

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

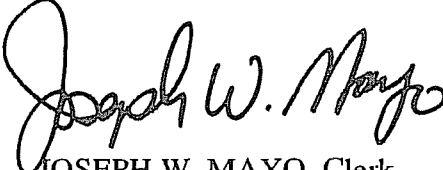
No. 1638

H.P. 1219

House of Representatives, January 5, 1994

An Act to Strengthen Enforcement of Manufactured Housing Warranties.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on Legal Affairs suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative DAGGETT of Augusta.
Cosponsored by Representative: STEVENS of Sabattus, Senators: CAREY of Kennebec, ESTY
of Cumberland.

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

2
3 Sec. 1. 10 MRSA §1401, as repealed and replaced by PL 1989,
4 c. 805, §1, is amended to read:

6 **§1401. Scope**

8 All new mobile manufactured homes sold by a dealer are
9 covered by the warranty warranties established by this chapter.

10 Sec. 2. 10 MRSA §1402, sub-§3 is enacted to read:

12 **3. Installer.** "Installer" includes a person, corporation,
14 association or any other legal entity that installs or sets up a
15 manufactured home for a buyer.

16 Sec. 3. 10 MRSA §1403, as repealed and replaced by PL 1989,
18 c. 805, §3, is repealed and the following enacted in its place:

20 **§1403. Application**

22 **1. Warranty on the home.** The warranty established by
23 section 1404 applies to:

24 A. The manufacturer of the manufactured home;

26 B. The dealer who sells the manufactured home to the buyer;
28 and

30 C. A person who, in the ordinary course of business and
32 under contract with, or as an employee or agent of, a dealer
33 located in another state, transports a manufactured home
34 into the State or installs a manufactured home transported
35 into the State.

36 **2. Warranty on the installation.** The warranty established
37 in section 1404-A applies to the installer who installs a
38 manufactured home in the State.

40 Sec. 4. 10 MRSA §1404-A is enacted to read:

42 **§1404-A. Installation warranty**

44 The installer shall provide a written warranty with each new
45 manufactured home it installs for a buyer. The installer shall
46 deliver the written warranty to the buyer at the time of the
47 installation. The warranty must contain the following terms:

48 **1. Materials and workmanship.** That the installation is
50 free from any substantial defects in materials or workmanship;

2 **2. Corrective action.** That the installer shall take
4 appropriate corrective action at the site of the manufactured
6 home in instances of substantial defects in materials or
8 workmanship that become evident within one year from the date of
the installation of the manufactured home, provided the buyer or
the buyer's transferee gives written notice of the defects to the
installer at the installer's business address no later than one
year and 10 days after the date of installation;

10
12 **3. Liability.** That the installer is liable to the buyer
for the fulfillment of the terms of the warranty; and

14 **4. Name, address and phone number of installer.** The name,
16 address and phone number of the installer to which written notice
of defects are mailed or delivered by the buyer to the installer.

18 **Sec. 5. 10 MRSA §9009, sub-§2,** as repealed and replaced by PL
20 1977, c. 694, §196, is amended to read:

22 **2. Investigation of complaints; revocation or suspension of**
24 **licenses.** The board shall investigate or cause to be
26 investigated all complaints made to ~~it~~ the board and all cases of
28 noncompliance with or violation of this chapter or a warranty
30 applicable to the sale or installation of a manufactured home.
32 If the board does not find reasonable grounds to believe that a
34 violation of this chapter or breach of an applicable warranty has
36 occurred, the board shall enter an order so finding and dismiss
the proceeding. If the board finds ~~reason-to-believe~~ that the
manufacturer, dealer, installer or mechanic has violated this
chapter, ~~or the rules adopted and--regulations--promulgated~~
pursuant to this chapter, ~~it~~ or an applicable warranty, the board
shall endeavor to eliminate the violation by informal means such
as conference, conciliation and persuasion. If the board is
unable to eliminate the violation by informal means, the board
may ~~file a complaint with the Administrative Court to~~ revoke or
suspend the license or approval of the manufacturer, dealer,
38 installer or mechanic. The board, for reasons it may deem
sufficient, may reissue a license to any person whose license has
40 been revoked, providing 3 or more members of the board vote in
favor of this reissuance.

42 **Sec. 6. 10 MRSA §9009, sub-§3,** as enacted by PL 1989, c. 690,
44 §1, is amended to read:

46 **3. Injunction on sales.** The board shall investigate all
48 complaints made to ~~it~~ the board of noncompliance with or
violation of chapter 213 or a warranty applicable to the sale or
installation of a manufactured home. If the board finds that a

2 manufacturer or dealer has sold, or is making available for sale,
3 mobile manufactured homes that pose a threat to public health or
4 safety or has intentionally failed to comply with chapter 213 or
5 an applicable warranty, the board may ~~petition the Attorney~~
6 ~~General to~~ shall initiate legal ~~action in Superior Court~~ a
7 hearing to enjoin the sale of mobile manufactured homes by that
8 manufacturer or dealer. If the ~~court~~ board finds that the
9 manufacturer or dealer sold, or is making available for sale,
10 mobile manufactured homes that pose a threat to public health or
11 safety or has intentionally failed to comply with chapter 213 or
12 this chapter, the ~~court~~ board may enjoin the sale of mobile
13 manufactured homes by that manufacturer or dealer.

14 **Sec. 7. 10 MRSA §9009, sub-§4** is enacted to read:

15 4. Notice of violation. When the board finds a violation
16 of this chapter, a rule adopted pursuant to this chapter or a
17 warranty applicable to the sale or installation of a manufactured
18 home, the board may issue a notice of violation to the person
19 alleged to have violated the provision. The notice of violation
20 must set forth the alleged violation and specify the corrective
21 action and the time within which that action must be taken.
22

23 **Sec. 8. 10 MRSA §9015** is enacted to read:

24 **§9015. Attorney's fees**

25 Attorney's fees may not be awarded to a plaintiff in a civil
26 action for violation of this chapter or of an applicable warranty
27 unless the plaintiff alleges and establishes that, prior to the
28 filing of the civil action, the plaintiff first filed a complaint
29 with the board and the board either:
30

31 1. Dismiss. Dismissed the case; or

32 2. Conciliation agreement. Failed, within 90 days after
33 finding reasonable grounds to believe that a violation of this
34 chapter or of an applicable warranty occurred, to enter into a
35 conciliation agreement to which the plaintiff was a party.
36

37 **Sec. 9. Qualifications.** The Manufactured Housing Board shall
38 develop qualifications for each category of license under its
39 jurisdiction and submit those qualifications to the Joint
40 Standing Committee on Housing and Economic Development no later
41 than January 15, 1995.
42

43 **STATEMENT OF FACT**

44 This bill will enable the State's Manufactured Housing Board
45 to enforce Maine's explicit manufactured housing warranty law and
46

2 the implied warranty of merchantability. The bill creates a new
warranty on the installation of manufactured homes. The bill
4 also requires that the Manufactured Housing Board develop
recommended licensing qualifications to submit to the Legislature
by January 15, 1995.

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12 This document has not yet been reviewed to determine the
need for cross-reference, stylistic and other technical
amendments to conform existing law to current drafting standards.