WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5164

By Delegates Howell, W. Clark, Hillenbrand, Dittman, Crouse, Lucas, Campbell, Adkins, Thorne, Hott, and Hornbuckle

[Introduced January 25, 2024; Referred to the Committee on Government Organization then Economic Development and Tourism]

A BILL to amend and reenact §8A-7-10; and to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8A-7-14; and to amend and reenact §21-14-3; §29-3B-3; §30-42-3; §37-15-2 of the Code of West Virginia, 1931, as amended; and to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §37-16-1, §37-16-2, §37-16-3, §37-16-4, §37-16-5, and §37-16-6, all relating to the land use, manufacture, installation, and safety certification of fabricated self-contained expandable box built permanent homes, expanding the powers of the establishing the West Virginia Manufactured Housing Construction and Safety Board, providing definitions, and limiting manufacturer liability.

Be it enacted by the Legislature of West Virginia:

CHAPTER 8A. LAND USE PLANNING.

ARTICLE 7. ZONING ORDINANCE.

§8A-7-10. Effect of enacted zoning ordinance.

(a) After enactment of a zoning ordinance by a municipality or county, all subsequent land development shall be done in accordance with the provisions of the zoning ordinance.

(b) All zoning ordinances, and all amendments, supplements and changes thereto, legally adopted under any prior enabling acts, and all actions taken under the authority of any such ordinances, are hereby validated and continued in effect until amended or repealed by action of the governing body of the municipality or the county taken under authority of this article. These ordinances shall have the same effect as though previously adopted as a comprehensive plan of land use or parts thereof.

(c) Land, buildings or structures in use when a zoning ordinance is enacted may continue the same use and that use may not be prohibited by the zoning ordinance so long as the use of the land, buildings or structures is maintained, and no zoning ordinance may prohibit alterations or additions to or replacement of buildings or structures owned by any farm, industry or manufacturer, or the use of land presently owned by any farm, industry or manufacturer but not used for agricultural, industrial or manufacturing purposes, or the use or acquisition of additional land which may be required for the protection, continuing development or expansion of any agricultural, industrial or manufacturing operation of any present or future satellite agricultural, industrial or manufacturing use. A zoning ordinance may provide for the enlargement or extension of a nonconforming use, or the change from one nonconforming use to another.

(d) If a use of a property that does not conform to the zoning ordinance has ceased and the property has been vacant for one-year, abandonment will be presumed unless the owner of the property can show that the property has not been abandoned: *Provided*, That neither the absence of natural resources extraction or harvesting nor the absence of any particular agricultural, industrial or manufacturing process may be construed as abandonment of the use. If the property is shown to be abandoned, then any future use of the land, buildings or structures shall conform with the provisions of the zoning ordinance regulating the use where the land, buildings or structures are located, unless the property is a duly designated historic landmark, historic site or historic district.

(e) Nothing in this chapter authorizes an ordinance, rule or regulation preventing or limiting, outside of municipalities or urban areas, the complete use (i) of natural resources by the owner; or (ii) of a tract or contiguous tracts of land of any size for a farm or agricultural operation as defined in §19-19-2 by the owner. For purposes of this article, agritourism includes, but is not limited to, the definition set forth in §19-36-2.

(f) Nothing in this chapter authorizes an ordinance, rule or regulation that distinguishes between Fabricated self-contained expandable box built permanent homes or "boxes", as defined in §37-16-2 of this code, and traditional construction.

(g) Nothing in this chapter authorizes an ordinance, rule, or regulation that:

(1) Imposes an undue hardship on consumers or manufacturers of Fabricated self-contained expandable box built permanent homes or "boxes", as defined in §37-16-2 of this code;

(2) Reduces the overall number of residential units available to consumers; or

(3) Increases the cost of home ownership.

**§8A-7-14. Accessory dwelling units.**

(a) "Accessory Dwelling Unit" means any unit self-contained dwelling unit located within, attached to, or detached from a single-family housing unit, duplex, triplex, townhome, or other housing unit located on the same parcel of land.

(1) Fabricated self-contained expandable box built permanent homes or "boxes", as defined in §37-16-2 of this code, may be used as accessory dwelling units.

(2) Units mounted upon a chassis may be used as Accessory Dwelling Units with or without the wheels attached, provided the units comply with one of the following:

(A) The State Building Code and State Fire Code as set forth in §15A-11-3 and §15A-11-5 of this code and any legislative rules promulgated pursuant thereto; or

(B) The following codes:

(1) The 2009 edition of the International Building Code, or any more recent edition, issued by the International Code Council;

(2) The 2009 edition of the International Residential Code, or any more recent edition, issued by the International Code Council;

(3) The 2009 edition of the International Plumbing Code, or any more recent edition, issued by the International Code Council;

(4) The 2009 edition of the International Mechanical Code, or any more recent edition issued, by the International Code Council

(5) The 2009 edition of the International Fuel Gas Code, or any more recent edition, issued by the International Code Council;

(6) The 2008 edition of the National Electrical Code, or any more recent edition, issued by the National Fire Protection Association; and

(7) The 2012 edition of the International Energy Conservation Code, or any more recent edition, issued by the international code council.

(C) The Box Building and Safety Code, issued by the Box Code Council.

(D) ANSI A119.2 or A119.5

(E) Federal standards, as defined in §21-9-2 of this code.

(b) With respect to accessory dwelling units, zoning ordinances must comply with the following conditions:

(1) At least one accessory dwelling unit must be allowed on any lot where there is a single-family housing unit, duplex, triplex, townhome, or other housing unit.;

(2) If more than one accessory dwelling unit has been constructed on a lot as a result of the allowance under this section, the lot is not eligible for any additional increases in density except as allowed by the municipality; and

(3) An accessory dwelling unit is allowed on a lot that does not conform to the municipal zoning ordinance if the accessory dwelling unit does not further increase the nonconformity.

(c) With respect to accessory dwelling units, municipalities shall comply with the following conditions.

(1) A municipality shall exempt an accessory dwelling unit from any density requirements or calculations related to the area in which the accessory dwelling unit is constructed.

(2) A municipality may not require a setback from a property line applicable to accessary dwelling units that is greater than five feet.

(3) An accessory dwelling unit may not be subject to any additional parking requirements beyond the parking requirements of the single-family dwelling unit on the lot where the accessory dwelling unit is located.

(4) An accessory dwelling unit that was not built with municipal approval must be allowed if the accessory dwelling unit otherwise meets the requirements for accessory dwelling units of the municipality and under this section.

(d) An accessory dwelling unit must meet a minimum size of 100 square feet. A municipality may impose a maximum size for an accessory dwelling unit, provided such maximum size is not less than 1200 square feet.

(e) The owner of an accessory dwelling unit must provide written verification to the municipality that the accessory dwelling unit is connected to adequate water and wastewater services before the municipality may certify the accessory dwelling unit for occupancy. Written verification under this subsection must include:

(1) If an accessory dwelling unit is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the accessory dwelling unit and proof of payment for the connection to the sewer system;

(2) If an accessory dwelling unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the accessory dwelling unit, proof of payment for the connection and the volume and supply of water required for the accessory dwelling unit; and

(3) If an accessory dwelling unit is connected to a well, proof of access to potable water. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

(f) In adopting an ordinance under this section, a municipality may establish an application and permitting process for accessory dwelling units that does not require planning board approval.

(1) All applications for permits for accessory dwelling units must be approved or denied with 14 days of receipt.

(2) If no decision is rendered within that period, the permit is automatically granted. If an application is denied, the local jurisdiction must provide a written statement detailing the reason(s) why the applications was denied.

(g) No municipality may restrict or limit the use of accessory dwelling unit for leases or short-term rentals.

(1) For purposes of this subsection, "Short-term rental" means a lodging use, that is not a hotel or motel or bed and breakfast, in which a dwelling unit, or portion thereof, that is offered or provided to a guest by a short-term rental operator for a fee for one night in total.

(2) The term "leases" includes a written agreement pursuant to §37-15-3 of this code.

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ARTICLE 14. SUPERVISION OF PLUMBING WORK.

§21-14-3. License required; exemptions.

(a) On and after January 1, 2009, a person performing or offering to perform plumbing work in this state shall have a license issued by the Commissioner of Labor, in accordance with the provisions of this article.

(b) A person licensed under this article must carry a copy of the license on any job in which plumbing work is being performed.

(c) This article does not apply to:

(1) A person who personally performs plumbing work on a single family dwelling owned or leased by that person or by a member of that persons immediate family;

(2) A person who performs plumbing at any manufacturing plant or other industrial establishment as an employee of the person, firm or corporation operating the plant or establishment;

(3) A person who performs plumbing work while employed by an employer who engages in the business of selling appliances at retail, so long as such plumbing work is performed incidental to the installation or repair of appliances sold by the employer;

(4) A person who, while employed by a public utility or its affiliate, performs plumbing in connection with the furnishing of public utility service;

(5) A person who performs plumbing work while engaging in the business of installing, altering or repairing water distribution or drainage lines outside the foundation walls of a building, public or private sewage treatment or water treatment systems including all associated structures or buildings, sewers or underground utility services;

(6) A person who performs plumbing work while engaged in the installation, extension, dismantling, adjustment, repair, servicing or alteration of a heating ventilation and air conditioning (HVAC) system, air-veyor system, air exhaust system or air handling system;

(7) A person who performs plumbing work at a coal mine that is being actively mined or where coal is being processed; ~~or~~

(8) A person who performs plumbing work at manufacturing, industrial and natural gas facilities; or

(9) A person who participates in the manufacture or installation of fabricated self-contained expandable box built permanent homes, as set forth in §37-16-1 *et seq*. of this code.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 3B. SUPERVISION OF ELECTRICIANS.

§29-3B-3. Exemptions; nonapplicability of license requirements; legislative rules for limited reciprocity.

(a) This article does not apply to, and no license may be required for:

(1) A person who performs electrical work with respect to any property owned or leased by that person or that person’s immediate family;

(2) A person who performs electrical work at any manufacturing plant or other industrial establishment as an employee of the firm or corporation operating the plant or establishment;

(3) A person who performs electrical work while employed by an employer who engages in the business of selling appliances at retail, so long as such electrical work is performed incident to the installation or repair of appliances sold by the employer;

(4) A person who, while employed by a public utility or its affiliate, performs electrical work in connection with the furnishing of public utility service;

(5) Any government employee performing electrical work on government property; or

(6) Any person who performs low voltage electrical work with only low voltage wiring will not be required to have an electrician’s license other than a specialty license. For purposes of this section, low voltage electrical work is 80 volts or less, and directly related wiring. Wiring is directly related if it:

(A) Originated at the load-side terminals of a disconnecting means or junction box that has been installed, complete with line-side connections by others for the specific purpose of supply to the low voltage wiring system involved;

(B) Is permanently and legibly marked to identify the low voltage wiring system supplied; and

(C) Is not installed in a location considered hazardous under the National Electrical Code.

(7) A person participating in the manufacture or installation of fabricated self-contained expandable box built permanent homes, as set forth in §37-16-1, *et seq.* of this code.

(b)(1) Notwithstanding any other provision of this article to the contrary, a journeyman or master electrician license may be issued for a person who is a former resident of this state, who formerly held an electrician’s license issued by this state, who has obtained an equivalent electrician license from another state, and who returns to this state as a permanent resident, without requiring the person to meet the application or examination requirements that would otherwise be imposed on the person by the requirements of this article when the issuance of the license is permitted by legislative rules promulgated pursuant to the provisions of this subsection.

(2) The State Fire Marshal shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq*. of this code to provide for the licensing of electricians with equivalent qualifications described in subdivision (1) of this subsection. Notwithstanding any other provision of this code to the contrary, the legislative rules described in this subsection may not be filed as emergency rules.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 42. WEST VIRGINIA CONTRACTOR LICENSING ACT.

§30-42-3. Definitions.

(a) "Basic universal design" means the design of products and environments to be useable by all people, to the greatest extent possible, without the need for adaptation or specialization.

(b) "Board" means the West Virginia Contractor Licensing Board.

(c) "Cease and desist order" means an order issued by the board pursuant to the provisions of this article.

(d) "Contractor" means a person who in any capacity for compensation, other than as an employee of another, undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, structure, or excavation associated with a project, development, or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith, where the cost of the undertaking is $5,000 or more for residential work or $25,000 or more for commercial work.

Contractor includes a construction manager who performs management and counseling services for a construction project for a professional fee.

Contractor does not include:

(1) One who merely furnishes materials or supplies without fabricating or consuming them in the construction project;

(2) A person who personally performs construction work on the site of real property which the person owns or leases whether for commercial or residential purposes;

(3) A person who is licensed or registered as a professional and who functions under the control of any other licensing or regulatory board, whose primary business is real estate sales, appraisal, development, management, and maintenance, who acting in his or her respective professional capacity and any employee of the professional, acting in the course of his or her employment, performs any work which may be considered to be performing contracting work;

(4) A pest control operator licensed under the provisions of §19-16A-7 of this code to engage in the application of pesticides for hire, unless the operator also performs structural repairs exceeding $1,000 on property treated for insect pests;

(5) A corporation, partnership, or sole proprietorship whose primary purpose is to prepare construction plans and specifications used by the contractors defined in this subsection and who employs full-time a registered architect licensed to practice in this state or a registered professional engineer licensed to practice in this state. Employees of the corporation, partnership or sole proprietorship shall also be exempt from the requirements of this article; or

(6) A person who performs landscaping or painting services for commercial or residential customers.

(7) A person licensed to install fabricated self-contained expandable box built permanent homes, as set forth in §37-16-1, *et seq*. of this code; or

(8) A person or entity that manufactures fabricated self-contained expandable box built permanent homes, as set forth in §37-16-1, *et seq.* of this code.

(e) "Electrical contractor" means a person who engages in the business of contracting to install, erect, repair, or alter electrical equipment for the generation, transmission, or utilization of electrical energy.

(f) "General building contractor" means a person whose principal business is in connection with any structures built, being built, or to be built for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind, requiring in the construction the use of more than two contractor classifications, or a person who supervises the whole, or any part, of the construction.

(g) "General engineering contractor" means a person whose principal business is in connection with public or private works projects, including, but not limited to, one or more of the following: Irrigation, drainage, and water supply projects; electrical generation projects; swimming pools; flood control; harbors; railroads; highways; tunnels; airports and airways; sewers and sewage disposal systems; bridges; inland waterways; pipelines for transmission of petroleum and other liquid or gaseous substances; refineries; chemical plants and other industrial plants requiring a specialized engineering knowledge and skill; piers and foundations; and structures or work incidental thereto.

(h) "Heating, ventilating and cooling contractor" means a person who engages in the business of contracting to install, erect, repair, service, or alter heating, ventilating and air conditioning equipment or systems to heat, cool, or ventilate residential and commercial structures.

(i) "License" means a license to engage in business in this state as a contractor in one of the classifications set out in this article.

(j) "Multifamily contractor" means a person who is engaged in construction, repair, or improvement of a multifamily residential structure.

(k) "Person" includes an individual, firm, sole proprietorship, partnership, corporation, association, or other entity engaged in the undertaking of construction projects or any combination thereof.

(l) "Piping contractor" means a person whose principal business is the installation of process, power plant, air, oil, gasoline, chemical, or other kinds of piping; and boilers and pressure vessels using joining methods of thread, weld, solvent weld, or mechanical methods.

(m) "Plumbing contractor" means a person whose principal business is the installation, maintenance, extension, and alteration of piping, plumbing fixtures, plumbing appliances and plumbing appurtenances, venting systems and public or private water supply systems within or adjacent to any building or structure; included in this definition is installation of gas piping, chilled water piping in connection with refrigeration processes and comfort cooling, hot water piping in connection with building heating and piping for stand pipes.

(n) "Residential contractor" means a person whose principal business is in connection with construction, repair, or improvement of real property used as, or intended to be used for, residential occupancy.

(o) "Specialty contractor" means a person who engages in specialty contracting services which do not substantially fall within the scope of any contractor classification as set out herein.

(p) "Residential occupancy" means occupancy of a structure for residential purposes for periods greater than 30 consecutive calendar days.

(q) "Residential structure" means a building or structure used or intended to be used for residential occupancy, together with related facilities appurtenant to the premises as an adjunct of residential occupancy, which contains not more than three distinct floors which are above grade in any structural unit regardless of whether the building or structure is designed and constructed for one or more living units. Dormitories, hotels, motels, or other transient lodging units are not residential structures.

(r) "Subcontractor" means a person who performs a portion of a project undertaken by a principal or general contractor or another subcontractor.

CHAPTER 37. REAL PROPERTY.

ARTICLE 15. HOUSE TRAILERS, MOBILE HOMES, MANUFACTURED HOMES AND MODULAR HOMES.

§37-15-2. Definitions.

For the purposes of this article, unless expressly stated otherwise:

(a) "Abandoned factory-built home" means a factory-built home occupying a factory-built home site pursuant to a written agreement under which the tenant has defaulted in rent or the landlord has exercised any right to terminate the rental agreement;

(b) "Factory-built home" includes modular homes, mobile homes, house trailers and manufactured homes;

(c) "Factory-built home rental community" means a parcel of land under single or common ownership upon which two or more factory-built homes are located on a continual, nonrecreational basis together with any structure, equipment, road or facility intended for use incidental to the occupancy of the factory-built homes, but does not include premises used solely for storage or display of uninhabited factory-built homes or premises occupied solely by a landowner and members of his or her family;

(d) "Factory-built home site" means a parcel of land within the boundaries of a factory-built home rental community provided for the placement of a single factory-built home and the exclusive use of its occupants;

(e) Good cause means:

(1) The tenant is in arrears in the payment of periodic payments or other charges;

(2) The tenant has breached a material term of a written rental agreement or has repeatedly breached other terms of the rental agreement;

(3) Where there is no written agreement, or where the written agreement does not cover the subject matter of a warranty or leasehold covenant, the tenant breached a material warranty or leasehold covenant or has repeatedly breached other terms of a warranty or a leasehold covenant;

(4) The tenant has deliberately or negligently damaged the property or knowingly permitted another person to do so.

(f) "House trailers" means all trailers designed or intended for human occupancy and commonly referred to as mobile homes or house trailers and shall include fold down camping and travel trailers as these terms are defined in §17A-6-1 of this code, but only when such camping and travel trailers are located in a factory-built home rental community, as defined in this section, on a continual, nonrecreational basis.

(g) "Landlord" means the factory-built home rental community owner, lessor or sublessor of the factory-built home rental community, or an agent or representative authorized to act on his or her behalf in connection with matters relating to tenancy in the community.

(h) "Manufactured home" has the same meaning as the term is defined in §21-9-2 of this code which meets the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U. S. C. §5401, *et seq.*), effective on June 15, 1976, and the federal manufactured home construction and safety standards and regulations promulgated by the secretary of the United States department of housing and urban development.

(i) "Mobile home" means a transportable structure that is wholly, or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site and designed for long-term residential use and built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 U. S. C. §5401, *et seq.*), effective on June 15, 1976, and usually built to the voluntary industry standard of the American national standards institute (ANSI)--A119.1 standards for mobile homes.

(j) "Modular home" means any structure that is wholly, or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site and designed for long-term residential use and is certified as meeting the standards contained in the state fire code encompassed in the legislative rules promulgated by the state Fire Commission pursuant to §29-3-5b of this code: *Provided,* That "Modular home" shall not mean nor be construed to mean by any state authority, nor any local or county political subdivision authority, to include fabricated self-contained expandable box built permanent homes or "boxes" as set forth in §37-16-1, *et seq*. of this code.

(k) "Owner" means one or more persons, jointly or severally, in whom is vested: (i) All or part of the legal title to the factory-built home rental community; or (ii) all or part of the beneficial ownership and right to present use and enjoyment of the factory-built homesite or other areas specified in the rental agreement and the term includes a mortgagee in possession.

(l) "Rent" means payments made by the tenant to the landlord for use of a factory-built home site and as payment for other facilities or services provided by the landlord.

(m) Section means a unit of a factory-built home which is transported and delivered as a whole and which contains some or all of the indoor living area.

(n) "Tenant" means a person entitled pursuant to a rental agreement to occupy a factory-built home site to the exclusion of others.

ARTICLE 16. FABRICATED SELF-CONTAINED EXPANDABLE BOX built permanent homes.

§37-16-1. Legislative findings, purpose, and applicability.

(a) The Legislature hereby finds as follows: There is a present and growing need for affordable housing within the state. The cost of housing is a significant impediment to home ownership and/or otherwise obtaining housing, for many residents of the state. The private housing and construction industry has developed mass production techniques that can substantially reduce housing and building costs. Such mass production techniques involve factory manufacture processes and inspection procedures that ensure the satisfaction of uniform health and safety standards at the factory, which reduce or eliminate the need for certain inspection procedures at the sites where such fabricated self-contained expandable box built permanent homes are installed. Accordingly, in an effort to make housing and home ownership more available and feasible for a greater number of residents of the state, it is necessary and appropriate to reduce regulatory costs by modifying and streamlining standards and inspection procedures applicable to such fabricated self-contained expandable box built permanent homes.

(b) The purpose of this article is to recognize the distinction between simple factory-built homes as defined in §37-15-2 of this code and fabricated self-contained expandable box built permanent homes as defined in §37-16-1 *et seq*. of this code and to establish manufacture, installation, and safety certification for same. It is the intent of the legislature to acknowledge the differences between these categories of homes for manufacture, installation, and safety certification purposes.

(c) In addition, it is the purpose of this article to clarify that fabricated self-contained expandable box built permanent homes are real property.

(d) To promote the goal of reducing manufacturing costs and increasing home affordability, no provision of this article shall be interpreted in a manner which causes an undue burden on fabricated self-contained expandable box built permanent home manufacturers or consumers.

§37-16-2. Definitions.

As used in this part, the term:

(a) "Board" means the West Virginia Manufactured Housing Construction and Safety Board.

(b) "Certification number" means a unique number assigned to a fabricated self-contained expandable box built permanent home or "box" unit by the registered manufacturer.

(c) "Certified box installer" means a person certified pursuant to §37-16-5 of this code.

(d) "Commissioner" means the commissioner of the West Virginia Division of Labor.

(e) "Component" means any assembly, subassembly, or combination of parts for use as a part of a building, which may include structural, electrical, plumbing, mechanical, and fire protection systems and other systems affecting health and safety.

(f) "Equipment" means all materials appliances, devices, fixtures, fittings, or accessories installed in or used in the manufacture and assembly of a box.

(g) "Installation" means the assembly of a box on site and the process of affixing the box, component, or system to land, a foundation, footings, or an existing building. "installation" includes all work, including work involving electrical and plumbing systems, necessary to assemble and affix the unit.

(h) "Applicable local government subdivision" means a county or municipality, incorporated or unincorporated, of the state of West Virginia.

(i) "Manufacture" means the process of making, fabricating, constructing, forming, or assembling a product from raw, unfinished, or semifinished materials.

(j) "Model", when used with regard to a box, means a specific design of box which is based on size, room arrangement, method of construction, location arrangement, or size of plumbing, heating, or electrical equipment systems.

(k) "Fabricated self-contained expandable box built permanent home" or "box" means any structure that is wholly, or in part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site and is certified in its manufactured specifications as meeting either:

(1) The State Building Code and State Fire Code as set forth in §15A-11-3 and §15A-11-5 of this code and any legislative rules promulgated pursuant thereto; or

(2) Complies with any of the following the following codes:

(A) The 2009 edition of the International Building Code, or any more recent edition, issued by the International Code Council;

(B) The 2009 edition of the International Residential Code, or any more recent edition, issued by the International Code Council;

(C) The 2009 edition of the International Plumbing Code, or any more recent edition, issued by the International Code Council;

(D) The 2009 edition of the International Mechanical Code, or any more recent edition issued, by the International Code Council;

(E) The 2009 edition of the International Fuel Gas Code, or any more recent edition, issued by the International Code Council;

(F) The 2008 edition of the National Electrical Code, or any more recent edition, issued by the National Fire Protection Association;

(G) The 2012 edition of the International Energy Conservation Code, or any more recent edition, issued by the international code council;

(H) ANSI 119.2;

(I) ANSI 119.5;

(J) 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; or

(K) The Box Building Code issued by the Box Code Council.

(l) "Registered manufacturer" means a manufacturer of fabricated self-contained expandable box built permanent home bearing a certification number.

(m) "Site" means the entire tract, subdivision, or parcel of land on which the box is installed.

(n) "System" means structural, plumbing, mechanical, electrical, or fire safety elements, materials, or components used separately or combined for use in a box.

§37-16-3. Powers and duties of board generally; self certification of manufacturers; authority of local government agencies.

(a) The board may:

(1) Propose rules for legislative approval in accordance with the provisions of § 29A-3-1 *et seq.* of this code to facilitate the implementation of this article: *Provided*, That such rules may not impose any new requirements upon registered manufacturers beyond those set forth in §37-16-1 *et seq*. of this code nor impose costs upon registered manufacturers or consumers of fabricated self-contained expandable box built permanent homes;

(2) Adopt only rules imposing minimum construction requirements for fabricated self-contained expandable box built permanent homes that follow those set forth for the self-certification manufacturing practices, design construction and safety standards for fabricated self-contained expandable box built permanent homes set forth in §37-16-1 *et seq*. of this code and impose no additional costs upon registered manufacturers or consumers of fabricated self-contained expandable box built permanent homes.

(b) Manufacturers shall self-certify that the box units they manufacture are compliant with:

(1) The standards contained in the State Fire Code and State Building Code encompassed in any legislative rules promulgated by the State Fire Commission pursuant to §29-3-5b of this code; or

(2) The following Codes:

(A) The 2009 edition of the International Building Code, or any more recent edition, issued by the International Code Council;

(B) The 2009 edition of the International Residential Code, or any more recent edition, issued by the International Code Council;

(C) The 2009 edition of the International Plumbing Code, or any more recent edition, issued by the International Code Council;

(D) The 2009 edition of the International Mechanical Code, or any more recent edition issued, by the International Code Council;

(E) The 2009 edition of the International Fuel Gas Code, or any more recent edition, issued by the International Code Council;

(F) The 2008 edition of the National Electrical Code, or any more recent edition, issued by the National Fire Protection Association;

(G) The 2012 edition of the International Energy Conservation Code, or any more recent edition, issued by the international code council;

(H) ANSI 119.2;

(I) ANSI 119.5;

(J) 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; or

(K) The Box Building Code issued by the Box Code Council.

(c) Manufacturers shall be required to maintain copies of the following documents, which shall be made available for inspection upon request of the board or applicable local government subdivision.

(1) One set of manufacture plans for each model box manufactured showing all elements relating to a specific basic model on a sheet or sheets properly identifiable as such. The plans shall include a certification by a Professional Engineer that the plans comply with the requirements of either the standards contained in the State Fire Code and State Building Code encompassed in the legislative rules promulgated by the State Fire Commission pursuant to §29A-3-5b or the standards described in §37-16-3(a) of this code.

(2) One copy of detailed manufacturer's installation instructions for the assembly of the modular components for each model of box manufactured. Such instructions shall reflect detailed instructions for the installation of the unit(s), including the fastening of dormers if applicable, roof installation details, floor fastening, end wall fastening, king post installation, and any other on-site assembly of manufacturer supplied components; and

(3) One copy of the quality control manual. The quality control manual shall contain the following:

(A) An index;

(B) The identity of the company or corporate officer responsible for the quality control program;

(C) The manner in which the manufacturer will maintain his quality control to meet the standards set forth by this article;

(D) The manner in which units can be identified during production for the purposes of inspection relative to the approved plans. The model, floor plan, and design loading, as applicable, shall be indicated;

(F) The procedure for maintain a record system indicating the type and date of inspections performed on each unit;

(F) A general outline and/or schematic indicating the sequence of the manufacturing and assembly processes. It shall also indicate the sequence, type, and frequency of the quality control procedures to be instituted;

(G) The method of storage and support of the completed units at the manufacturing plant and any other location including the site prior to installation.

(4) One copy of the wall system inspection manual. The wall system inspection manual shall describe the procedure for performing an external visual inspection of a box unit's wall system.

(d) Upon the board's verification that a registered manufacturer's self-certification for the design and manufacture of any model fabricated self-contained expandable box built permanent homes or box is in compliance with the design and manufacturing standards set forth in §37-16-3(a) of this code, no further verification or self-certification of the registered manufacturer's compliance with the design and manufacturing standards set forth in §37-16-3(a) of this code unless or until the registered manufacturer redesigns any model of fabricated self-contained expandable box built permanent homes or box into a configuration materially different from that previously self-certified. The registered manufacturer shall notify the board upon such material redesign self-certification prior to manufacture to allow the board adequate time to verify the compliance of the self-certification with the design and manufacturing standards set forth in §37-16-3(a) of this code.

(e) Upon the board's verification of a registered manufacturer's self-certification, a registered manufacturer shall stamp, decal, or otherwise affix to each box unit with a corresponding certification number. The certification number for a given box unit shall be the first four letters of a registered manufacturer's name, followed by a unique seven number sequence. The manufacturer may select any sequence of seven numbers provided that each sequence is unique to an individual unit. All fabricated self-contained expandable box built permanent homes bearing a registered manufacturer's certification number pursuant to this section shall be deemed to comply with the state minimum standards, codes and all ordinances and regulations enacted by any applicable local government subdivision. The board's verification of a registered manufacturer's self-certification is final.

(f) The provisions of these rules are not intended to prevent the use of any material or method of construction not specifically prescribed by these rules, provided any such alternate has been approved by a Professional Engineer who is licensed in any state. The Professional Engineer must certify that the alternate, for the purpose intended, is at least the equivalent of that prescribed in these rules in quality, strength, effectiveness, fire resistance, durability, and safety.

(g) Boxes that bear a certification number pursuant to this chapter upon manufacture or first sale shall not require an additional approval or insignia by any applicable local government subdivision in which they are subsequently sold or installed.

(h) Any city or county official who violates the provisions of this chapter by refusing to accept a box approved by the board shall personally be liable and not be immune from prosecution if suit is brought by a party to said transaction.

(i) The board shall not set or charge a registered manufacturer any fee in connection with an application approval under this §37-16-3 of the code that exceeds the board's administrative cost of processing the application paperwork.

§37-16-4. Enforcement of article; inspection of boxes.

(a) The board shall enforce the provisions of this chapter and the regulations adopted pursuant hereto.

(b) The board or applicable local government subdivision may inspect box units prior to installation at the factory to ensure compliance with the applicable manufacture plans, specifications, and quality assurance manual. The inspection may not delay the manufacture or installation of the box unit(s) being inspected.

(c) Either the board or applicable local government subdivision may inspect, or cause to be inspected, a box and site one time after a box is installed. Such inspection may only be performed to ensure compliance with the applicable manufacturer's installation instructions.

(1) Should an inspection be performed pursuant to this subsection, both the box and site must be inspected during the inspection. For the purpose of this section, inspection of the site shall include inspection of utility connections and inspection of any foundation that the box unit will be installed upon.

(2) Inspection under this subsection must be noticed one week in advance.

(d) All inspections shall be at the expense of the board or the local government conducting the inspection.

(e) Inspections pursuant to this section may be performed remotely through the use of video submission or synchronous video communication at the request of a certified installer or registered manufacturer.

(f) Wall systems of boxes may only be inspected pursuant to the applicable wall system inspection manual.

(g) If a violation is found during an inspection performed pursuant to this subsection (b), the board or applicable local government subdivision jurisdiction shall issue the manufacturer a written notice identifying the violation(s) found during the inspection. The manufacturer shall have 120 days to remedy the violations. Should a manufacturer fail to remedy the violation(s) identified in the notice, The board or local jurisdiction may obtain injunctive relief from the proper circuit court to enjoin the manufacture, sale, or delivery of boxes.

(h) If a violation is found during an inspection performed pursuant to this subsection (c), the board or local jurisdiction shall issue the installer a written notice identifying the violation(s) found during the inspection. The installer shall have 120 days to remedy the violations. Should a manufacturer fail to remedy the violation(s) identified in the notice, The board or local jurisdiction may obtain injunctive relief from the proper circuit court to enjoin the installation of boxes.

(i) Boxes and sites may only be inspected pursuant to subsection (b) and (c) of this section and any and all applicable local government subdivision construction codes or inspection authority beyond that expressly contained in §37-16-1 *et seq.* of the code is expressly pre-empted.

§37-16-5. Installation of fabricated self-contained expandable box built permanent homes.

(a) Certified box installers must satisfactorily complete a modular installer's course approved by a registered manufacturer and pass a written or oral test prior to being certified to install a model. Each applicant, once certified, may thereafter renew their certification with manufacturer approval.

(b) Each certified box installer shall be required to satisfactorily complete a refresher course every two years after the completion of the initial course.

(c) A list of certified box installers will be maintained by each registered manufacturer on a website accessible to the public.

(d) A certified box installer must maintain proof of certification, which must be made available to the board or a local government upon request.

(e) A certified box installer is not required to be licensed as a contractor to install boxes.

(f) A registered manufacturer is not required to be licensed as a contractor to install boxes

(g) Notwithstanding any contrary statute, rule, or other requirement issued by a local jurisdiction, no permanent foundation or similar structure shall be required for box bearing an approval number, provided that the building plans are submitted to the local government and are accompanied by a certified statement from a Professional Engineer licensed in any state that such box is self-supporting and either requires no foundation, or sets forth the requirements for the structural support of such box.

(h) Any person who installs a box must either be:

(1) A certified box installer;

(2) A registered manufacturer; or

(3) A licensed contractor.

(i) Notwithstanding any statute, regulation, or ordinance to the contrary, an application for a permit to install a box must be approved by a local government within 30 days of receipt.

§37-16-6. Limitation of manufacturer's liability.

A registered manufacturer shall not be required to remedy violations caused by on-site work by others not under his control or violations involving components and materials furnished by others and not included with the box unit.

NOTE: The purpose of this bill is to establish state requirements for land use, manufacture, installation, and safety certification of Fabricated self-contained expandable box built permanent homes.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.