WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2006

ENROLLED

House Bill No. 4479
(By Delegates Pethtel, Poling, Cann, Frederick, Browning, Martin, Talbott and Hartman)

Passed March 10, 2006
In Effect from Passage
AN ACT to amend and reenact §21-9-9 and §21-9-10 of the Code of West Virginia, 1931, as amended, all relating to Manufactured Housing Construction and Safety Standards; creating a fund; providing for spending from certain funds; and authorizing the assessment of annual fees in satisfaction of assurance requirements.

Be it enacted by the Legislature of West Virginia:

That §21-9-9 and §21-9-10 of the Code of West Virginia, 1931, as amended, be amended and reenacted all to read as follows:

ARTICLE 9. MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS.

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

(a) No manufacturer, dealer, distributor or contractor shall engage in business in this state without first having applied for
and received a license pursuant to this section. The license shall authorize the holder to engage in the business permitted by the license. All license applications shall be accompanied by the required fee and surety bond or other form of assurance or fee assessed in satisfaction of assurance as required by rule or regulation promulgated by the board.

(b) All licenses shall be granted or refused within thirty days after proper and complete application. All licenses shall expire on the thirtieth day of June of each year, unless sooner revoked or suspended. Applications shall be deemed valid for a period of thirty days.

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

(1) For manufacturers, three hundred dollars;

(2) For dealers, one hundred dollars;

(3) For distributors, one hundred dollars; and

(4) For contractors, fifty dollars: Provided. That if a contractor has met the licensing requirements of this article and the West Virginia contractor licensing act in article eleven of this chapter, has paid the annual license fee under section eight, article eleven of this chapter and has furnished bond or other assurance or fee under section ten of this article, he or she shall not be required to pay the annual license fee set forth in this section.

(d) The board shall prescribe the form of license and each license shall have affixed thereon the seal of the state division of labor.
(e) Each licensee shall conspicuously display the license in its established place of business.

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

(g) All license fees collected shall be deposited in a special account in the State Treasury to be known as the "State Manufactured Housing Administration Fund". Expenditures from the fund shall be for the administration of the provisions of this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article two, chapter eleven-b of this code: Provided, That for the fiscal year ending the thirtieth day of June, 2006, expenditures are authorized from collections rather than pursuant to appropriation by the Legislature.

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

(a) Each manufacturer, dealer, distributor or contractor which applies for a license 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 continued in subsection (c) of this section.

(b) The board may assess an annual fee on licensees in satisfaction of the surety bond or other form of assurance required by subsection (a). This annual fee shall be in the amounts prescribed from time to time by legislative rules.
promulgated by the board but in no event less than the following amounts:

(1) For each manufacturer’s licensed business location, two thousand five hundred dollars;

(2) For each dealer’s and/or distributor’s licensed business location, one thousand dollars;

(3) For each licensed contractor, five hundred dollars.

(c) All fees collected from fees assessed pursuant to this section or the proceeds from the forfeiture of any bond or other security provided pursuant to this section or any fines paid to the board shall be deposited in the special account in the State Treasury known as the "State Manufactured Housing Recovery Fund". Expenditures from the fund shall be for the purposes set forth in subsection (d) of this section. The assets of the fund may be invested and reinvested by the board in accordance with applicable law. Interest revenues derived from the fund shall be used solely to maintain the fund. If the balance of the fund on the thirtieth day of June of any year equals or exceeds three hundred thousand dollars, no assessments shall be collected from any previously licensed manufacturer, dealer, distributor or contractor for the next licensure period. New applicants for licensure shall pay the applicable assessment fee regardless of the balance of the fund. The board is authorized at any time to make special assessments upon all licensed manufacturers, dealers, distributors, and contractors if the board determines that the assessments are necessary to maintain the fiscal integrity of the fund. In no event may a special assessment be issued by the Board until or unless the balance of the fund falls below two hundred fifty thousand dollars.

(d) Moneys in the fund shall cover any misappropriation of funds of a purchaser or prospective purchaser of a manufac-
tured 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 personal injury or inconvenience, any
reimbursement for alternate housing, or any payments for
attorney fees, legal expenses or court costs.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

\[\text{Chandy West}\]
Chairman Senate Committee

\[\text{R.B.}\]
Chairman House Committee

Originating in the House.

In effect from passage.

\[\text{Darrell Jakins}\]
Clerk of the Senate

\[\text{S. B.}\]
Clerk of the House of Delegates

\[\text{Earl Ray Tomblin}\]
President of the Senate

\[\text{J.D.}\]
Speaker of the House of Delegates

The within is approved this the 3rd day of April, 2006.

\[\text{J.D.}\]
Governor