17 **3. Injunction on sales.** The board shall investigate all
18 complaints made to ~~it~~ the board of noncompliance with or
19 violation of chapter 213. If the board finds that a manufacturer
20 or dealer has sold, or is making available for sale, mobile homes
21 that pose a threat to public health or safety or has
22 intentionally failed to comply with chapter 213 or this chapter,
23 the board ~~may--petition--the--Attorney--General--to~~ shall initiate
24 ~~legal--action--in--Superior--Court~~ the hearing procedures outlined in
25 this chapter to enjoin the sale of mobile homes by that
26 manufacturer or dealer. If the ~~court~~ board finds that the
27 manufacturer or dealer sold, or is making available for sale,
28 mobile homes that pose a threat to public health or safety or has
29 intentionally failed to comply with chapter 213 or this chapter,
30 the ~~court~~ board may enjoin the sale of mobile homes by that
31 manufacturer or dealer.
32

33 **Sec. 13. 10 MRSA §9009, sub-§§4 and 5** are enacted to read:

34 **4. Notice of violation.** When the board finds a violation
35 of this chapter or any rule adopted pursuant to this chapter, the
36 board may issue a notice of violation to the person alleged to
37 have violated the provision. The notice of violation must set
38 forth the alleged violation and specify the corrective action
39 that must be taken and the time within which the action must be
40 taken.
41

42 **5. Other legal action.** If, in the course of its
43 investigations, the board finds that a class of owners may have
44 grounds for legal action against a manufacturer, dealer or
45 mechanic, or if a group of at least 10 owners seeks the board's
46 assistance with a legal action, the board shall ask the Attorney
47 General to assist those owners in pursuing a legal remedy.
48
49
50

2 **Sec. 14. 10 MRSA §9011, sub-§§4 and 5, as enacted by PL 1977,**
c. 550, §1, are amended to read:

4 **4. Private actions.** Any person damaged as a result of a
6 violation of this chapter shall also have has a cause of action
8 in the Superior Court against the person responsible for the
10 manufacture, sale, lease, installation or service, and the court
12 may award appropriate damages and cost for litigation in its
14 judgment. If the board fails to take action within 90 days to
restrain a violation, any person in interest adversely affected
by the violation who has notified the board in writing of the
violation or threat of a violation and has requested suit may
bring suit in the District Court of the division where the
violation occurred to prevent any or further violations. If the
court holds that injunctive relief should be granted, the board
must be made a party and be substituted for the person who
brought the suit and the injunctions must be issued as if the
Attorney General had at all times been the complaining party.

20 The board shall notify all claimants of their right to seek
remedy.

22 **5. Crime designated.** An individual or a director, officer
24 or agent of a corporation who knowingly and willfully violates
26 section 9008 in a manner which that threatens the health or
28 safety of any purchaser shall-be is guilty of a Class E crime,
except that, upon conviction, the person may be fined not more
than \$1,000 or imprisoned for not more than one year, or both for
each violation. Threats to health or safety include, but are not
limited to, rotted or unsafe flooring that presents danger of
collapse, water damage in and around electrical wires that could
lead to fire or electrocution, and other structural damage or
defect that makes the housing unsafe.

34 **Sec. 15. 10 MRSA §9021, sub-§1, as repealed and replaced by PL**
36 1981, c. 152, §13, is amended to read:

38 **1. Licenses required.** Any person who engages in the
40 business of manufacturing, selling, installing or servicing
42 manufactured housing shall first obtain a license issued by the
44 board. The board shall, within a reasonable time, issue a
46 license to any person who intends to manufacture, sell, install
48 or service manufactured housing in this State subject to filing
and approval of an application provided by the board. Any person
who is licensed to conduct these activities by other state or
federal law is exempt from this requirement when the law provides
for specific authority to provide a particular service or
preempts the requirement for such a license. Active licensees of
the Real Estate Commission shall-be are exempt from the licensing

2 requirement for selling or brokering used manufactured housing,
3 but not from the requirements of this chapter.

4 Sec. 16. 10 MRSA §9021, sub-§2, as amended by PL 1991, c. 391,
5 §§2 and 3, is further amended to read:

6
7 2. License fees. The board may establish and collect the
8 following fees. All fees collected shall, with the exception of
9 fees collected under section 9003-A, subsection 1, must be paid
10 to the Treasurer of State for deposit in the Manufactured Housing
11 Fund.

12
13 A. The license fee for manufacturers of manufactured
14 housing who deliver or sell manufactured housing may not
15 exceed \$200 annually. Each manufacturing plant that
16 delivers or sells manufactured housing in the State must
17 obtain a separate license.

18
19 B. The license fee for dealers who are engaged in the
20 retail selling, offering for sale, brokering, or
21 distribution of any manufactured homes may not exceed \$200
22 annually.

23
24 C. The license fee for mechanics who service or install
25 manufactured housing, as defined in section 9002, subsection
26 7, paragraphs A and C, may not exceed \$200 annually.

27
28 D. The additional license fee for dealers or mechanics who
29 have more than one business location may not exceed \$50
30 annually per additional location.

31
32 Sec. 17. 10 MRSA §9021, sub-§3, as amended by PL 1991, c. 391,
33 §4, is further amended to read:

34
35 3. License term. Licenses expire February 28th or at such
36 other times as the ~~Commissioner of Professional and Financial~~
37 ~~Regulation~~ Attorney General may designate and are issued on a
38 biennial basis upon payment of a license fee.

39
40 Sec. 18. 10 MRSA §9041, as amended by PL 1991, c. 714, §4, is
41 further amended to read:

42
43 **§9041. General rules**

44
45 The board shall adopt rules and establish standards as
46 provided by section 9005 to administer and enforce this
47 subchapter.

48
49 ~~For purposes of this subchapter, manufactured housing~~
50 ~~includes only housing defined in section 9002, subsection 7.~~

2 **Sec. 19. 10 MRSA §9042**, as repealed and replaced by PL 1981,
c. 152, §14, is amended to read:

4 **§9042. Standards**

6 1. **Standards.** The board shall, by ~~regulation~~ rule, adopt a
8 standards in conformance with nationally recognized standard,
~~where available and not incompatible with local needs,~~ standards
10 for the construction and the installation of new manufactured
12 housing that ensure the durability of the manufactured housing
for at least the term of a mortgage.

14 2. **Approval.** The board shall approve for sale or
16 installation all new manufactured housing which that complies
18 with the ~~regulations~~ rules and standards authorized by this
chapter or shall delegate the authority to inspect and approve
the manufactured housing by inspection agencies authorized by the
board. Each manufactured home sold in this State must carry a
20 seal indicating that it has been approved and meets the standards
set by the board. Each seal must disclose the address and
22 telephone number of the board and indicate that a purchaser has
the right to contact the board if the purchaser is not satisfied
24 with the home.

26 3. **Exemption.** ~~New-manufactured~~ Manufactured housing which
28 that is manufactured, sold, installed or serviced in compliance
with this chapter shall ~~be~~ is exempt from all state or other
political subdivision codes, standards, rules or regulations
30 which that regulate the same matters.

32 5. **Warranty.** Each manufacturer in this State and
manufacturers of all new manufactured homes shipped into this
34 State for use in this State shall issue with each new
manufactured home a warranty generally in use in the industry
36 warranting the manufactured home to be free from material defects
and to be manufactured in a workmanlike manner.

38 A. The warranty must be to the buyer and must set forth in
40 writing the following terms:

42 (1) That the manufactured home is free from any
substantial defects in material and labor; and

44 (2) That the manufacturer shall take appropriate
46 corrective action at the site of the manufactured home
in instances of substantial defects in materials or
48 labor that become evident after the date of delivery of
the manufactured home to the buyer if the buyer or the
50 buyer's transferee gives written notice of the defects

2 to the manufacturer at the manufacturer's business
3 address. The manufacturer shall take such action as
4 determined necessary by the board under this chapter.

5 B. The warranty is in addition to, and not in derogation
6 of, all other rights and privileges that the buyer may have
7 under any other law or instrument. The manufacturer may not
8 require the buyer to waive the buyer's rights under this
9 chapter and any waiver is deemed contrary to public policy
10 and is unenforceable and void.

11 C. Whenever a claim for warranty service or about a defect
12 is made to a person licensed pursuant to this chapter, the
13 claim must be handled as provided by this chapter. A record
14 must be made of the name and address of each claimant and
15 the date, substance and disposition of each claim about a
16 defect. The licensed person may request that a claim be
17 made in writing, but nevertheless shall record the claim as
18 provided in this paragraph and may not delay service pending
19 receipt of the written claim.

20 D. When the licensed person notified is not the responsible
21 party, the licensed person shall, in writing, immediately
22 notify the claimant of that fact and shall also, in writing,
23 immediately notify the responsible party of the claim. When
24 a party is asked to remedy defects, that party may not fail
25 to remedy those defects because another party may also be
26 responsible. Nothing in this paragraph prevents a
27 responsible party from obtaining compensation by way of
28 contribution or subrogation from another responsible party
29 in accordance with any other provision of law or contract.

30 E. Within the time limits provided in this chapter, the
31 licensed person shall either resolve the claim or determine
32 that it is not justified. At any time a regulant determines
33 that a claim for service is not justified in whole or in
34 part, that person shall immediately notify the claimant in
35 writing that the claim or part of the claim is rejected and
36 why it is rejected, and shall inform the claimant that the
37 claimant is entitled to complain to the board, for which a
38 complete mailing address must be provided. Within 5 working
39 days of receipt of a complaint, the board shall send a
40 complete copy of the complaint to the Attorney General.

41 6. Warranty service. When a service agreement exists
42 between or among a manufacturer, dealer or supplier to provide
43 warranty service, the agreement must specify which responsible
44 party is to remedy warranty defects. Such a service agreement
45 must be in writing. Nothing in such an agreement relieves the

2 responsible party as designated by the provisions of this chapter
3 of responsibility to perform warranty service.

4 A. When a service agreement does not exist for warranty
5 service, the responsible party as designated by the
6 provisions of this chapter is responsible for remedying the
7 warranty defects.

8
9 B. A defect must be remedied within 45 days of receipt of
10 the written notification of the warranty claim, unless the
11 claim is unreasonable or a bona fide reason exists as
12 determined by the board for not remedying the defect within
13 the 45-day period. The responsible party shall respond to
14 the claimant in writing and provide a copy of the response
15 to the board, stating what further action is contemplated by
16 the responsible party. Notwithstanding this subsection,
17 defects that constitute an imminent safety hazard to life
18 and health must be remedied within 3 days of receipt of the
19 written notification of the warranty claim. An imminent
20 safety hazard to life and health includes but is not limited
21 to, inadequate heating in freezing weather, failure of
22 sanitary facilities, electrical shock, leaking gas or major
23 structural failure. The board may suspend this 3-day time
24 period in the event of widespread defects or damage
25 resulting from adverse weather conditions or other natural
26 catastrophes.

27
28 7. New and used homes. A person may not sell, exchange or
29 lease with option to buy or negotiate for the sale, exchange or
30 lease with option to buy of a new or used manufactured home to a
31 consumer unless the board has affixed an appropriate seal or
32 label to it. Any person who has acquired a new or used
33 manufactured home that does not have a seal or label affixed to
34 it may apply to the board for an inspection and, upon passage by
35 the manufactured home of the inspection, the board shall issue
36 and affix, to the manufactured home the seal or label, which
37 constitutes the board's certificate that the manufactured home is
38 in compliance with the standards and the provisions of this
39 chapter.

40
41 Sec. 20. 10 MRSA §9043, sub-§2, ¶¶A and B, as enacted by PL
42 1981, c. 152, §14, are amended to read:

43
44 A. The manufactured housing is found by the local
45 enforcement agency to comply with the applicable local
46 building code; and

47
48 B. The local enforcement agency so reports to the board in
49 such form and detail as the board may reasonably require;
50 and

2 Sec. 21. 10 MRSA §9043, sub-§2, ¶C is enacted to read:

4 C. The local standards are not less restrictive than those
5 adopted by the board.

6 Sec. 22. 10 MRSA §9045, sub-§1, as amended by PL 1991, c. 391,
8 §5, is further amended to read:

10 1. Fee for units. A fee not exceeding \$100 for each new
11 dwelling unit that is installed in this State; and

12 Sec. 23. 10 MRSA §9046, as enacted by PL 1981, c. 152, §14,
14 is amended to read:

16 **§9046. Complaint investigation**

18 Upon complaint by any person concerning an alleged violation
19 of this chapter, the board shall investigate and determine, or
20 shall cause to be investigated and determined, whether the unit
21 complies with established regulations rules. The board shall
22 notify the complainant of his the right to relief under section
23 9011,--subsection--4. If the board determines that over 10
24 complainants report having similar problems with homes of the
25 board has reason to believe the defect occurred in other similar
26 manufactured housing, the board shall notify all ascertainable
27 purchasers of the housing, in accordance with the records
28 obtained from the manufacturer and dealer, of their possible
29 right of action under this subchapter. Failure of the
30 manufacturer or dealer to retain reasonable business records, or
31 to provide access to those records in response to a request by
32 the board pursuant to this subchapter, ~~shall be considered~~ is
33 a violation of this chapter.

34 Sec. 24. 10 MRSA §9047, sub-§§1 and 2, as enacted by PL 1981,
36 c. 152, §14, are amended to read:

38 1. Manufacturer. Every manufacturer ~~or~~ of manufactured
39 housing in this State and any manufacturer who offers
40 manufactured housing for sale, lease, delivery, introduction or
41 importation into this State shall furnish notification of any
42 defect in manufactured housing produced by the manufacturer which
43 that the manufacturer board determines,--in-good-faith, relates to
44 a standard of the board which that is applicable to the housing
45 or which that constitutes a safety hazard to an occupant of the
46 housing. The notification shall must be accomplished in such
47 manner and within such time as the board may by regulation rule
48 prescribe, except that the ~~regulations--shall~~ rules must at least
49 provide the following:

50

- 2 A. Notification by mail to the first purchaser of the
4 manufactured housing, other than a dealer of the
6 manufacturer, and to any subsequent purchaser the identity
8 of whom the manufacturer is aware;
- 10 B. Notification by mail or some expeditious means to the
12 dealer or dealers of the manufacturer to whom the
14 manufactured housing was delivered; and
- 16 C. Notification by mail to the board.

12 2. Dealers. Any person who sells, leases, delivers or
14 transports manufactured housing which that has been certified
16 under this chapter shall notify the board and any present or
18 prospective ~~purchase~~ purchaser of the housing in writing of any
20 defect resulting from damage or modification to the housing which
22 that the person determines, in good faith, relates to a standard
24 of the board which that is applicable to the housing or which
26 that constitutes a safety hazard to an occupant of the housing.
~~This--requirement--shall--not--apply--to--sales--or--leases--of
manufactured-housing-after-the-first-purchase-of-the-housing-by-a
person-for-purposes-other-than-resale-and-shall-not-apply-to
deliveries-or-transportations-of-the-manufactured-housing-which
occur-after-the-first-installation-of-the-housing-on-a-permanent
foundation.~~

28 Sec. 25. 10 MRSA §9048, sub-§1, as enacted by PL 1981, c. 152,
§14, is amended to read:

30 1. Standards. If the board finds that the standards for
32 the manufacture and inspection of manufactured housing prescribed
34 by statute or regulation of another state, or other governmental
36 agency, meet the objectives of this chapter and the regulations
38 promulgated rules adopted pursuant hereto to this chapter, and
40 are enforced satisfactorily by that other state, or other
42 governmental agency, or by their agents, the board may accept
44 manufactured housing which that has been certified by that other
state or governmental agency as being in compliance with this
chapter. The standards of another state shall are not be deemed
to be satisfactorily enforced, unless that other state provides
for notification to the board of suspensions or revocations of
approvals issued by that other state in a manner satisfactory to
the board and so notifies the board. Acceptance of this
notification does not remove the board's right to pursue remedies
outlined in sections 9009 and 9011.

48 Sec. 26. 10 MRSA §9048, sub-§2, as enacted by PL 1981, c. 152,
§14, is amended to read:

623 of the Housing and Community Development Act of 1974, PL
93-383, 42 United States Code, Section 5422 and 24 Code of
Federal Regulations, Part 3282, Subpart G.

Sec. 31. 10 MRSA §9062, as amended by PL 1987, c. 395, Pt. A,
§39, is further amended to read:

§9062. Duties

The board shall delegate the responsibility for
administering the state administrative agency program to the
~~Commissioner of Professional and Financial Regulation~~ Attorney
General. The board is vested with the authority upon appropriate
notice to discontinue participation in the federal enforcement
program as a state administrative agency for this State. The
board has the following specific duties and powers.

1. Installation standards. The board shall set by rule
uniform reasonable standards for the proper installation of
manufactured homes, including, but not limited to, standards for
foundations, supports, anchoring and underpinning of manufactured
homes installed in this State.

2. Licensing of manufacturers. The board shall require
licensing of manufacturers in this State and manufacturers in
other states selling manufactured homes in this State and shall
set by rule requirements for that licensing.

3. Financial responsibility. The board shall require
bonding or other reasonable methods to ensure that manufacturers,
dealers and others licensed under this chapter are financially
responsible to fully comply with this chapter.

4. Hearings and orders. The board shall convene hearings
and issue orders in cases of violations of this chapter. The
board shall convene hearings and issue orders on an appeal
involving differences between manufacturers and dealers and the
executive director of the board and the executive director's
staff.

5. Delegation. The board shall delegate its authority,
except the authority to adopt standards and rules, to the
executive director of the board.

6. Licensing penalties. The board may suspend, revoke or
refuse to renew the license under this chapter of any person who
is found to have:

A. Committed fraud, misrepresentation or deception in
obtaining a license;

2 B. Accepted a manufactured home, directly or indirectly,
4 from a manufacturer not licensed by the State pursuant to
this chapter;

6 C. Sold or delivered, directly or indirectly, a
8 manufactured home to a dealer not licensed by the State
pursuant to this chapter; and

10 D. Violated any provisions of this chapter or rules under
12 this chapter.

14 7. Monetary penalties. In lieu of suspension, revocation
or refusal to renew a license, the board may impose a monetary
16 penalty and may suspend, refuse to renew, or revoke the license
until the penalty is paid to the board. The penalty may be
18 imposed only if the board formally finds that the public welfare
would not be impaired by the imposition of a monetary penalty
20 rather than suspension, refusal to renew or revocation of the
license and payment of that penalty should achieve the desired
22 disciplinary purpose. A monetary penalty imposed by the board
may not exceed \$1,000 per violation. Each separate transaction
24 constitutes a separate violation. The board may not impose a
civil penalty upon any person whose license is suspended, revoked
26 or not renewed under this section.

28 8. Obtain judgments. The board may file suit in any
District Court in the State to obtain a judgment for the amount
30 of any penalty imposed pursuant to subsection 7 not paid within
30 days of service of the order assessing the monetary penalty.

32 9. Procedures. All hearings and appeals from hearings
34 under this section must be pursuant to the Maine Administrative
Procedure Act.

36 10. Reports. The board may require manufacturers,
38 distributors and dealers in this State to make reports as it
determines necessary. Reports must be filed with the executive
40 director of the board.

42 **Sec. 32. 10 MRSA §9063, as enacted by PL 1981, c. 152, §16,**
is amended to read:

44 **§9063. Rules**

46 The ~~commissioner~~ Attorney General is authorized to issue,
48 amend and revoke such ~~regulations~~ rules as is ~~deemed~~ necessary to
50 implement all procedures required of a state administrative
agency pursuant to 24 Code of Federal Regulations, Paragraph 3282
and 42 United States Code, Section 5401 et seq., including the

2 implementation of a consumer complaint handling process and the
3 holding of hearings. In the event of a conflict between the
4 ~~Manufactured--Housing--Act~~ this chapter and the National
5 Manufactured Housing Construction and Safety Standards Act of
6 1974, involving the state administrative agency program, the
7 National Manufactured Housing Construction and Safety Standards
8 Act of 1974 ~~shall prevail~~ prevails.

9
10 **Sec. 33. 10 MRSA §9064**, as amended by PL 1987, c. 395, Pt. A,
11 §40, is further amended to read:

12 **§9064. Standards**

13 **1. Adoption, administration and enforcement of standards.**

14 The ~~Department of Professional and Financial Regulation~~ Attorney
15 General is charged with the adoption, administration and
16 enforcement of manufactured home construction and safety
17 standards. The standards adopted ~~shall be identical to~~ must meet
18 the standards promulgated pursuant to the National Manufactured
19 Housing Construction and Safety Standards Act of 1974, 42 United
20 States Code, Section 5401 et seq. In addition, the manufactured
21 homes must meet any additional standards determined by the
22 Attorney General to be necessary to reduce personal injuries and
23 deaths, to reduce insurance costs and property damage resulting
24 from accidents or to improve the quality and durability of
25 manufactured homes when no construction or safety standard has
26 been established by the United States Department of Housing and
27 Urban Development to deal with a construction or safety issue
28 identified by the board. The ~~Department of Professional and~~
29 ~~Financial Regulation~~ Attorney General shall discharge this duty
30 consistent with rules and regulations promulgated by the United
31 States Department of Housing and Urban Development.

32
33 A dealer may not sell or offer for sale to anyone within this
34 State any manufactured home manufactured after June 15, 1976,
35 unless the manufactured home bears a Department of Housing and
36 Urban Development label issued by the Department of Housing and
37 Urban Development or its contract agent. All manufactures of
38 manufactured homes in this State shall cause to be affixed a
39 Department of Housing and Urban Development label on all
40 manufactured homes. The executive director of the board, acting
41 as the in-plant primary inspection agency on contract with the
42 Department of Housing and Urban Development, shall issue labels
43 to a manufacturer when the executive director is sure, by
44 inspection of the manufacturer's plant, that the manufacturer is
45 complying with the federal standard code for manufactured homes.
46 A person may not alter or cause to be altered any manufactured
47 home to which a label has been affixed if the alteration or
48 conversion causes the manufactured home to be in violation of the
49 standards adopted pursuant to this subsection.
50

2 2. Rules. The Department--of--Professional--and--Financial
Regulation Attorney General may adopt such rules as are necessary
4 to enforce the standards ~~premulgated~~ adopted under subsection 1.

6 Sec. 34. 10 MRSA §9064-A is enacted to read:

8 ~~§9064-A. Hearings~~

10 In seeking to determine whether a manufacturer or dealer has
12 violated the provisions of this chapter, the board may convene
hearings and issue orders pursuant to the Maine Administrative
14 Procedure Act.

16 Sec. 35. 10 MRSA §9065, as enacted by PL 1981, c. 152, §16,
is amended to read:

18 ~~§9065. Inspections~~

20 The department Attorney General, by its authorized
22 representatives, may enter, at reasonable times, any factory,
warehouse or establishment, in which manufactured homes are
24 manufactured, stored or held for sale, for the purpose of
ascertaining whether the requirements of the federal manufactured
26 rules of this department the Attorney General have been and are
being met.

28 Sec. 36. 10 MRSA §9066, sub-§1, as enacted by PL 1981, c. 152,
30 §16, is amended to read:

32 1. Violations. ~~Any--person--who--violates--any--of--the~~
~~following--provisions--relating--to--manufactured--homes--or~~
34 ~~regulations--promulgated--by--the--department--shall--be--liable--for--a~~
~~civil--penalty--not--to--exceed--\$1,000--for--each--violation.--Each~~
36 ~~violation--shall--constitute--a--separate--violation--with--respect--to~~
~~each--manufactured--home,--except--that--the--maximum--penalty--shall--not~~
38 ~~exceed--\$1,000,000--for--any--related--series--of--violations--occurring~~
~~within--one--year--from--the--date--of--the--first--violation.--No--person~~
40 ~~may:~~ An individual or a director, officer or agent of a
42 corporation who knowingly or willfully violates this chapter in a
manner that threatens the health or safety of any purchaser
44 commits a Class E crime for which a fine of not more than \$1,000
or a term of imprisonment of not more than one year, or both, may
be adjudged for each violation.

46 Whoever violates any provision of this chapter or any rule or
48 final order issued pursuant to this chapter is liable to the
State for a civil penalty of not more than \$1,000 for each
50 violation. Each violation of a provision of this chapter or any

2 rule or order issued pursuant to this chapter constitutes a
3 separate violation with respect to each manufactured home or with
4 respect to each failure or refusal to allow or perform an act
5 required thereby, except that a maximum civil penalty may not
6 exceed \$1,000,000 for any related series of violations occurring
7 within one year from the date of the first violation.

8 If a dealer or manufacturer violates any of the provisions of
9 this chapter or any rules governing the manufactured homes, the
10 dealer or manufacturer may be enjoined from selling any
11 manufactured home until the dealer or manufacturer meets all the
12 requirements of this chapter and rules adopted under this
13 chapter. If any mechanic violates any provision of this chapter
14 or any rule adopted under this chapter, the mechanic must be
15 enjoined from installing until the violations are corrected.
16 Whenever practicable, the Attorney General shall give notice to
17 any person against whom an action for injunctive relief is
18 contemplated and shall afford the person an opportunity to
19 present that person's views, but the failure to give notice and
20 afford an opportunity does not preclude the granting of
21 appropriate relief.

22 It is a violation of this chapter:

23
24
25
26 A. Manufacture To manufacture for sale, lease, sell, offer
27 for sale or lease, or introduce or deliver, or import into
28 the State any manufactured home which that is manufactured
29 on or after the effective date of any applicable federal
30 manufactured housing construction and safety standard which
31 that does not comply with that standard;

32 B. Fail To fail or refuse to permit access to or copying of
33 records, or fail to make reports or provide information; or
34 fail or refuse to permit entry or inspection as required by
35 section 9065;

36
37 C. Fail To fail to furnish notification of any defect as
38 required by 42 United States Code, Section 5414;

39
40 D. Fail To fail to issue a certification required by 42
41 United States Code, Section 5415 or to issue a certification
42 to the effect that a manufactured home conforms to all
43 applicable federal manufactured housing construction and
44 safety standards, if that person in the exercise of due care
45 has reason to know that the certification is false or
46 misleading in a material respect;

47
48 E. Fail To fail to establish and maintain such records,
49 make such reports and provide such information as the
50 Department ~~of Business, Occupational and Professional~~

2 Regulation Attorney General may reasonably require, to
enable ~~it~~ the Attorney General to determine whether there is
4 compliance with the National Manufactured Housing
Construction and Safety Standards Act of 1974; or fail to
6 permit, upon request of a person duly authorized by the
~~commissioner~~ board, inspection of appropriate books, papers,
8 records and documents relative to determining whether a
manufacturer, distributor or dealer has acted or is acting
10 in compliance with this Act chapter or with the National
Manufactured Housing Construction and Safety Standards Act
of 1974; ~~or~~

12
14 F. Issue To issue a certification pursuant to 42 United
States Code, Section 5403, Paragraph (a), if the person in
16 the exercise of due care has reason to know that the
certification is false or misleading in a material respect;

18 G. For any manufacturer or dealer to fail to correct a
standard violation within a reasonable time not to exceed 90
20 days of being ordered to do so in writing by an authorized
representative of the Attorney General if the manufacturer
22 or dealer sold the manufactured home after March 14, 1977; or

24 H. For any person to interfere with, obstruct or hinder any
authorized representative of the executive director of the
26 board in performance of the executive director's duty.

28 Sec. 37. 10 MRSA §9066, sub-§2, as enacted by PL 1981, c. 152,
§16, is repealed.

30 Sec. 38. 10 MRSA §9068, first ¶, as enacted by PL 1981, c. 152,
32 §16, is amended to read:

34 The department Attorney General shall establish a monitoring
inspection fee in an amount established by the Secretary of the
36 United States Department of Housing and Urban Development. This
monitoring inspection fee shall must be an amount paid by the
38 manufacturer for each home produced in Maine this State.

40 Sec. 39. 10 MRSA §9071, as enacted by PL 1981, c. 152, §16,
is amended to read:

42 **§9071. Revenue**

44
46 The fees received by the ~~commissioner~~ board under the State
Administrative Agency Program shall must be paid by the Treasurer
of State to be used for carrying out the duties of the program.
48 Any balance of these fees shall may not lapse but shall must
be carried forward as a continuing account to be expended for the
50 same purpose in the following fiscal years.

2 **Sec. 40. 10 MRSA §9072**, as amended by PL 1987, c. 395, Pt. A,
§41, is further amended to read:

4
6 **§9072. Hearings**

8 ~~The Department of Professional and Financial Regulation may~~
~~file a complaint with the Administrative Court which is~~
~~authorized to~~ Attorney General may conduct hearings and
10 presentations of views consistent with Title 5, chapter 375 and
as outlined in section 9062, subsection 4.

12
14 **Sec. 41. 10 MRSA §9084, 2nd ¶**, as enacted by PL 1983, c. 553,
§17, is amended to read:

16 When any applicant is found, based upon an inspection by the
board or by municipal inspection made according to section 9088,
18 not in compliance with the requirements of this subchapter or
rules adopted and approved pursuant to section 9085 or section
20 9088, subsection 1, the board may refuse issuance of the initial
license, but shall issue a conditional license, except when
22 conditions are found which that present a serious danger to the
health and safety of the public. A conditional license shall may
24 not exceed 90 days. Failure by the conditional licensee to meet
the conditions specified shall ~~permit~~ permits the board to void
26 the conditional license.

28 **Sec. 42. 10 §9084, 5th ¶**, as enacted by PL 1983, c. 553, §17, is
amended to read:

30 All mobile home park licenses shall expire annually on a
32 date established by the ~~commissioner~~ Attorney General. Licenses
may be renewed upon application therefor and upon payment of the
34 prescribed fee, subject to compliance with regulations of the
board and with this subchapter. The board shall provide
36 licensees with notice of the renewal date and necessary forms no
less than 30 days prior to the expiration of the license.

38 **Sec. 43. 10 MRSA §9093, sub-§1**, as amended by PL 1989, c. 104,
40 Pt. C, §§8 and 10, is further amended to read:

42 **1. Duty to disclose.** A mobile home park owner or operator
shall disclose fully in writing all fees, charges, assessments
44 and rules before a mobile home dweller assumes occupancy in the
park. A mobile park owner or operator shall notify all tenants
46 of their right to contact the Manufactured Housing Board
regarding any complaints.

48 **Sec. 44. 10 MRSA §9094, sub-§2, ¶B-2** is enacted to read:
50

2 B-2. At the time of sale or change in the principal
3 occupant of a mobile home, the mobile home park owner or
4 operator may require the owner of the home, if built before
5 June 15, 1976, to provide evidence that the home meets the
6 Manufactured Housing Board's standard for used manufactured
7 homes. The mobile home owner may demonstrate compliance
8 with the standard by providing the park owner or operator
9 with a report signed by the following persons and indicating
10 that the home complies with the standard's specifications
11 regarding those aspects of the home inspected:

12 (1) A licensed electrician who inspected the home's
13 electrical system;

14 (2) A licensed oil burner repairer who inspected the
15 home's heating system; and

16 (3) A licensed engineer who inspected the home for
17 safety.

18 Signature of the report may not be construed for any purpose
19 as an endorsement that the home meets provisions of the
20 standard other than those for which the inspection was
21 conducted. A park owner who receives a signed report may
22 not require removal of a home under this section on the
23 basis of fire safety or the safety of the home.

24 Sec. 45. 10 MRSA §9094, sub-§2, ¶F-1, as enacted by PL 1989, c.
25 678, §2, is amended to read:

26 F-1. The Manufactured Housing Board shall adopt rules under
27 Title 5, chapter 375, establishing a used manufactured home
28 standard no later than December 1, 1990. The standard must
29 cover all equipment and installations in the construction,
30 the plumbing, heat-producing and electrical systems and fire
31 safety of used manufactured homes that are designed to be
32 used as dwellings. The standard must seek to ensure that
33 used manufactured homes are safe for habitation, free from
34 structural defects and do not present an imminent and
35 unreasonable risk of death or serious personal injury.

36 Sec. 46. 10 MRSA §9094, sub-§3, ¶¶A and B, as enacted by PL
37 1989, c. 104, Pt. B, §3 and Pt. C, §10, are amended to read:

38 A. At the time of entering into the contract, the seller or
39 the seller's agent represented to the buyer or the buyer's
40 agent that the mobile home may remain in that mobile home
41 park; and

2 B. The buyer is not permitted to keep the mobile home in
that mobile home park or the buyer is not accepted as a
4 tenant in that mobile home park.; or

6 Sec. 47. 10 MRSA §9094, sub-§3, ¶C is enacted to read:

8 C. The buyer learns that the mobile home does not meet the
manufactured home standards set by the Manufactured Housing
10 Board.

12 **Emergency clause.** In view of the emergency cited in the
preamble, this Act takes effect when approved.

14
16 **STATEMENT OF FACT**

18 Generally, this bill increases the advocacy role of the
Manufactured Housing Board, makes a number of changes in the
20 roles and responsibilities of the board and moves the board to
the Department of the Attorney General. The bill also:

22 1. Modifies the composition of the board, expanding the
number of consumer members and requiring legislative confirmation
24 for all members. The bill also creates the Manufactured Housing
Recovery Fund to provide assistance to persons living in
26 substandard manufactured housing and it describes the complaint
process;

28 2. Changes the law so that enforcement authority rests with
30 the board itself and not with the board's employees;

32 3. Specifies the kind of uniform standards the board must
establish, including standards for installation;

34 4. Requires installers to provide one-year warranties and
36 to meet state installation standards;

38 5. Adds a requirement that the installer, who already
notifies the State when a unit is installed, include notification
40 of the type of home installed and indicate that installation
standards have been met;

42 6. Establishes time frames for the correction of violations
44 and clarifies that it is not legal to obstruct the work of the
board. The bill also requires that a manufacturer disclose to a
46 consumer the fact that a home contains hardboard siding;

48 7. Grants the board authority to hold hearings, indicates
that failure to comply with state standards constitutes a

2 violation and gives the board authority to enjoin the sale of
some kinds of homes;

4 8. Requires the board to consider any group of 10
6 complainants a class and to request that the Attorney General
assist those complainants in taking legal action;

8 9. Gives the board 90 days to act upon a violation,
10 allowing individuals to seek court relief should the 90 days pass
without action of the board;

12 10. Establishes a fine for a violation of the standards and
14 clarifies what constitutes a violation;

16 11. Modifies existing statutory language so as to provide
for the creation of the Manufactured Housing Recovery Fund;

18 12. Upgrades the kind of standards that the State is
20 required to establish, including requirements that a manufactured
home be durable for at least the length of a mortgage and that a
22 home sold in the State carry a seal or label that indicates that
the federal Department of Housing and Urban Development and the
state Manufactured Housing Board have approved the home;

24 13. Specifies what must be included in a warranty and how
26 warranty claims must be handled;

28 14. Indicates that local standards established by a
30 municipality can not be less than those standards set by the
State;

32 15. Makes the fee currently paid for new dwelling units
34 apply to all dwelling units installed in the State;

36 16. Requires the board, upon receiving 10 or more similar
complaints concerning manufactured homes, to notify purchasers of
38 similar housing of their rights of action;

40 17. Moves the responsibility for determining when a
manufacturing defect exists from the manufacturer to the board;

42 18. Adds disclosure requirements for defects for dealers
44 selling used homes;

46 19. Clarifies that the board may pursue out-of-state
manufacturers, even if another state has certified that a home
48 meets that state's standards;

50 20. Clarifies the board's authority to pursue remedy on its
own;

- 2 21. Allows consumers approximately one year from discovery
4 to file a complaint;
- 6 22. Clarifies that manufactured homes must comply with
8 federal and state standards and requires the use of the
 Department of Housing and Urban Development seal on all homes
 sold in the State;
- 10 23. Clarifies that the board has the authority to hold
12 hearings and to make findings;
- 14 24. Repeals statutory language that limits remedy to
 first-time purchasers;
- 16 25. Requires mobile home park owners to notify tenants of
18 their right to remedy through the board;
- 20 26. Expands the conditions that have to be met in sales of
 used mobile homes; and
- 22 27. Gives a buyer the right to return, within 30 days of
 purchase, a mobile home that does not meet standards.