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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1992

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## ENROLLED

SENATE BILL NO. 606

*(Originating in the Committee*  
(By Senator on Labor)

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PASSED March 6, 1992

In Effect 90 days from Passage

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### Senate Bill No. 606

(Originating in the Committee on Labor.)

[Passed March 6, 1992; in effect ninety days from passage.]

AN ACT to amend and reenact sections two, three and nine, article nine, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to manufactured housing construction and safety standards; dealer defined; reducing per diem compensation for West Virginia manufactured housing construction and safety board members; and license fee for contractors.

*Be it enacted by the Legislature of West Virginia:*

That sections two, three and nine, article nine, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

#### **ARTICLE 9. MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS.**

##### **§21-9-2. Definitions.**

- 1     (a) "Board" means the West Virginia manufactured  
2     housing construction and safety board created in this  
3     article.
- 4     (b) "Commissioner" means the commissioner of the  
5     West Virginia state department of labor.

6 (c) "Contractor" means any person who performs  
7 operations in this state at the occupancy site which  
8 render a manufactured home fit for habitation. This  
9 definition does not include persons who do work on a  
10 manufactured home which is owned or leased by such  
11 person doing the work. Such operations include,  
12 without limitation, installation or construction of the  
13 foundation, positioning, blocking, leveling, supporting,  
14 tying down, connecting utility systems, making minor  
15 adjustments or assembling multiple or expandable  
16 units. Such operations also include transporting the  
17 unit to the occupancy site by other than a motor  
18 carrier regulated by the West Virginia public service  
19 commissioner.

20 (d) "Dealer" means any person engaged in this state  
21 in the sale, leasing or distribution of new or used  
22 manufactured homes, primarily to persons who in  
23 good faith purchase or lease a manufactured home for  
24 purposes other than resale.

25 (e) "Defect" includes any defect in the performance,  
26 construction, components or material of a manufac-  
27 tured home that renders the home or any part thereof  
28 not fit for the ordinary use for which it was intended.

29 (f) "Distributor" means person engaged in this state  
30 in the sale and distribution of manufactured homes for  
31 resale.

32 (g) "Federal standards" means the National Manu-  
33 factured Housing Construction and Safety Standards  
34 Act of 1974 (42 U.S.C. §5401, et seq.), and federal  
35 manufactured home construction and safety standards  
36 and regulations promulgated by the secretary of HUD  
37 to implement such act.

38 (h) "HUD" means the United States department of  
39 housing and urban development.

40 (i) "Manufacturer" means any person engaged in  
41 manufacturing or assembling manufactured homes,  
42 including any person engaged in importing manufac-  
43 tured homes for resale.

44 (j) "Manufactured home" means a structure, trans-

45 portable in one or more sections, which in the travel-  
46 ing mode is eight body feet or more in width or forty  
47 body feet or more in length or, when erected on site,  
48 is three hundred twenty or more square feet, and  
49 which is built on a permanent chassis and designed to  
50 be used as a dwelling with or without a permanent  
51 foundation when connected to the required utilities,  
52 and includes the plumbing, heating, air-conditioning  
53 and electrical systems contained therein; except that  
54 such term shall include any structure which meets all  
55 the requirements of this definition except the size  
56 requirements and with respect to which the manufac-  
57 turer voluntarily files a certificate which complies  
58 with the applicable federal standards. Calculations  
59 used to determine the number of square feet in a  
60 structure will be based on the structure's exterior  
61 dimensions measured at the largest horizontal projec-  
62 tions when erected on site.

63 (k) "Purchaser" means the first person purchasing a  
64 manufactured home in good faith for purposes other  
65 than resale.

**§21-9-3. Board created; appointment, qualifications, terms,  
oath, etc., of members; quorum; meetings;  
when members disqualified from participa-  
tion; compensation; records; office space;  
personnel.**

1 (a) There is hereby created the West Virginia board  
2 of manufactured housing construction and safety,  
3 which shall consist of six members and the commis-  
4 sioner, who shall be chairman. At least two of the six  
5 members of the said board shall represent and be  
6 consumers who are not related or employed in the  
7 manufactured housing and construction industry. The  
8 six members shall be appointed by the governor by  
9 and with the advice and consent of the Senate. No  
10 more than three of the members so appointed may be  
11 of the same political party.

12 (b) The members of the board shall be appointed for  
13 overlapping terms of six years, except that of the  
14 original appointments, two members shall be

15 appointed for a term of two years, two members shall  
16 be appointed for a term of four years and two  
17 members shall be appointed for a term of six years,  
18 and in every instance until their respective successors  
19 have been appointed and qualified. Before entering  
20 upon the performance of his duties, each member  
21 shall take and subscribe to the oath required by  
22 section 5, article IV of the Constitution of the state of  
23 West Virginia, and shall certify that he is and during  
24 the term of his appointment shall remain free of any  
25 conflict of interest. The governor shall, within sixty  
26 days following the occurrence of a vacancy on the  
27 board, fill the same by appointing a person for the  
28 unexpired term of the person vacating said office. Any  
29 member may be removed by the governor in case of  
30 incompetency, neglect of duty, gross immorality or  
31 malfeasance in office.

32 (c) A majority of the members of the board shall  
33 constitute a quorum. The board shall meet at least  
34 once in each calendar quarter on a date fixed by the  
35 board. The commissioner may, upon his own motion,  
36 or shall upon the written request of three members of  
37 the board, call additional meetings of the board upon  
38 at least twenty-four hours' notice. No member shall  
39 participate in a proceeding before the board to which  
40 a corporation, partnership or unincorporated associa-  
41 tion is a party, and of which he is or was at any time  
42 in the preceding twelve months a director, officer,  
43 owner, partner, employee, member or stockholder. A  
44 member may disqualify himself from participation in  
45 a proceeding for any other cause deemed by him to be  
46 sufficient. Each member shall receive fifty dollars for  
47 each day or portion thereof spent in attending meet-  
48 ings of the board and shall be reimbursed for all  
49 reasonable and necessary expenses incurred incident  
50 to his duties as a member of the board.

51 (d) The board shall keep an accurate record of all its  
52 proceedings and make certificates thereupon as may  
53 be required by law. The commissioner shall make  
54 available necessary office space and secretarial and  
55 other assistance as the board may reasonably require.

**§21-9-9. License required; fees; form of license; display of license; denial, suspension or revocation.**

1 (a) No manufacturer, dealer, distributor or contrac-  
2 tor shall engage in business in this state without first  
3 having applied for and received a license pursuant to  
4 this section. The license shall authorize the holder to  
5 engage in the business permitted by the license. All  
6 license applications shall be accompanied by the  
7 required fee and surety bond or other form of assur-  
8 ance as required by rule or regulation promulgated by  
9 the board.

10 (b) All licenses shall be granted or refused within  
11 thirty days after proper and complete application. All  
12 licenses shall expire on the thirtieth day of June of  
13 each year, unless sooner revoked or suspended. Appli-  
14 cations shall be deemed valid for a period of thirty  
15 days.

16 (c) The annual license fees shall be in the amounts  
17 prescribed from time to time by rules and regulations  
18 promulgated by the board but in no event less than  
19 the following amounts:

20 (1) For manufacturers, \$300;

21 (2) For dealers, \$100;

22 (3) For distributors, \$100; and

23 (4) For contractors, \$50: *Provided*, That if a contrac-  
24 tor has met the licensing requirements of this article  
25 and the West Virginia contractor licensing act in  
26 article eleven of this chapter, has paid the annual  
27 license fee under section eight, article eleven of this  
28 chapter and has furnished bond or other assurance  
29 under section ten of this article, he or she shall not be  
30 required to pay the annual license fee set forth in this  
31 section.

32 (d) The board shall prescribe the form of license and  
33 each license shall have affixed thereon the seal of the  
34 state department of labor.

35 (e) Each licensee shall conspicuously display the  
36 license in its established place of business.

37 (f) Pursuant to such rules and regulations as may be  
38 promulgated by the board, the board may deny the  
39 issuance of a license or revoke or suspend any license.

40 (g) The proceeds of such fees shall be deposited in a  
41 special account in the state treasury to be used by the  
42 department of labor for the administration of the  
43 provisions of this article.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Norman Leck*  
.....  
Chairman Senate Committee

*Ernest C. Moore*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*David E. Palmer*  
.....  
Clerk of the Senate

*Donald L. Kopp*  
.....  
Clerk of the House of Delegates

*Keith Burdette*  
.....  
President of the Senate

*Bob Orr*  
.....  
Speaker House of Delegates

The within *is approved* this the *30<sup>th</sup>* .....  
day of *March* ....., 1992.

*Gaston Caperton*  
.....  
Governor



PRESENTED TO THE

GOVERNOR

Date 3/20/92

Time 3:35 pm