

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SIXTEENTH LEGISLATURE

SECOND REGULAR SESSION

January 5, 1994 to April 14, 1994

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 14, 1994

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1993

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

Sec. 1. 5 MRSA §1825-B, sub-§2, ¶A, as enacted by PL 1989, c. 785, §2, is amended to read:

A. The procurement of goods or services by the State, for county commissioners pursuant to Title 30-A, section 124, involves the expenditure of \$1,000 or less, and the interests of the State would best be served;

See title page for effective date.

CHAPTER 641

H.P. 1469 - L.D. 1995

An Act to Establish Fairness in the Placement of On-line Lottery Machines

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

Whereas, currently there is no appeal process in place for applicants who are denied licenses to sell lottery tickets by the Director of the Bureau of Alcoholic Beverages and Lottery Operations; and

Whereas, a fair and specific appeals process needs to be established in law; and

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

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

Sec. 1. 8 MRSA §375, as enacted by PL 1987, c. 505, §2, is amended to read:

§375. Lottery sales agent; licensing; appeals

1. Factors. A license as an agent to sell lottery tickets or shares may be issued by the director to any qualified person. Before issuing the license, the director shall consider ~~such~~ at least the following factors as:

A. The financial responsibility and security of the person and ~~his~~ the person's business or activity;

B. The accessibility of ~~his~~ the person's place of business or activity to the public;

C. The sufficiency of existing licensees to serve the public convenience; and

D. The volume of expected sales.

2. Appeals. An applicant who is denied a license may appeal the director's decision to the commission by filing a written appeal with the commission within 15 days of the mailing of the director's decision. An applicant aggrieved by a decision of the commission may appeal the commission's decision by filing a complaint with the Administrative Court and serving a copy of the complaint upon the commission. The complaint must be filed and served within 30 days of the mailing of the commission's decision.

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

Effective April 7, 1994.

CHAPTER 642

S.P. 461 - L.D. 1453

An Act to Make Changes in the Manufactured Housing Laws

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

Whereas, the Manufactured Housing Board lacks the authority to enforce warranties that protect consumers, and many consumers are not receiving relief from improper manufacturing or installation of manufactured homes; and

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

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

Sec. 1. 10 MRSA c. 213, first 2 lines are repealed and the following enacted in their place:

CHAPTER 213

MANUFACTURED HOUSING WARRANTIES

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

§1401. Scope

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

Sec. 3. 10 MRSA §1402, sub-§1, as amended by PL 1989, c. 878, Pt. H, §1 and affected by §2, is further amended to read:

1. Dealer. "Dealer" includes a person who customarily sells a ~~mobile home~~ manufactured housing to consumers and is subject to the jurisdiction of this State under Title 14, section 704-A.

Sec. 4. 10 MRSA §1402, sub-§2, as repealed and replaced by PL 1975, c. 252, §1, is repealed.

Sec. 5. 10 MRSA §1402, sub-§§3 and 4 are enacted to read:

3. Installer. "Installer" means any person, including but not limited to a dealer or mechanic, who installs or sets up manufactured housing for a buyer.

4. Manufactured housing. "Manufactured housing" has the same meaning as set forth in section 9002, subsection 7, paragraphs A and B.

Sec. 6. 10 MRSA §1403, as repealed and replaced by PL 1989, c. 805, §3, is repealed and the following enacted in its place:

§1403. Application

1. Warranty on housing. The warranty established in section 1404 applies to:

A. The manufacturer of manufactured housing;

B. The dealer who sells manufactured housing to the buyer; and

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

2. Warranty on installation. The warranty established in section 1404-A applies to the installer of manufactured housing. When the dealer subcontracts with an installer for the installation of manufactured housing in the State, the dealer and the installer are jointly and severally liable for the warranty established in section 1404-A.

Sec. 7. 10 MRSA §1404-A is enacted to read:

§1404-A. Installation warranty

The installer or the installer and the dealer, when the dealer is responsible for the installation, shall provide a written warranty with each new manufactured housing unit installed for a buyer. The installer shall deliver the written warranty to the buyer at the time of the installation. The warranty must contain the following:

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

2. Corrective action. That the installer or the installer and the dealer, when the dealer is responsible for the installation, shall take appropriate corrective action at the site of the manufactured housing in instances of substantial defects in materials or workmanship that become evident within one year from the date of the installation of the manufactured housing if the buyer or the buyer's transferee gives written notice of the defects to the installer or the installer and the dealer, when the dealer is responsible for installation, at the installer's or the installer's and the dealer's business addresses no later than one year and 10 days after the date of installation;

3. Liability. That the installer or the installer and the dealer, when the dealer is responsible for the installation, are liable to the buyer for the fulfillment of the terms of the warranty; and

4. Name, address and phone number of installer. The name, address and phone number of the installer or the installer and the dealer, when the dealer is responsible for the installation, to whom written notice of defects must be mailed or delivered by the buyer.

Sec. 8. 10 MRSA §9001, as amended by PL 1981, c. 152, §1, is further amended to read:

§9001. Declaration of purpose

1. Declaration. It is found and declared that:

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

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

to reduce costs and provide confidence in ~~such~~ that housing; ~~and~~

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

D. Manufactured housing may present hazards to the health, life and safety of persons and to the safety of property unless properly manufactured because vital parts such as heating, plumbing and electrical systems are concealed and defects may not be readily ascertainable when inspected by a purchaser. Accordingly, it is the policy and purpose of this State to provide protection to the public against those possible hazards.

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

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

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

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

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

E. To require this board to assume ~~such~~ responsibilities as ~~are~~ consistent with this ~~Act~~ chapter, including administration and enforcement of ~~regulations~~ rules, investigations of complaints and any other acts ~~which that~~ 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;~~

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

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

Sec. 9. 10 MRSA §9002, sub-§6-A is enacted to read:

6-A. Installer. "Installer" means any person, including but not limited to a dealer or mechanic, who installs or sets up manufactured housing for a buyer.

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

§9003. Manufactured Housing Board

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

2. Composition of board; terms of members. The members of the board ~~shall~~ must include:

A. ~~A representative~~ One member who is a manufactured housing owner; and whose ~~home~~ manufactured housing unit is not located in a mobile home park or similar rental community;

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

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

D. ~~A representative~~ One member who is a dealer;

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

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

G. ~~—A representative~~ One member who is a builder of manufactured housing; and

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

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

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 the balance of the unexpired term. The Governor may appoint a temporary member to fill any vacancy occurring on the board; such a temporary member may serve for a period ~~of~~ not exceeding 120 days from the date of ~~such~~ that appointment.

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

5. Compensation. The appointed members of the board ~~shall be compensated~~ are entitled to compensation as provided in Title 5, chapter 379.

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

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

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

9. Federal funds and other funding sources.

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

10. Manufactured Housing Fund.

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

Sec. 11. 10 MRSA §9004, as amended by PL 1987, c. 395, Pt. A, §37, is further amended to read:

§9004. Employees

1. Executive director. The commissioner may appoint or remove, for cause, with the advice of the board, an executive director who ~~shall be~~ is the principal administrative and supervisory employee of the board. ~~He~~ The executive director shall attend meetings of the board, keep records of the proceedings of the board and direct and supervise the personnel employed to carry out the purposes of this chapter.

2. Employees. The executive director, with the advice of the board and the commissioner, may employ, 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~~ that employee is under the direction and supervision of the executive director of the board.

Sec. 12. 10 MRSA §9005, sub-§1, as enacted by PL 1977, c. 550, §1, is amended to read:

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

Sec. 13. 10 MRSA §9006, sub-§1, as repealed and replaced by PL 1981, c. 152, §8, is amended to read:

1. Standards. The board ~~may~~ shall, by ~~regulation~~ rule, ~~adopt a nationally recognized standard, where available and not incompatible with local needs,~~ set uniform reasonable standards for the instal-

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

Sec. 14. 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~~ An installer shall notify the Manufactured Housing Board every month of the installations completed by that ~~dealer or mechanic~~ installer 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 board and the name and address of the dealer or mechanic who installed the unit installer. 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. 15. 10 MRSA §9006-C is enacted to read:

§9006-C. Warranty seals

The board shall issue warranty seals to be attached on manufactured housing sold in this State. The following provisions govern the attachment of warranty seals on manufactured housing.

1. Manufacturer's warranty seal. Before manufactured housing may be installed in this State, the manufacturer shall first obtain from the board a Maine manufacturer's warranty seal and attach the seal to the manufactured housing. The fee to the manufacturer for the warranty seal may not exceed \$50.

2. Installer's warranty seal. Before manufactured housing may be installed in this State, the installer shall obtain from the board a Maine installer's warranty seal and attach the seal to the manufactured housing. The fee to the installer for the warranty seal may not exceed \$25.

Sec. 16. 10 MRSA §9009, sub-§2, as repealed and replaced by PL 1977, c. 694, §196, is amended to read:

2. Investigation of complaints; revocation or suspension of licenses. The board shall investigate or cause to be investigated all complaints made to ~~the board~~ and all cases of noncompliance with or violation of this chapter or of a warranty applicable to the manufacture or installation of manufactured housing. ~~If~~ Notwithstanding Title 5, section 10051, if the board after notice and a hearing finds ~~reason to believe~~ that the manufacturer, dealer, installer or mechanic has

violated this chapter, ~~or the rules and regulations promulgated~~ adopted pursuant to this chapter or an applicable warranty, ~~the board~~ may file a complaint with the Administrative Court to revoke or suspend the license or approval of the manufacturer, dealer, installer or mechanic. If the board does not find reasonable grounds to believe that a violation of this chapter or breach of an applicable warranty has occurred, the board shall enter an order so finding and dismiss the proceeding. The board, for reasons it ~~may deem~~ considers sufficient, may reissue a license to any person whose license has been revoked, ~~providing if~~ 3 or more members of the board vote in favor of this reissuance.

Sec. 17. 10 MRSA §9009, sub-§2-A is enacted to read:

2-A. Notice of violation. When the board staff finds a violation of this chapter or any rule adopted pursuant to this chapter, the board shall issue a notice of violation to the person alleged to have violated the provision. The notice of violation must set forth the alleged violation and specify the corrective action that must be taken and the time within which the action must be taken.

Sec. 18. 10 MRSA §9009, sub-§3, as enacted by PL 1989, c. 690, §1, is amended to read:

3. Remedies for manufacturing defects. The board staff shall investigate all complaints made to ~~the board~~ of noncompliance with or violation of chapter 213 or a warranty applicable to the sale of manufactured housing. If the board finds, after hearing, that a manufacturer or dealer has sold, or is making available for sale, ~~mobile homes~~ manufactured housing that ~~pose~~ poses a threat to public health or safety or has ~~intentionally~~ failed to comply with chapter 213 or an applicable warranty, express or implied, the board may petition the Attorney General to ~~initiate legal~~ order the manufacturer or dealer or both to take appropriate corrective action ~~in Superior Court to enjoin the sale of mobile homes by that manufacturer or dealer.~~ If the court finds that the manufacturer or dealer sold, or is making available for sale, mobile homes that pose a threat to public health or safety or has ~~intentionally~~ failed to comply with chapter 213, the court may enjoin the sale of mobile homes by that manufacturer or dealer. Corrective action may include, but is not limited to, reimbursing consumers for repairs that are covered by warranty and made by the consumer if the consumer notifies the dealer or manufacturer in writing of the defect within a reasonable time prior to undertaking the repairs and the board finds that the repairs are or were necessary to correct or prevent an imminent threat to health or safety or to the structure of the manufactured housing. Notwithstanding Title 5, section 10051, the board may also revoke or suspend

the license of the manufacturer or dealer or both to prevent any future threat to public health or safety. This subsection applies to any new manufactured housing that is sold to a consumer after January 1, 1993.

Sec. 19. 10 MRSA §9009, sub-§4 is enacted to read:

4. Remedies for installation defects. The board staff shall investigate all complaints made to the board of noncompliance with or violation of chapter 213 or a warranty applicable to the installation of manufactured housing. If the board finds, after hearing, that the installation of manufactured housing poses a threat to public health or safety or does not comply with the board's installation standards, chapter 213 or any applicable warranty, the board may order the installer to take appropriate corrective action. Corrective action may include, but is not limited to, reimbursing consumers for repairs that are covered by warranty and made by the consumer if the consumer notifies the installer in writing of the defect within a reasonable time prior to undertaking the repairs and the board finds that the repairs are or were necessary to correct or prevent an imminent threat to health or safety or to the structure of manufactured housing. Notwithstanding Title 5, section 10051, the board may also revoke or suspend the installer's license to install manufactured housing to prevent any future threat to the public health or safety. This subsection applies to any new manufactured housing that is sold to a consumer after January 1, 1993.

Sec. 20. 10 MRSA §9010, as repealed and replaced by PL 1977, c. 694, §197, is amended to read:

§9010. Hearings and appeals

~~Judicial review~~ All board hearings and appeals of any final action of the board shall must be in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter subchapters IV and VII, respectively, unless indicated otherwise.

Sec. 21. 10 MRSA §9011, sub-§§2, 4 and 5, as enacted by PL 1977, c. 550, §1, are amended to read:

2. Petition to initiate legal action. The board may petition the Attorney General to initiate legal action ~~in the Superior Court~~ any court of competent jurisdiction for appropriate monetary or injunctive relief to enforce this chapter.

4. Private actions. Any person damaged as a result of a violation of this chapter ~~shall also have~~ has a cause of action in ~~the Superior Court~~ 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. The board shall notify all claimants of their right to seek remedy.

5. Crime designated. An individual or a director, officer or agent of a corporation who knowingly and willfully violates section 9008 in a manner ~~which~~ that threatens the health or safety of any purchaser shall be guilty of commits a Class E crime.

Sec. 22. 10 MRSA §9021, as amended by PL 1991, c. 391, §§2 to 4, is further amended by adding a first paragraph to read:

The board shall adopt rules governing qualifications for each category of license under its jurisdiction.

Sec. 23. 10 MRSA §9021, sub-§1, as repealed and replaced by PL 1981, c. 152, §13, is amended to read:

1. Licenses required. Any person who engages in the business of manufacturing, selling, installing or servicing manufactured housing shall first obtain a license issued by the board. The board shall, within a reasonable time, issue a license to any person who intends to manufacture, sell, install 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 requirement for selling or brokering used manufactured housing but not from the requirements of this chapter.

Sec. 24. 10 MRSA §9021, sub-§2, as amended by PL 1991, c. 391, §§2 and 3, is further amended to read:

2. License fees. The board may establish and collect the following fees. All fees collected ~~shall must~~ be paid to the Treasurer of State for deposit in the Manufactured Housing Fund.

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

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

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

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

Sec. 25. 10 MRSA §9021, sub-§§6 to 8 are enacted to read:

6. Financial responsibility. The board may 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.

7. Service of process. In order to obtain a license under this chapter, a person who is not a resident of this State shall designate the executive director of the board as the person's agent for service of process in this State. The following provisions govern this requirement.

A. A person who applies for a license shall file with the executive director, in a form prescribed by rule, an irrevocable consent appointing the executive director to be that person's agent to receive service of any lawful process in any civil proceeding against that person, a successor or a personal representative that arises under this chapter or any rule or order of the board after consent has been filed, and that service of process has the same force and validity as if served on the person who filed the consent.

B. If a person engages in conduct prohibited by this chapter or any rule or order of the board and that person has not filed a consent to service of process under paragraph A, the executive director is automatically appointed as the person's agent to receive service of any lawful process in a civil proceeding against that person, a successor or a personal representative that results because of the person's conduct under this chapter or any rule or order of the board, and that service of process has the same force and validity as if served on the person.

C. Service under paragraphs A and B may be made by leaving a copy of the process in the office of the executive director but is not effective unless:

(1) The plaintiff, who may be the executive director or the board, immediately sends notice of the service and a copy of the process by registered or certified mail, return receipt requested, to the defendant

or the respondent at the address last known to the executive director; and

(2) The plaintiff files an affidavit of compliance with this paragraph in the proceeding on or before the return date of the process, if any, or within any further time the court, or the board in a proceeding before the board, allows.

D. Service as provided in paragraph C may be used in any proceeding before the board or by the executive director in any proceeding in which the executive director is the moving party.

E. When the process is served under paragraph C, the court or the board shall order continuances as necessary to afford the defendant or the respondent reasonable opportunity to defend.

8. 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;

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

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

D. Violated any provision of or rules adopted under this chapter or any other applicable warranties.

Sec. 26. 10 MRSA §9041, as amended by PL 1991, c. 714, §4, is further amended to read:

§9041. General rules

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

For purposes of this subchapter, manufactured housing includes only housing defined in section 9002, subsection 7, paragraph B.

Sec. 27. 10 MRSA §9042, as repealed and replaced by PL 1981, c. 152, §14, is amended to read:

§9042. Standards

1. Standards. The board shall, by ~~regulation~~ rule, adopt ~~a standards in conformance with nationally recognized standard, where available and not incompatible with local needs, standards~~ for the

construction and the installation of ~~new~~ manufactured housing.

2. Approval. The board shall approve for sale or installation all ~~new~~ manufactured housing ~~which that~~ complies 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.

3. Exemption. New manufactured housing ~~which 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 ~~which that~~ regulate the same matters.

Sec. 28. 10 MRSA §9047, sub-§§1 and 2, as enacted by PL 1981, c. 152, §14, are amended to read:

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

A. Notification by mail to the first purchaser of the manufactured housing, other than a dealer of the manufacturer, and to any subsequent purchaser ~~the whose identity of whom~~ the manufacturer ~~is aware~~ knows;

B. Notification by mail or some expeditious means to the dealer or dealers of the manufacturer to whom the manufactured housing was delivered; and

C. Notification by mail to the board.

2. Dealers. Any person who sells, leases, delivers or transports manufactured housing ~~which that~~ has been certified under this chapter shall notify the board and any present or prospective ~~purchase purchase~~ purchaser of the housing in writing of any defect resulting from damage or modification to the housing ~~which that~~ the person determines, ~~in good faith,~~ relates to a standard of the board ~~which that~~ is applicable to the housing or ~~which that~~ constitutes a safety hazard to an occupant of the housing. This require-

ment ~~shall~~ does 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 does~~ not apply to deliveries or transportations of the manufactured housing ~~which that~~ occur after the first installation of the housing on a permanent foundation.

Sec. 29. 10 MRSA §9048, sub-§§1 and 2, as enacted by PL 1981, c. 152, §14, are amended to read:

1. Standards. If the board finds that the standards for the manufacture and inspection of manufactured housing prescribed by statute or regulation of another state, or ~~other~~ governmental agency, meet the objectives of this chapter and the ~~regulations promulgated rules adopted~~ rules adopted pursuant ~~hereto,~~ to this chapter and are enforced satisfactorily by that other state, or other governmental agency, or by their agents, the board may accept 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 considered~~ 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.

2. Suspension or revocation. ~~The Notwithstanding Title 5, section 10051, the board may file a complaint with the Administrative Court to suspend or revoke the board's acceptance or certification, or both, of manufactured housing certified under the reciprocal provisions of this section, for the following causes:~~

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

B. The board determines that the standards for manufacture and inspection are not being enforced to the satisfaction of the board; or

C. The other state or governmental agency suspends or revokes its approval or certification.

Sec. 30. 10 MRSA §9051, sub-§3 is enacted to read:

3. Notice for purposes of limitation of actions. If a consumer files a written complaint with the manufacturer, dealer, installer or board within one year and 10 days after installation of new manufac-

tured housing, receipt of the written complaint by the manufacturer, dealer, installer or board tolls the statute of limitations for purposes of bringing an action to enforce any applicable warranty concerning the defect that is the subject of the written complaint.

Sec. 31. 10 MRSA §9061, sub-§9, as enacted by PL 1981, c. 152, §16, is amended to read:

9. State administrative agency. "State ~~Administrative Agency~~ administrative agency" means ~~this the department which that~~ 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 Public Law~~ 93-383, 42 United States Code, Section 5422 and 24 Code of Federal Regulations, Part 3282, Subpart G.

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

§9063. Rules

The ~~commissioner board~~ is authorized to issue, amend and revoke ~~such regulations rules~~ as is ~~deemed~~ 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, Section 5401 et seq., including the implementation of a consumer complaint handling process and the holding of hearings. In the event of a conflict between ~~the Manufactured Housing Act this chapter~~ and the National Manufactured Housing Construction and Safety Standards Act of 1974, involving the state administrative agency program, the National Manufactured Housing Construction and Safety Standards Act of 1974 ~~shall prevail prevails~~.

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

§9064. Standards

1. Adoption, administration and enforcement of standards. The ~~Department of Professional and Financial Regulation board~~ is charged with the adoption, administration and enforcement of manufactured ~~home housing~~ construction and safety standards. The standards adopted ~~shall be identical to must meet~~ the standards ~~promulgated adopted~~ pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 United States Code, Section 5401 et seq. ~~The Department of Professional and Financial Regulation shall discharge this duty consistent with rules and regulations promulgated by the United States Department of Housing and Urban Development.~~

2. Rules. The ~~Department of Professional and Financial Regulation board~~ may adopt ~~such~~ rules as

~~are~~ necessary to enforce the standards ~~promulgated adopted~~ under subsection 1.

Sec. 34. 10 MRSA §9065, as enacted by PL 1981, c. 152, §16, is amended to read:

§9065. Inspections

The ~~department board~~, by its authorized representatives, may enter, at reasonable times, any factory, warehouse or establishment, in which manufactured ~~homes are housing is~~ manufactured, stored or held for sale; for the purpose of ascertaining whether the requirements of the federal manufactured housing construction and safety standards and the ~~regulations rules of this department the board~~ have been and are being met.

Sec. 35. 10 MRSA §9066, sub-§1, as corrected by RR 1993, c. 1, §28, is amended to read:

1. Violations. ~~Any A~~ person who violates any of the following provisions relating to manufactured ~~homes housing or regulations promulgated rules adopted~~ by the ~~department shall be liable for board is~~ subject to a civil penalty not to exceed \$1,000 for each violation. Each violation ~~shall constitute constitutes~~ a separate violation with respect to each manufactured ~~home housing unit~~, except that the maximum penalty ~~shall may~~ not exceed \$1,000,000 for any related series of violations occurring within one year from the date of the first violation. ~~No person may It is a violation of this chapter for a person:~~

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

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

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

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

E. ~~Fail To fail~~ to establish and maintain ~~such~~ records, make such reports and provide ~~such~~ information as the ~~Department of Professional and Financial Regulation board~~ may reasonably require; to enable ~~the board~~ 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 board~~, 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 chapter~~ or with the National Manufactured Housing Construction and Safety Standards Act of 1974; or

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

Sec. 36. 10 MRSA §9068, first ¶, as enacted by PL 1981, c. 152, §16, is amended to read:

The ~~department 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~~ is an amount paid by the manufacturer for each home produced in ~~Maine~~ this State.

Sec. 37. 10 MRSA §9071, as enacted by PL 1981, c. 152, §16, is amended to read:

§9071. Revenue

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. Any balance of these fees ~~shall may~~ not lapse but ~~shall~~ must be carried forward as a continuing account to be expended for the same purpose in the following fiscal years.

Sec. 38. 10 MRSA §9084, 2nd and 5th ¶¶, as enacted by PL 1983, c. 553, §17, are amended to read:

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

see to meet the conditions specified ~~shall permit~~ permits the board to void the conditional license.

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

Sec. 39. 10 MRSA §9094, sub-§2, ¶B-2 is enacted to read:

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

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

(2) A person licensed to repair the home's heating system who inspected the home's heating system; and

(3) A certified professional engineer who inspected the home for safety and structural soundness.

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

Sec. 40. 11 MRSA §9-402, sub-§(1), as amended by PL 1977, c. 696, §144, is further amended to read:

(1) A financing statement is sufficient, if it gives the names of the debtors and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral;

~~provided except~~ that, for purposes of this section, if the collateral is a mobile home ~~as defined in Title 10, section 1402, subsection 2,~~ the description of collateral ~~shall must~~ include the location designated by the debtor in the security agreement as the place at which the mobile home is, or is to be, located. A financing statement may be filed before a security interest otherwise attaches. When the financing statement covers timber to be cut ~~or covers,~~ minerals or the like, including oil and gas, or accounts subject to section 9-103, subsection (5); ~~or covers~~ crops growing or to be grown, or when the financing statement is filed as a fixture filing, section 9-313, and the collateral is goods ~~which that~~ are or are to become fixtures, the statement must comply with subsection (5). A copy of the security agreement is sufficient as a financing statement, if it contains the above information and is signed by the debtor. A legible carbon, photographic or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this State.

Sec. 41. Review board composition and functions. The Manufactured Housing Board shall review the educational and professional qualifications necessary to be a board member, the size and structure of the board and the effectiveness of the board in carrying out its duties. The board shall report its findings and any recommendations for change in board composition or function to the joint standing committee of the Legislature having jurisdiction over legal affairs and the joint standing committee of the Legislature having jurisdiction over housing and economic development matters no later than March 1, 1995.

Sec. 42. Review consumer protection issues. The Manufactured Housing Board shall review the recommendations from the Report of the National Manufactured Housing Commission and shall review and evaluate all federally proposed, pending legislation and current laws for national consumer protection, including the establishment of a national recovery fund. The board shall also investigate whether the current state plan approved by the Department of Housing and Urban Development could be amended to better serve this State's consumers. The board shall report its findings and any recommendations for change to the joint standing committee of the Legislature having jurisdiction over legal affairs and the joint standing committee of the Legislature having jurisdiction over housing and economic development matters no later than January 1, 1996.

Sec. 43. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1994-95

ATTORNEY GENERAL, DEPARTMENT OF THE

Administration - Attorney General

Positions	(0.5)
Personal Services	\$29,926
All Other	1,250
Capital Expenditures	500

Provides for the allocation of funds for one additional 1/2-time Assistant Attorney General position and general operating expenses to meet the need of the Manufactured Housing Board for additional legal services.

DEPARTMENT OF THE ATTORNEY GENERAL TOTAL

 \$31,676

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Manufactured Housing Board

All Other	\$51,676
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Provides for the allocation of funds for increased legal services from the Department of the Attorney General and the cost of certain additional public hearings.

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION TOTAL

 \$51,676

TOTAL ALLOCATIONS

 \$83,352

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

Effective April 8, 1994.

CHAPTER 643

H.P. 1153 - L.D. 1552

An Act to Amend the Laws Governing the Required Qualifications to Practice Law in the State

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

Sec. 1. 4 MRSA §805-A, sub-§2, ¶A, as enacted by PL 1985, c. 124, §6, is amended to read:

A. Produces satisfactory evidence of good moral character;

(1) The fact that an applicant has been convicted as an adult of a crime that is punishable by imprisonment of one year or more in this State or in another state or jurisdiction of the United States raises a presumption that the applicant has not met this requirement. This presumption may be rebutted by proof that a lawful pardon has been obtained, that extraordinary circumstances surrounded the commission of the crime or that a reasonable amount of time has passed since the applicant's conviction and completion of sentence and there is evidence of complete rehabilitation based on the applicant's subsequent history.

(2) Nothing in subparagraph (1) precludes the board or the Supreme Judicial Court from considering a conviction as a basis for disqualification under this paragraph;

See title page for effective date.

CHAPTER 644

H.P. 1155 - L.D. 1554

An Act to Prohibit Discrimination in the Assignment of School Attendance Areas

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

Whereas, it is alleged that the children of the City of Portland face discrimination in their school attendance area assignments; and

Whereas, it is alleged that school administrative units have discriminated against children of low-income families in certain areas for a long period of time; and

Whereas, this economic discrimination must be remedied before the start of the next school year; and

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

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

Sec. 1. 20-A MRSA §4502, sub-§4-B is enacted to read:

4-B. Economic discrimination. A school board may consider the economic conditions within its geographical area of jurisdiction in assigning pupils to schools within a school administrative unit or a centralized education program but may not make assignments solely on the basis of economic condition.

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

Effective April 8, 1994.

CHAPTER 645

S.P. 560 - L.D. 1596

An Act to Promote Managed Care and to Otherwise Facilitate the Cost-effective Delivery of Health Care in the State

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

Whereas, it has become apparent that the laws relating to managed health care plans are restricting the ability of such plans to negotiate reductions in costs; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following