

FILED

2002 APR -3 P 5:39

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# 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

FILED

2002 APR -3 P 5:39

WEST VIRGINIA  
SECRETARY OF STATE

# 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; clarifying 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.**

**§21-9-2. Definitions.**

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

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

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

15 Contractor does not include:

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

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

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

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

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

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

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

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

42 (j) "Manufactured home" means a structure, transportable  
43 in one or more sections, which in the traveling mode is eight  
44 body feet or more in width or forty or more feet in length or,  
45 when erected on site, is three hundred twenty or more square  
46 feet, and which is built on a permanent chassis and designed to  
47 be used as a dwelling with or without a permanent foundation  
48 when connected to the required utilities, and includes the  
49 plumbing, heating, air-conditioning and electrical systems  
50 contained therein; except that such term shall include any  
51 structure which meets all the requirements of this definition  
52 except the size requirements and with respect to which the  
53 manufacturer voluntarily files a certificate which complies with  
54 the applicable federal standards. Calculations used to determine  
55 the number of square feet in a structure will be based on the  
56 structure's exterior dimensions measured at the largest horizon-  
57 tal projections when erected on site.

58 (k) "Purchaser" means the first person purchasing a  
59 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.**

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

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

27 (c) A majority of the members of the board constitutes a  
28 quorum. The board shall meet at least once in each calendar  
29 quarter on a date fixed by the board. The commissioner may,  
30 upon his or her own motion, or shall upon the written request of  
31 three members of the board, call additional meetings of the  
32 board upon at least twenty-four hours' notice. No member shall  
33 participate in a proceeding before the board to which a corpora-  
34 tion, partnership or unincorporated association is a party, and of  
35 which he or she is or was at any time in the preceding twelve  
36 months a director, officer, owner, partner, employee, member  
37 or stockholder. A member may disqualify himself or herself  
38 from participation in a proceeding for any other cause consid-  
39 ered by him or her to be sufficient. Each member shall receive  
40 compensation not to exceed the amount paid to members of the  
41 Legislature for their interim duties as recommended by the  
42 citizens legislative compensation commission and authorized  
43 by law for each day or portion of a day spent in attending  
44 meetings of the board and shall be reimbursed for all reasonable  
45 and necessary expenses incurred incident to his or her duties as  
46 a member of the board.

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

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

1 (a) Each manufacturer, dealer, distributor or contractor  
2 which applies for a licensee under section nine of this article  
3 shall, at the time of making application for the license, furnish  
4 a surety bond or any other form of assurance of the applicant's  
5 financial responsibility permitted by the board by rule or  
6 regulation, the surety bond or other form of assurance to be in  
7 the amount prescribed by rule or regulation. In the event of

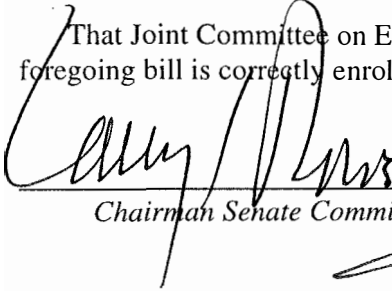
8 forfeiture of any bond or security, the proceeds thereof shall be  
9 deposited in the special account created under section nine of  
10 this article.

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

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

1 Pursuant to the provisions of article ten, chapter four of this  
2 code, the West Virginia board of manufactured housing  
3 construction and safety shall continue to exist until the first day  
4 of July, two thousand three, unless sooner terminated, contin-  
5 ued or reestablished by act of the Legislature.

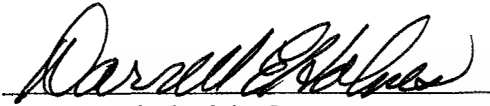
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

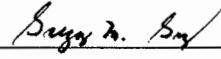
  
\_\_\_\_\_  
Chairman Senate Committee

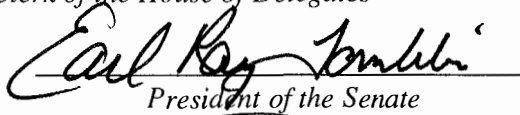
  
\_\_\_\_\_  
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

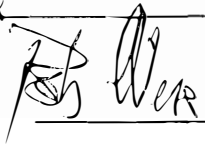
  
\_\_\_\_\_  
Clerk of the Senate

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within is approved this the 2nd  
day of April, 2002.

  
\_\_\_\_\_  
Governor



DATE 3/27/02  
TIME 10:15hr