

LEGISLATIVE BILL 822

Approved by the Governor April 3, 1984

Introduced by Wesely, 26

AN ACT relating to modular housing units; to amend sections 71-1555 to 71-1558 and 71-1560 to 71-1568, Reissue Revised Statutes of Nebraska, 1943, and section 71-1559, Revised Statutes Supplement, 1983; to rename an act; to define a term; to rename a term; to change provisions relating to standards adopted by the Department of Health; to provide for fees for the review of certain plans and specifications; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 71-1555, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:
 71-1555. Sections 71-1555 to ~~71-1567~~ 71-1568 shall be known and may be cited as the Nebraska Uniform Standards for Manufactured Modular Housing Units Act.

Sec. 2. That section 71-1556, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1556. The Legislature finds and declares that uniformity in the manner of construction, assembly, and use of manufactured modular housing units and that of their systems, components, and appliances, including their plumbing, heating, and electrical systems, is extremely desirable in order that owners may not be burdened with differing requirements; and in order to promote construction which will foster the health and safety of the numerous persons living in manufactured modular housing units.

Sec. 3. That section 71-1557, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1557. As used in ~~sections 71-1555 to 71-1567~~ the Nebraska Uniform Standards for Modular Housing Units Act, unless the context otherwise requires:

(1) Manufactured Modular housing unit shall mean any dwelling whose construction consists entirely of, or the major portions of its construction consist of, a unit or units not fabricated on the final site for the dwelling unit, which units are movable or portable until placed on a permanent foundation and connected to utilities. Manufactured Modular housing units shall be taxed as real estate. The term manufactured modular housing unit shall not include a mobile home;

(2) Living unit shall mean any portion of a modular housing unit which contains living facilities

including provisions for sleeping, eating, cooking, and sanitation for no more than one family;

(3) Seal shall mean a device or insignia issued by the Department of Health to be displayed on the exterior of the manufactured modular housing unit to evidence compliance with departmental standards;

(4) ~~(3)~~ Dealer shall mean any person other than a manufacturer who sells, offers to sell, distributes, or leases manufactured modular housing units primarily to persons who in good faith purchase or lease a manufactured modular housing unit for purposes other than resale;

(5) ~~(4)~~ Manufacturer shall mean any person who manufactures or produces manufactured modular housing units;

(6) ~~(5)~~ Person shall mean any individual, partnership, company, corporation, or association engaged in manufacturing, selling, offering to sell, or leasing manufactured modular housing units; and

(7) ~~(6)~~ Department shall mean the Department of Health.

Sec. 4. That section 71-1558, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1558. (1) All construction of and all plumbing, heating, and electrical systems installed in manufactured modular housing units manufactured more than six months after July 10, 1976, and sold, offered for sale, or leased in this state shall be at least equal to the standards adopted and approved by the department by regulation of the department. The standards adopted by the department shall (a) protect the health and safety of persons living in modular housing units, (b) assure reciprocity with other states that have adopted standards which protect the health and safety of persons living in modular housing units the purpose of which is to make uniform the law of those states which adopt them, (c) allow variations from such uniform standards as will reduce unnecessary costs of construction or increase safety, durability, or efficiency, including energy efficiency, of the modular housing unit without jeopardizing such reciprocity, and (d) assure changes in those uniform standards which reflect new technology making possible greater safety, efficiency, including energy efficiency, economy, or durability than earlier standards. include provisions imposing requirements reasonably consistent with recognized and accepted standards published by the Building Officials Conference of America, the International Conference of Building Officials, the International Association of Plumbing and Mechanical Officials, the National Bureau of Standards, the United States Department of Housing and Urban Development, or a combination thereof, applying to manufactured housing units. The department shall adopt as standards relating to electrical systems in manufactured modular housing units

those applicable standards adopted and amended by the State Electrical Board under section 81-575 81-2104.

(2) Whenever practical, the standards shall be stated in terms of required levels of performance, so as to facilitate the prompt acceptance of new building materials and methods. If generally recognized standards of performance are not available, the standards of the department shall provide for acceptance of materials and methods whose performance has been found by the department, on the basis of reliable test and evaluation data presented by the proponent, to be substantially equal to those specified.

Sec. 5. That section 71-1559, Revised Statutes Supplement, 1983, be amended to read as follows:

71-1559. Every manufactured modular housing unit, except those constructed or manufactured by any school district or technical community college area as a part of a buildings trade or other instructional program offered by such district or area, manufactured more than six months after July 10, 1976, which is sold, offered for sale, or leased in this state shall bear a seal issued by the department certifying that the construction and the structural, plumbing, heating, and electrical systems of such manufactured modular housing unit have been installed in compliance with the standards adopted by the department, applicable at the time of manufacture. Each manufacturer of such manufactured modular housing units, except those constructed or manufactured by such school district or technical community college area, shall submit its plans to the department for the purposes of inspection. The department shall establish a compliance assurance program consisting of an application form and a compliance assurance manual. Such manual shall identify and list all those procedures which the manufacturer and the inspection agency propose to implement to assure that the finished manufactured modular housing unit conforms to the approved building system and the applicable codes adopted by the department. The compliance assurance program requirements shall apply to all inspection agencies, whether department or independent third party, and shall define their duties and responsibilities in the process of inspecting, monitoring, and issuing seals for manufactured modular housing units. The department shall issue the seal only after ascertaining that the manufacturer is in full compliance with the compliance assurance program through inspections at the plant by the department, or authorized third-party inspection agency, ~~at the plant.~~ Such inspections shall be of an unannounced frequency such that the required level of code compliance performance is implemented and maintained throughout all areas of plant and site operations that affect regulatory aspects of the construction. Each seal issued by the department shall remain the property of the department and may be revoked by

the department in the event of violation of the conditions of issuance. A fee of not less than forty nor more than eighty dollars per living unit, as determined by departmental regulation, shall be charged for each seal issued by the department. Inspection fees shall be paid for all departmental inspections of manufacturing plants located outside of the State of Nebraska. Such fees shall consist of a reimbursement by the manufacturer of actual departmental travel and inspection expenses only and shall be paid prior to any issuance of seals. All fees collected under sections 71-1555 to 71-1567 the Nebraska Uniform Standards for Modular Housing Units Act shall be paid into the state treasury and credited by the State Treasurer to the Manufactured Modular Housing Cash Fund, which fund is hereby created. Such fund shall be used by the department for the purpose of administering the provisions of sections 71-1555 to 71-1567 such act.

Sec. 6. That section 71-1560, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1560. Except as provided in section 71-1561, no dealer shall sell, offer for sale, or lease in this state any new manufactured modular housing unit manufactured more than six months after July 10, 1976, unless such manufactured modular housing unit meets or exceeds the standards established by the department with respect to construction thereof and the installation of plumbing, heating, and electrical systems.

Sec. 7. That section 71-1561, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1561. If any other state has plumbing, heating, electrical, or construction codes for manufactured modular housing units at least equal to those established by the department pursuant to sections 71-1555 to 71-1567 the Nebraska Uniform Standards for Modular Housing Units Act, the department, upon determining that such standards are being enforced by such other state, shall place such other state on a reciprocity list, which ~~list~~ shall be available to any interested person. Any manufactured modular housing unit which bears the seal of any state which has been placed on the reciprocity list shall not be required to bear the seal issued by this state. A manufactured modular housing unit manufactured more than six months after July 10, 1976, which does not bear the seal issued by the department or by a state which has been placed on the reciprocity list shall not be manufactured, offered for sale, sold, or leased by a manufacturer, dealer, or any other person anywhere within this state, nor transported or delivered into any other state or jurisdiction.

Sec. 8. That section 71-1562, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1562. No agency or political subdivision of the state or a municipality shall require compliance with

local codes or standards for the construction of or the installation of structural, plumbing, heating, or electrical systems in a manufactured modular housing unit which are different from those established by the department pursuant to sections 71-1555 to 71-1567 the Nebraska Uniform Standards for Modular Housing Units Act. An agency or political subdivision of this state or a municipality may prescribe reasonable and necessary requirements of the site development for manufactured modular housing units in accordance with local standards. Site development is defined for the purposes of sections 71-1555 to 71-1567 such act as those local development requirements including, but not limited to, foundations, site utility requirements and their connections to the manufactured modular housing units, zoning and subdivision regulations, and fire control provisions.

Sec. 9. That section 71-1563, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1563. (1) Any person who sells, offers for sale, or leases in this state any manufactured modular housing unit manufactured more than six months after July 10, 1976, which does not bear the seal required by the provisions of sections 71-1555 to 71-1567 the Nebraska Uniform Standards for Modular Housing Units Act, shall be guilty of a Class IV misdemeanor.

(2) The department may, in accordance with the laws governing injunctions and other processes, maintain an action in the name of the state against any person who sells, offers for sale, or leases in this state any manufactured modular housing unit manufactured more than six months after July 10, 1976, which does not bear the seal required by the provisions of sections 71-1555 to 71-1567 such act.

Sec. 10. That section 71-1564, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1564. The department is hereby charged with the administration of the provisions of sections 71-1555 to 71-1567 the Nebraska Uniform Standards for Modular Housing Units Act. The department may adopt, amend, alter, or repeal general rules and regulations of procedure for carrying out and administering the provisions of sections 71-1555 to 71-1567 such act in regard to (1) the issuance of seals, (2) the submission of plans and specifications of manufactured modular housing units, (3) the obtaining of statistical data respecting the manufacture and sale of manufactured modular housing units, and (4) the prescribing of means, methods, and practices to make effective such provisions. In adopting such rules and regulations, the department may require that plans and specifications of manufactured modular housing units submitted to the department be prepared and submitted only by a Nebraska registered Nebraska-registered professional architect or engineer.

A person who submits plans and specifications to the department for approval shall be charged for departmental engineering services provided for performing the review of the plans and specifications and related functions at a rate of not less than fifteen dollars per hour nor more than thirty dollars per hour as determined by departmental regulation based on the number of hours of review time allotted to the type of plan submitted as follows:

- (1) New model with a single living unit, two hours;
- (2) New multifamily model, two hours for the first living unit and one half hour for each additional living unit;
- (3) Quality control manual, three-fourths hour;
- (4) Typical, one and one half hours;
- (5) Revisions, one hour;
- (6) Engineering calculations, one and one half hours;
- (7) New component, one and one half hours;
- (8) Initial certification, sixty hours; and
- (9) Recertification, forty hours.

Sec. 11. That section 71-1565, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:
 71-1565. The Governor shall appoint seven citizens of the state with the approval of the Legislature to a manufactured modular housing advisory board. Board membership shall include one person from each of the fields of industrial management, architecture, professional engineering, organized labor, and municipal building inspection, one manufacturer, and one dealer. No business entity shall be represented by more than one member on the advisory board at any time. Of the initial members of the advisory board, three shall be appointed for a term of one year and four shall be appointed for a term of two years. Thereafter, all appointments shall be for a term of two years. All such members shall serve until their successors are appointed and qualified. No member shall serve more than two successive two-year terms. Vacancies in the membership of the advisory board for any cause shall be filled by appointment by the Governor for the unexpired term. Members shall receive no compensation but shall be reimbursed for actual and necessary expenses as provided in sections 84-306.01 to 84-306.05 for state employees. The department shall not propose, adopt, or approve any rule, regulation, or standard under sections 71-1555 to 71-1567 the Nebraska Uniform Standards for Modular Housing Units Act until it has first been approved by the advisory board, except as to standards relating to electrical systems.

Sec. 12. That section 71-1566, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:
 71-1566. The department, through its authorized

representatives, may enter any place or establishment where manufactured modular housing units are manufactured, sold, offered for sale, or leased for the purpose of inspecting such manufactured modular housing units or parts thereof in order to ascertain whether the requirements of sections 71-1555 to 71-1567 the Nebraska Uniform Standards for Modular Housing Units Act and the rules, regulations, and standards adopted by the department have been complied with. If the department appoints qualified nongovernmental inspectors or inspection agencies as its authorized representatives to carry out such inspections, the department shall at all times exercise supervisory control over such inspectors or agencies to insure effective and uniform enforcement of departmental standards. No person may interfere with, obstruct, or hinder an authorized representative of the department in the performance of such an inspection.

Sec. 13. That section 71-1567, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1567. (1) The department shall refuse to issue a seal to a manufacturer for any manufactured modular housing unit not found to be in compliance with departmental standards governing the construction of or the structural, plumbing, heating, or electrical systems for manufactured modular housing units, or for which fees have not been paid. Except in case of failure to pay the required fees, any such manufacturer may request a hearing before the department on the issue of such refusal. Procedures for notice and opportunity for a hearing before the department shall be pursuant to the provisions of Chapter 84, article 9, and continued departmental suspension subsequent to such a hearing shall also be subject to judicial review pursuant to such provisions.

(2) The issuance of seals may be suspended as to any manufacturer who is convicted of violating section 71-1563, or as to any manufacturer who violates any other provision of sections 71-1555 to 71-1567 the Nebraska Uniform Standards for Modular Housing Units Act or any rule, regulation, or standard adopted pursuant thereto, and issuance of the seals shall not be resumed until such manufacturer submits sufficient proof that the conditions which caused the violation have been remedied. Any such manufacturer may request a hearing before the department on the issue of such suspension. Procedures for notice and opportunity for a hearing before the department shall be pursuant to Chapter 84, article 9, and continued departmental suspension subsequent to such a hearing shall also be subject to judicial review pursuant to such provisions.

Sec. 14. That section 71-1568, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1568. Manufactured Modular housing units, constructed or manufactured by any school district or

technical community college area as a part of a buildings trade or other instructional program offered by such district or area shall be inspected by the local inspection authority.

Sec. 15. That original sections 71-1555 to 71-1558 and 71-1560 to 71-1568, Reissue Revised Statutes of Nebraska, 1943, and section 71-1559, Revised Statutes Supplement, 1983, are repealed.