WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2002

ENROLLED

House Bill No. 4407
(By Delegates Douglas, Kuhn, Manchin, Tucker, Faircloth, Hrutkay and Caputo)

Passed March 9, 2002

In Effect Ninety Days from Passage
ENROLLED

H. B. 4407

(BY DELEGATES DOUGLAS, KUHN, MANCHIN, TUCKER, FAIRCLOTH, HRUTKAY AND CAPUTO)

[Passed March 9, 2002; in effect ninety days from passage.]

AN ACT to amend and reenact sections two, three and ten, article
nine, chapter twenty-one of the code of West Virginia, one
thousand nine hundred thirty-one, as amended; and to further
amend said article by adding thereto a new section, designated
section thirteen, all relating to the West Virginia manufactured
housing construction and safety standards board; compensation
for board members; revising the definition of contractor; clarify­
ing the use of funds from the forfeiture of licensee bonds or other
forms of assurance; and continuation of the board.

Be it enacted by the Legislature of West Virginia:

That sections two, three and ten, article nine, chapter twenty-one
of the code of West Virginia, one thousand nine hundred thirty-one,
as amended, be amended and reenacted; and that said article be
further amended by adding thereto a new section, designated section
thirteen, all to read as follows:
ARTICLE 9. MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS.


(a) "Board" means the West Virginia manufactured housing construction and safety board created in this article.

(b) "Commissioner" means the commissioner of the West Virginia state division of labor.

(c) "Contractor" means any person who performs operations in this state at the occupancy site which render a manufactured home fit for habitation. The operations include, without limitation, installation or construction of the foundation, positioning, blocking, leveling, supporting, tying down, connecting utility systems, making minor adjustments or assembling multiple or expandable units. The operations also include transporting the unit to the occupancy site by other than a motor carrier regulated by the West Virginia public service commission.

Contractor does not include:

(1) a person who personally does work on a manufactured home which the person owns or leases; or

(2) a person who is licensed under article eleven of this chapter and is performing work on a manufactured home pursuant to a contract with a person licensed under section nine of this article.

(d) "Dealer" means any person engaged in this state in the sale, leasing or distributing of new or used manufactured homes, primarily to persons who in good faith purchase or lease a manufactured home for purposes other than resale.
(e) “Defect” includes any defect in the performance, construction, components or material of a manufactured home that renders the home or any part of the home not fit for the ordinary use for which it was intended.

(f) “Distributor” means any person engaged in this state in the sale and distribution of manufactured homes for resale.

(g) “Federal standards” means the National Manufactured Housing Construction and Safety Standards Act of 1974, and federal manufactured home construction and safety standards and regulations promulgated by the secretary of HUD to implement that act.

(h) “HUD” means the United States department of housing and urban development.

(i) “Manufacturer” means any person engaged in manufacturing or assembling manufactured homes, including any person engaged in importing manufactured homes for resale.

(j) “Manufactured home” means a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty or more feet in length or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certificate which complies with the applicable federal standards. Calculations used to determine the number of square feet in a structure will be based on the structure’s exterior dimensions measured at the largest horizontal projections when erected on site.
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(k) "Purchaser" means the first person purchasing a manufactured home in good faith for purposes other than resale.

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

(a) There is hereby continued the West Virginia board of manufactured housing construction and safety, which shall consist of six members and the commissioner, who shall be chairman. At least two of the six members of the board shall represent and be consumers who are not related or employed in the manufactured housing and construction industry. The six members shall be appointed by the governor by and with the advice and consent of the Senate. No more than three of the members appointed may be of the same political party.

(b) The members of the board shall be appointed for overlapping terms of six years, except that of the original appointments, two members shall be appointed for a term of two years, two members shall be appointed for a term of four years and two members shall be appointed for a term of six years, and in every instance until their respective successors have been appointed and qualified. Before entering upon the performance of his or her duties, each member shall take and subscribe to the oath required by section 5, article IV of the Constitution of the state of West Virginia, and shall certify that he or she is and during the term of his or her appointment shall remain free of any conflict of interest. The governor shall, within sixty days following the occurrence of a vacancy on the board, fill the same by appointing a person for the unexpired term of the person vacating the office. Any member may be removed by the governor in case of incompetency, neglect of duty, gross immorality or malfeasance in office.
(c) A majority of the members of the board constitutes a quorum. The board shall meet at least once in each calendar quarter on a date fixed by the board. The commissioner may, upon his or her own motion, or shall upon the written request of three members of the board, call additional meetings of the board upon at least twenty-four hours’ notice. No member shall participate in a proceeding before the board to which a corporation, partnership or unincorporated association is a party, and of which he or she is or was at any time in the preceding twelve months a director, officer, owner, partner, employee, member or stockholder. A member may disqualify himself or herself from participation in a proceeding for any other cause considered by him or her to be sufficient. Each member shall receive compensation not to exceed the amount paid to members of the Legislature for their interim duties as recommended by the citizens legislative compensation commission and authorized by law for each day or portion of a day spent in attending meetings of the board and shall be reimbursed for all reasonable and necessary expenses incurred incident to his or her duties as a member of the board.

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

§21-9-10. Licensee to furnish bond or other form of assurance.

(a) Each manufacturer, dealer, distributor or contractor which applies for a licensee under section nine of this article shall, at the time of making application for the license, furnish a surety bond or any other form of assurance of the applicant’s financial responsibility permitted by the board by rule or regulation, the surety bond or other form of assurance to be in the amount prescribed by rule or regulation. In the event of
forfeiture of any bond or security, the proceeds thereof shall be deposited in the special account created under section nine of this article.

(b) The bond or other form of assurance shall cover any misappropriation of funds of a purchaser or prospective purchaser of a manufactured home, any deception or false or fraudulent representations or deceitful practices in selling or representing a product, any failure by a licensee, because of bankruptcy, insolvency or other reason, to fulfill warranty obligations and any failure of the licensee, its agents or employees, to comply with federal standards, this article or any rules or regulations promulgated by the board pursuant to this article. Provided, That any payment to purchasers or prospective purchasers by the board from licensee bonds or other forms of financial assurance shall not include punitive or exemplary damages, any compensation for property damage other than to the manufactured home, any recompense for any person injury or inconvenience, any reimbursement for alternate housing, or any payments for attorney fees, legal expenses or court costs.

§21-9-13. Continuation of the board of manufactured housing construction and safety.

Pursuant to the provisions of article ten, chapter four of this code, the West Virginia board of manufactured housing construction and safety shall continue to exist until the first day of July, two thousand three, unless sooner terminated, continued or reestablished by act of the Legislature.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the __th day of __, 20__.