

52:27D-121 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA 52:27D-121 et al. (Enforcing agents for Federal Mobile Home Construction Act--State qualifies.)

LAWS 1981 CHAPTER 494

Bill No. S3142

Sponsor(s) Hamilton and others

Date Introduced February 26, 1981

Committee: Assembly -----

Senate County & Municipal Gov't

Amended during passage Yes No Amendments during passage denoted by asterisks.

Date of Passage: Assembly January 11, 1982

Senate December 3, 1981

Date of approval January 12, 1982

Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly ~~Yes~~ No

Senate Yes ~~No~~

Fiscal Note ~~Yes~~ No

Veto Message ~~Yes~~ No

Message on signing Yes ~~No~~

Following were printed:

Reports Yes ~~No~~

Hearings ~~Yes~~ No

Federal Mobile Home Construction & safety standards Act 42 U.S.C.A. § 5401 et seq.

Recommendation for legislation made in:
974.90 New Jersey, Legislature Mobile Home Study Commission,
H842 Report and recommendations...October, 1980, Trenton, 1980.
1980a (see especially pp. 7-10)

6/22/81

(over)

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See N.J.A.C. 5:23-4.10A

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SENATE, No. 3142

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 26, 1981

By Senators HAMILTON, ORECHIO, BEDELL, PERSKIE,
PARKER and GAGLIANO

Referred to Committee on County and Municipal Government

AN ACT enabling this State to qualify as an enforcing agent ***[of the Federal Government]*** under terms of the "National ***[Mobile]*** **Manufactured** Home Construction and Safety Standards Act of 1974," Title VI of Pub. L. 93-383 (42 U. S. C. § 5401 et seq.) ***[as it may be amended and supplemented]*** **authorizing the adoption of State construction and safety standards in certain cases, amending and supplementing the "State Uniform Construction Code Act," approved October 7, 1975 (P. L. 1975, c. 217), and repealing P. L. 1972, c. 148*.*

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 ***[1. As used in this act, "commissioner" means the Commis-**
2 **sioner of the Department of Community Affairs and "secretary"**
3 **means the Secretary of the United States Department of Housing**
4 **and Urban Development.]***

1 ***[2. The]*** **1. (New section) In accordance with the provisions*
2 *of subsection b. of section 6 of P. L. 1975, c. 217 (C. 52:27D-124 b.)*
2A *and with this act, the* *** commissioner is authorized to administer and**
2B **enforce** ***[Federal mobile]*** *federal manufactured** home safety
3 and construction standards pursuant to the "National ***[Mobile]***
3A **Manufactured** Home Construction and Safety Standards Act
4 of 1974," Title VI of Pub. L. 93-383 (42 U. S. C. § 5401 et seq.)
5 and is empowered to do all things necessary to comply with that
6 act and ***[with any amendments or supplements thereto and with]***
7 any regulations promulgated by the ***[secretary]*** **Secretary of*
7A *the United States Department of Housing and Urban Development**
8 pursuant thereto. **The commissioner shall make such reports to*
9 *the secretary in such form and containing such information as the*
10 *secretary may from time to time require.**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

1 ***[3.]*** *2. (New section)* Whenever the commissioner shall deem
 2 it necessary to establish standards concerning any *manufactured
 3 or* mobile home construction or safety issue with respect to which
 4 no ***[Federal]*** *federal* standard has been established, such
 5 standards shall be those of a nationally recognized code or stan-
 6 dards writing organization, and the commissioner shall have ***[the**
 7 same powers of enforcement as he would were the standards
 8 Federal]* *all of the powers of enforcement provided under the
 9 "State Uniform Construction Code Act, P. L. 1975, c. 217
 10 (C. 52:27D-119 et seq.)*.

1 ***[4.** The commissioner is empowered to adopt such rules and
 2 regulations as he may deem necessary in order to properly imple-
 3 ment this act.]*

1 ***[5.]*** *3. (New section)* The commissioner, by his authorized
 2 representatives, may enter, at reasonable times, any factory, ware-
 3 house or establishment in which ***[mobile]*** *manufactured* homes
 4 are manufactured, stored or held for sale, for the purpose of
 5 ascertaining whether the requirements of the ***[Federal mobile]***
 6 *federal manufactured* home construction and safety standards
 7 and the regulations of the commissioner have been and are being
 8 met.

1 ***[6.]*** The commissioner shall establish a monitoring inspection
 2 fee in an amount established by the secretary***[.** This monitoring
 3 inspection fee shall be an amount]* *, to be* paid *to the secretary*
 4 by each manufacturer for each ***[mobile]*** *manufactured* home
 5 ***[produced]*** *manufactured* in New Jersey ***[and shall be**
 6 payable to the secretary]*.

1 ***[7.]*** *4. (New section)* Each manufacturer, distributor, and
 2 dealer of ***[mobile]*** *manufactured* homes shall establish and
 3 maintain such records, make such reports, and provide such infor-
 4 mation as the secretary may ***[reasonably]*** require ***[in order**
 5 for the secretary to be able]* to determine whether ***[such]*** *the*
 6 manufacturer, distributor or dealer has acted or is acting in com-
 7 pliance with ***[this act or]*** the "National ***[Mobile]*** *Manufac-
 8 tured* Home Construction and Safety Standards Act of 1974" and
 9 shall, upon request of a person duly designated by the secretary,
 10 permit such person to inspect appropriate books, papers, records
 11 and documents relevant to determining whether ***[such]*** *the*
 12 manufacturer, distributor or dealer has acted or is acting in com-
 13 pliance with ***[this]*** *that* act ***[or the "National Mobile Home**
 14 Construction and Safety Standards Act of 1974.']* *.*

1 ***[8.** The commissioner shall make such reports to the secretary
 2 in such form and containing such information as the secretary
 3 shall from time to time require.]*

1 ***[9.]*** *5. (New section)* a. Any person who violates any of the
 2 ***[following]*** provisions ***[relating to mobile homes or any**
 3 regulation promulgated by the commissioner]* *of this section*
 4 shall be liable for a civil penalty not to exceed \$1,000.00 for each
 5 violation*; *to be payable to the commissioner**. Each violation shall
 6 constitute a separate violation with respect to each ***[mobile]***
 7 **manufactured** home, except that the maximum penalty shall not
 8 exceed \$1,000,000.00 for any related series of violations occurring
 9 within 1 year from the date of the first violation. *Any person
 10 *purposely or knowingly violating the provisions of this section in*
 11 *any manner which threatens the health or safety of any purchaser,*
 12 *shall be guilty of a crime of the fourth degree and shall, in addition*
 13 *to a civil penalty, be subject to a fine not to exceed \$1,000.00 or*
 14 *imprisonment for a term not to exceed 1 year, or both.** No person
 14A shall:

15 (1) Manufacture for sale, lease, sell, offer for sale, or lease, or
 16 introduce or deliver, or import into this State, any ***[mobile]***
 17 **manufactured** home ***[which is]*** manufactured on or after the
 18 effective date of any applicable ***[Federal or State mobile]*** **fed-*
 19 *eral manufactured** home construction and safety standard which
 20 does not comply with such standard.

20A (2) Fail or refuse to permit access to or copying of records, or
 20B ***[fail to make reports or provide information; or fail or refuse to**
 20C permit]**]** entry or inspection **to ascertain compliance with federal*
 20D *standards** as required by section ***[5.]*** *3* of this act **or to make*
 20E *reports or provide information as required by section 4 of this act,*
 20F *or any rules or regulations adopted by the commissioner pursuant*
 20G *thereto**.

20H (3) Fail to furnish notification of any defect as required by
 20I Pub. L. 93-383, § 615 (42 U. S. C. § 5414).

20J (4) Fail to issue a certification required by Pub. L. 93-383, § 616
 20K (42 U. S. C. § 5415)***[, or issue]*** *; *or, issue such** a certification
 20L ***[to the effect that a mobile home conforms to all applicable**
 20M *federal mobile home construction and safety standards,]** if such
 21 person in the exercise of due care had reason to know that such
 22 certification is false or misleading in a material respect.

23 (5) Fail to establish and maintain such records, make such re-
 24 ports, and provide such information as the commissioner may
 25 reasonably require to enable him to determine whether there is
 26 compliance with the "National ***[Mobile]*** **Manufactured** Home
 27 Construction and Safety Standards Act of 1974"***[;]*** *; * or fail
 28 to permit, upon request of a person duly authorized by the com-
 29 missioner, inspection of appropriate books, papers, records and

30 documents relative to determining whether a manufacturer, dis-
 31 tributor or dealer has acted or is acting in compliance ***[with this**
 32 act or]* with the "National ***[Mobile]*** *Manufactured** Home
 32A Construction and Safety Standards Act of 1974."

33 (6) Issue a certification pursuant to Pub. L. 95-128, § 902(a)
 34 (42 U. S. C. § 5403(h)), if such person in the exercise of due care
 35 has reason to know that such certification is false or misleading
 36 in a material respect.

37 b. ***[A civil penalty assessed pursuant hereto shall be levied by**
 38 the commissioner in such amount, subject to the maximum amounts
 39 herein set forth, as the commissioner shall deem proper, and shall
 40 be collected by the commissioner.]* When a civil penalty *levied*
 40A *by the commissioner pursuant to subsection a. of this section,*
 41 has not been satisfied within 30 days of its ***[issuance]*** *levy**,
 42 the penalty may be sued for, and recovered by and in the name of
 43 the commissioner, by a summary proceeding under "the penalty
 44 enforcement law" (N. J. S. 2A:58-1 et seq.) in the Superior Court.

45 ***[c. Any person or officer, director or agent of a corporation who**
 46 purposely or knowingly violates any of the provisions enumerated
 47 in subsection a. hereof, in any manner which threatens the health
 48 or safety of any purchaser, commits a crime and shall be subject
 49 to a fine of not more than \$1,000.00 or imprisonment for not more
 50 than 1 year, or both.]*

51 ***[d.] *c.*** Paragraph (1) of subsection a. hereof shall not apply
 52 to the sale or the offer for sale of any *manufactured or* mobile
 53 home after the first *good faith* purchase ***[of it in good faith]***
 53A for purposes other than resale ***[and shall not apply]*** *, *or** to
 54 any person who establishes that he did not have reason to know,
 55 in the exercise of due care, that the *manufactured or* mobile home
 56 is not in conformity with applicable ***[Federal mobile home con-**
 57 **struction and safety]*** *federal** standards, or to any person who***[**
 58 prior to first purchase,]* holds a certificate issued by the manufac-
 59 turer or importer of the *manufactured or* mobile home to the
 60 effect that the *manufactured or* mobile home conforms to all
 61 applicable ***[Federal mobile home construction and safety]***
 62 *federal** standards, unless the person knows that the ***[mobile]***
 63 home does not so conform.

1 *6. (New section) The commissioner may adopt such rules and
 2 regulations as he may deem necessary or appropriate in order to
 3 implement the provisions of this act.*

1 ***[10.] *7.*** Any person aggrieved by any ruling, action, order,
 2 or notice of the commissioner pursuant to this act shall be entitled
 3 to a hearing pursuant to the "Administrative Procedure Act"

4 (P. L. 1968, c. 410, C. 52:14B-1 et seq.). The application for the
5 hearing must be filed within 15 days of the receipt by the applicant
6 thereof of notice of the ruling, action, order or notice complained of.

1 *8. Section 3 of P. L. 1975, c. 217 (C. 52:27D-121) is amended to
2 read as follows:

3 3. Definitions. As used in this act unless the context clearly
4 indicates otherwise:

5 "Building" means, exclusive of a public school facility, a struc-
6 ture enclosed with exterior walls or fire walls, built, erected and
7 framed of component structural parts, designed for the housing,
8 shelter, enclosure and support of individuals, animals or property
9 of any kind.

10 "Business day" means any day of the year, exclusive of Satur-
11 days, Sundays, and legal holidays.

12 "Certificate of occupancy" means the certificate provided for in
13 section 15 of this act indicating that the construction authorized by
14 the construction permit has been completed in accordance with the
15 construction permit, the State Uniform Construction Code and any
16 ordinance implementing said code.

17 "Commissioner" means the Commissioner of Community
18 Affairs.

19 "Code" means the State Uniform Construction Code.

20 "Construction" means the construction, erection, reconstruction,
21 alteration, conversion, demolition, removal, repair or equipping of
22 buildings or structures.

23-25 "Construction board of appeals" means the board provided for
26 in section 9 of this act.

27 "Department" means the Department of Community Affairs.

28 "Enforcing agency" means the municipal construction official
29 and subcode officials provided for in section 8 of this act and
30 assistants thereto.

31 "Equipment" means plumbing, heating, electrical, ventilating,
32 air conditioning; refrigerating and fire prevention equipment, and
33 elevators, dumb waiters, escalators, boilers, pressure vessels and
34 other mechanical facilities or installations.

35 "Hearing examiner" means a person appointed by the commis-
36 sioner to conduct hearings, summarize evidence, and make findings
37 of fact.

38 "Maintenance" means the replacement or mending of existing
39 work with equivalent materials or the provision of additional work
40 or material for the purpose of the safety, healthfulness, and up-
41 keep of the structure and the adherence to such other standards
42 of upkeep as are required in the interest of public safety, health
43 and welfare.

44 “***[Mobile]*** *Manufactured home*” or “*mobile** home” means
 45 a vehicular, portable structure which is built on a chassis and
 46 designed to be used without a permanent foundation as a dwelling
 47 for year round rather than temporary occupancy when connected
 48 to required utilities.

49 “Municipality” means any city, borough, town, township or
 50 village.

51 “Owner” means the owner or owners in fee of the property or
 52 a lesser estate therein, a mortgagee or vendee in possession, an
 53 assignee of rents, receiver, executor, trustee, lessee, or any other
 54 person, firm or corporation, directly or indirectly in control of a
 55 building, structure, or real property and shall include any sub-
 56 division thereof of the State.

57 “Premanufactured system” means an assembly of materials or
 58 products that is intended to comprise all or part of a building or
 59 structure, exclusive of a public school facility, and that is assembled
 60 offsite by a repetitive process under circumstances intended to
 61 insure uniformity of quality and material content.

62 “Public school facility” means any building or any part thereof
 63 where the plans and specifications are submitted to, and approved
 64 by, the State Board of Education pursuant to N. J. S. 18A:18-2.

65 “State sponsored code change proposal” means any proposed
 66 amendment or code change adopted by the commissioner in accord-
 67 ance with subsection c. of section 5 of this act for the purpose of
 68 presenting such proposed amendment or code change at any of the
 69 periodic code change hearings held by the National Model Code
 70 Adoption Agencies, the codes of which have been adopted as sub-
 71 codes under this act.

72 “Stop construction order” means the order provided for in
 73 section 14 of this act.

74 “State Uniform Construction Code” means the code provided
 75 for in section 5 of this act, or any portion thereof, and any modifica-
 76 tion of or amendment thereto.

77 “Structure” means, exclusive of a public school facility, a com-
 78 bination of materials to form a construction for occupancy, use,
 79 or ornamentation whether installed on, above, or below the surface
 80 of a parcel of land; provided, the word “structure” shall be con-
 81 strued when used herein as though followed by the words “or
 82 part or parts thereof and all equipment therein” unless the context
 83 clearly requires a different meaning.

1 9. Section 5 of P. L. 1975, c. 217 (C. 52:27D-123) is amended to
 2 read as follows:

3 5. Adoption of a State Uniform Construction Code.

4 a. The commissioner shall after public hearing pursuant to
5 section 4 of the "Administrative Procedure Act," P. L. 1968, c. 410
6 (C. 52:14B-4) adopt a State Uniform Construction Code for the
7 purpose of regulating the structural design, construction, mainte-
8 nance and use of buildings or structures to be erected and altera-
9 tion, renovation, rehabilitation, repair, maintenance, removal or
10 demolition of buildings or structures already erected. Prior to
11 the adoption of said code, the commissioner shall consult with the
12 code advisory board and other departments, divisions, bureaus,
13 boards, councils or other agencies of State Government heretofore
14 authorized to establish or administer construction regulations.

15 Such prior consultations with departments, divisions, bureaus,
16 boards, councils, or other agencies of State Government shall in-
17 clude but not be limited to consultation with the Commissioner of
18 Health and the Public Health Council prior to adoption of a plumb-
19 ing subcode pursuant to paragraph b. of this section. Said code
20 shall include any code, rule or regulation incorporated therein by
21 reference.

22 b. The code shall be divided into subcodes which may be adopted
23 individually by the commissioner as he may from time to time
24 consider appropriate. Said subcodes shall include but not be limited
25 to a building code, a plumbing code, an electrical code, an energy
26 code, a fire prevention code, a *manufactured or* mobile home code
27 and mechanical code.

28 These subcodes shall be adoptions of the model codes of the
29 Building Officials and Code Administrators International, Inc., the
30 National Electrical Code, and the National Standard Plumbing
31 Code, provided that for good reasons, the commissioner may adopt
32 as a subcode a model code or standard of some other nationally
33 recognized organization upon a finding that such model code or
34 standard promotes the purposes of this act. The initial adoption
35 of a model code or standard as a subcode shall constitute adoption
36 of any subsequent revisions or amendments thereto.

37 The commissioner shall be authorized to adopt a barrier free
38 subcode or to supplement or revise any model code adopted here-
39 under, for the purpose of insuring that adequate and sufficient
40 features are available in buildings or structures so as to make
41 them accessible to and usable by the physically handicapped.

42 c. Any municipality through its construction official, and any
43 State agency or political subdivision of the State may submit an
44 application recommending to the commissioner that a State spon-
45 sored code change proposal be adopted. Such application shall

46 contain such technical justification and shall be submitted in
47 accordance with such rules of procedure as the commissioner may
48 deem appropriate.

49 At least 45 days prior to the final date for the submission of
50 amendments or code change proposals to the National Model Code
51 Adoption Agency, the code of which has been adopted as a subcode
52 under this act, the commissioner shall hold a public hearing in ac-
53 cordance with the Administrative Procedure Act P. L. 1968, c. 410
54 (C. 52:14B-1 et seq.), at which testimony on any application recom-
55 mending a State sponsored code change proposal will be heard.

56 The commissioner shall maintain a file of such applications, which
57 shall be made available to the public upon request and upon pay-
58 ment of a fee to cover the cost of copying and mailing.

59 After public hearing, the code advisory board shall review any
60 such applications and testimony and shall within 20 days of such
61 hearing present its own recommendations to the commissioner.

62 The commissioner may adopt, reject or return such recommenda-
63 tions to the code advisory board for further deliberation. If adopted,
64 any such proposal shall be presented to the subsequent meeting
65 of the National Model Code Agency by the commissioner or by
66 persons designated by the commissioner as a State sponsored code
67 change proposal. Nothing herein, however, shall limit the right
68 of any municipality, the department, or any other person from
69 presenting amendments to the National Model Code Agency on its
70 own initiative.

71 The commissioner may adopt further rules and regulations pur-
72 suant to this subsection and may modify the procedures herein
73 described when a model code change hearing has been scheduled
74 so as not to permit adequate time to meet such procedures.

75 d. The Department of Education shall annually update its rules
76 and regulations concerning public school facilities for the purpose
77 of, insofar as appropriate for such facilities making them conform
78 with the State Uniform Construction Code. Such updating shall be
79 undertaken in consultation with the commissioner. Within 3 years
80 from the effective date of this act, the Department of Education
81 and commissioner shall submit to the Legislature reports on the
82 extent to which the Department of Education's rules and regula-
83 tions have been brought into conformity with the code, and
84 identifying problems still outstanding for purposes of applying
85 the provisions of the code to all public school facilities.

1 10. P. L. 1972, c. 148 (C. 52:27D-25.1 through 52:27D-25.9) is
2 repealed.*

1 11. This act shall take effect immediately.

SENATE, No. 3142

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 26, 1981

By Senators HAMILTON, ORECHIO, BEDELL, PERSKIE,
PARKER and GAGLIANO

Referred to Committee on County and Municipal Government

AN Act enabling this State to qualify as an enforcing agent of the Federal Government under terms of the "National Mobile Home Construction and Safety Standards Act of 1974," Title VI of Pub. L. 93-383 (42 U. S. C. § 5401 et seq.) as it may be amended and supplemented.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. As used in this act, "commissioner" means the Commissioner
2 of the Department of Community Affairs and "secretary" means
3 the Secretary of the United States Department of Housing and
4 Urban Development.

1 2. The commissioner is authorized to administer and enforce
2 Federal mobile home safety and construction standards pursuant to
3 the "National Mobile Home Construction and Safety Standards Act
4 of 1974," Title VI of Pub. L. 93-383 (42 U. S. C. § 5401 et seq.)
5 and is empowered to do all things necessary to comply with that
6 act and with any amendments or supplements thereto and with
7 any regulations promulgated by the secretary pursuant thereto.

1 3. Whenever the commissioner shall deem it necessary to estab-
2 lish standards concerning any mobile home construction or safety
3 issue with respect to which no Federal standard has been estab-
4 lished, such standards shall be those of a nationally recognized
5 code or standards writing organization, and the commissioner shall
6 have the same powers of enforcement as he would were the stand-
7 ards Federal.

1 4. The commissioner is empowered to adopt such rules and regu-
2 lations as he may deem necessary in order to properly implement
3 this act.

1 5. The commissioner, by his authorized representatives, may
2 enter, at reasonable times, any factory, warehouse or establish-

3 ment in which mobile homes are manufactured, stored or held for
4 sale, for the purpose of ascertaining whether the requirements of
5 the Federal mobile home construction and safety standards and
6 the regulations of the commissioner have been and are being met.

1 6. The commissioner shall establish a monitoring inspection fee
2 in an amount established by the secretary. This monitoring in-
3 spection fee shall be an amount paid by each manufacturer for
4 each mobile home produced in New Jersey and shall be payable
5 to the secretary.

1 7. Each manufacturer, distributor, and dealer of mobile homes
2 shall establish and maintain such records, make such reports, and
3 provide such information as the secretary may reasonably require
4 in order for the secretary to be able to determine whether such
5 manufacturer, distributor or dealer has acted or is acting in com-
6 pliance with this act or the "National Mobile Home Construction
7 and Safety Standards Act of 1974" and shall, upon request of a
8 person duly designated by the secretary, permit such person to
9 inspect appropriate books, papers, records and documents relevant
10 to determining whether such manufacturer, distributor or dealer
11 has acted or is acting in compliance with this act or the "National
12 Mobile Home Construction and Safety Standards Act of 1974."

1 8. The commissioner shall make such reports to the secretary in
2 such form and containing such information as the secretary shall
3 from time to time require.

1 9. a. Any person who violates any of the following provisions
2 relating to mobile homes or any regulation promulgated by the
3 commissioner shall be liable for a civil penalty not to exceed
4 \$1,000.00 for each violation. Each violation shall constitute a sep-
5 arate violation with respect to each mobile home, except that the
6 maximum penalty shall not exceed \$1,000,000.00 for any related
7 series of violations occurring within 1 year from the date of the
8 first violation. No person shall:

9 (1) Manufacture for sale, lease, sell, offer for sale, or lease, or
10 introduce or deliver, or import into this State, any mobile home
11 which is manufactured on or after the effective date of any ap-
12 plicable Federal or State mobile home construction and safety
13 standard which does not comply with such standard.

14 (2) Fail or refuse to permit access to or copying of records, or
15 fail to make reports or provide information; or fail or refuse to
16 permit entry or inspection as required by section 5 of this act.

17 (3) Fail to furnish notification of any defect as required by
18 Pub. L. 93-383, § 615 (42 U. S. C. § 5414).

18A (4) Fail to issue a certification required by Pub. L. 93-383, § 616
19 (42 U. S. C. § 5415), or issue a certification to the effect that a
20 mobile home conforms to all applicable Federal mobile home con-
21 struction and safety standards, if such person in the exercise of
22 due care had reason to know that such certification is false or mis-
22A leading in a material respect.

23 (5) Fail to establish and maintain such records, make such re-
24 ports, and provide such information as the commissioner may
25 reasonably require to enable him to determine whether there is
26 compliance with the "National Mobile Home Construction and
27 Safety Standards Act of 1974"; or fail to permit, upon request of
28 a person duly authorized by the commissioner, inspection of ap-
29 propriate books, papers, records and documents relative to deter-
30 mining whether a manufacturer, distributor or dealer has acted
31 or is acting in compliance with this act or with the "National
32 Mobile Home Construction and Safety Standards Act of 1974."

33 (6) Issue a certification pursuant to Pub. L. 95-128, § 902(a)
34 (42 U. S. C. § 5403(h)), if such person in the exercise of due care
35 has reason to know that such certification is false or misleading
36 in a material respect.

37 b. A civil penalty assessed pursuant hereto shall be levied by
38 the commissioner in such amount, subject to the maximum amounts
39 herein set forth, as the commissioner shall deem proper, and shall
40 be collected by the commissioner. When a civil penalty has not
41 been satisfied within 30 days of its issuance, the penalty may be
42 sued for, and recovered by and in the name of the commissioner,
43 by a summary proceeding under "the penalty enforcement law"
44 (N. J. S. 2A:58-1 et seq.) in the Superior Court.

45 c. Any person or officer, director or agent of a corporation who
46 purposely or knowingly violates any of the provisions enumerated
47 in subsection a. hereof, in any manner which threatens the health
48 or safety of any purchaser, commits a crime and shall be subject
49 to a fine of not more than \$1,000.00 or imprisonment for not more
50 than 1 year, or both.

51 d. Paragraph (1) of subsection a. hereof shall not apply to the
52 sale or the offer for sale of any mobile home after the first pur-
53 chase of it in good faith for purposes other than resale and shall
54 not apply to any person who establishes that he did not have
55 reason to know, in the exercise of due care, that the mobile home
56 is not in conformity with applicable Federal mobile home con-
57 struction and safety standards, or to any person who, prior to first
58 purchase, holds a certificate issued by the manufacturer or im-

59 porter of the mobile home to the effect that the mobile home con-
60 forms to all applicable Federal mobile home construction and safety
61 standards, unless the person knows that the mobile home does not
62 so conform.

1 10. Any person aggrieved by any ruling, action, order, or notice
2 of the commissioner pursuant to this act shall be entitled to a hear-
3 ing pursuant to the "Administrative Procedure Act" (P. L. 1968,
4 c. 410, C. 52:14B-1 et seq.). The application for the hearing must
5 be filed within 15 days of the receipt by the applicant thereof of
6 notice of the ruling, action, order or notice complained of.

1 11. This act shall take effect immediately.

STATEMENT

This bill is designed to permit the State of New Jersey to have an appropriate State plan as permitted by the Federal Mobile Home Construction and Safety Standards Act. That Federal law has superseded most of the New Jersey Uniform Standards Code for Mobile Home Act. However, the Federal act does permit the states to enforce and administer the Federal standards provided a State plan is established to do so. In addition, State laws may impose standards on construction or safety issues not covered by the Federal standards.

This bill gives the Commissioner of the Department of Community Affairs the necessary authority to implement an appropriate State plan. In addition, the commissioner is given the power to establish and enforce additional standards not set by the Federal Government, provided the standards are included as part of a nationally recognized code or standards writing organization. Any additional State standards are to be enforced in the same way that Federal standards are.

SENATE COMMITTEE AMENDMENTS TO

SENATE, No. 3142

STATE OF NEW JERSEY

ADOPTED NOVEMBER 16, 1981

Amend page 1, title, lines 1-2, omit "of the Federal Government".

Amend page 1, title, line 2, omit "Mobile", insert "Manufactured".

Amend page 1, title, lines 4-5, omit "as it may be amended and supplemented", insert "authorizing the adoption of State construction and safety standards in certain cases, amending and supplementing the "State Uniform Construction Code Act," approved October 7, 1975 (P. L. 1975, c. 217), and repealing P. L. 1972, c. 148".

Amend page 1, section 1, lines 1-4, omit section in its entirety.

Amend page 1, section 2, line 1, omit "2. The", insert "1. (New section) In accordance with the provisions of subsection b. of section 6 of P. L. 1975, c. 217 (C. 52:27D-124 b.) and with this act, the".

Amend page 1, section 2, line 2, omit "Federal mobile", insert "federal manufactured".

Amend page 1, section 2, line 3, omit "Mobile", insert "Manufactured".

Amend page 1, section 2, line 6, omit "with any amendments or supplements thereto and with".

Amend page 1, section 2, section 7, omit "secretary", insert "Secretary of the United States Department of Housing and Urban Development".

Amend page 1, section 2, after line 7, insert new paragraph as follows:

"The commissioner shall make such reports to the secretary in such form and containing such information as the secretary may from time to time require."

Amend page 1, section 3, line 1, omit "3.", insert "2. (New section)".

Amend page 1, section 3, line 2, after "any", insert "manufactured or".

Amend page 1, section 3, line 3, omit "Federal", insert "federal".

Amend page 1, section 3, lines 6-7, after "have", omit remainder of line 6 and "ards Federal", insert "all of the powers of enforcement provided under the "State Uniform Construction Code Act, P. L. 1975, c. 217 (C. 52:27D-119 et seq.)".

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Amend page 1, section 4, lines 1-3, omit section in entirety.

Amend page 1, section 5, line 1, omit "5.", insert "3. (New section)".

Amend page 2, section 5, line 3, omit "mobile", insert "manufactured".

Amend page 2, section 5, line 5, omit "Federal mobile", insert "federal manufactured".

Amend page 2, section 6, line 1, omit "6."

Amend page 2, section 6, lines 2-3, omit ". This monitoring inspection fee shall be an amount", insert ", to be".

Amend page 2, section 6, line 3, after "paid", insert "to the secretary".

Amend page 2, section 6, line 4, omit "mobile", insert "manufactured"; omit "produced", insert "manufactured".

Amend page 2, section 6, lines 4-5, omit "and shall be payable to the secretary".

Amend page 2, section 7, line 1, omit "7.", insert "4. (New section)"; omit "mobile", insert "manufactured".

Amend page 2, section 7, line 3, omit "reasonably".

Amend page 2, section 7, line 4, omit "in order for the secretary to be able"; omit "such", insert "the".

Amend page 2, section 7, line 6, omit "this act or", omit "Mobile", insert "Manufactured".

Amend page 2, section 7, line 10, omit "such", insert "the".

Amend page 2, section 7, line 11, omit "this", insert "that".

Amend page 2, section 7, lines 11-12, after "act", omit remainder of these lines, insert ".".

Amend page 2, section 8, lines 1-3, omit section in entirety.

Amend page 2, section 9, line 1, omit "9.", insert "5. (New section)", omit "following".

Amend page 2, section 9, lines 2-3, omit line 2 and "commissioner" on line 3, insert "of this section".

Amend page 2, section 9, line 4, after "violation", insert ", to be payable to the commissioner".

Amend page 2, section 9, line 5, omit "mobile", insert "manufactured".

Amend page 2, section 9, line 8, after "violation.", insert "Any person purposely or knowingly violating the provisions of this section in any manner which threatens the health or safety of any purchaser, shall be guilty of a crime of the fourth degree and shall, in addition to a civil penalty, be subject to a fine not to exceed 1 year, or both."

Amend page 2, section 9, line 10, omit "mobile", insert "manufactured".

Amend page 2, section 9, line 11, omit "which is".

Amend page 2, section 9, line 12, omit "Federal or State mobile", insert "federal manufactured".

Amend page 2, section 9, lines 15-16, omit line 15 and "permit", on line 16.

Amend page 2, section 9, line 16, after "inspection", insert "to ascertain compliance with federal standards"; omit "5", insert "3."; after "act", insert "or to make reports or provide information as required by section 4 of this act, or any rules or regulations adopted by the commissioner pursuant thereto".

Amend page 3, section 9, line 19, omit ", or issue", insert "; or, issue such".

Amend page 3, section 9, lines 19-21, after "certification", omit remainder of line 19, all of line 20 and "struction and safety standards,".

Amend page 3, section 9, line 26, omit "Mobile", insert "Manufactured".

Amend page 3, section 9, line 27, after "1974", omit ";", insert ",".

Amend page 3, section 9, line 31, omit "with this act or".

Amend page 3, section 9, line 32, omit "Mobile", insert "Manufactured".

Amend page 3, section 9, lines 37-40, after "b.", omit remainder of line 37, all of lines 38 and 39 and "be collected by the commissioner." on line 40.

Amend page 3, section 9, line 40, after "penalty", insert "levied by the commissioner pursuant to subsection a. of this section,".

Amend page 3, section 9, line 41, omit "issuance", insert "levy".

Amend page 3, section 9, lines 45-50, omit lines in their entirety.

Amend page 3, section 9, line 51, omit "d.", insert "c.".

Amend page 3, section 9, line 52, after "any", insert "manufactured or"; after "first", insert "good faith".

Amend page 3, section 9, line 53, omit "of it in good faith".

Amend page 3, section 9, lines 53-54, omit "and shall not apply", insert ", or".

Amend page 3, section 9, line 55, after "that the", insert "manufactured or".

Amend page 3, section 9, line 56, omit "Federal mobile home construction and safety", insert "federal".

Amend page 3, section 9, lines 57-58, omit ", prior to first purchase,".

Amend page 4, section 9, line 59, after "of the", insert "manufactured or"; after "that the", insert "manufactured or".

Amend page 4, section 9, line 60, omit "Federal mobile home construction and safety", insert "federal".

Amend page 4, section 9, line 61, omit "mobile".

Amend page 4, line 9, after line 62, insert new section as follows:

“6. (New section) The commissioner may adopt such rules and regulations as he may deem necessary or appropriate in order to implement the provisions of this act.”

Amend page 4, section 10, line 1, omit “10.”, insert “7. (New section)”

Amend page 4, section 10, after line 6, insert new sections as follow:

“8. Section 3 of P. L. 1975, c. 217 (C. 52:27D-121) is amended to read as follows:

3. Definitions. As used in this act unless the context clearly indicates otherwise:

“Building” means, exclusive of a public school facility, a structure enclosed with exterior walls or fire walls, built, erected and framed of component structural parts, designed for the housing, shelter, enclosure and support of individuals, animals or property of any kind.

“Business day” means any day of the year, exclusive of Saturdays, Sundays, and legal holidays.

“Certificate of occupancy” means the certificate provided for in section 15 of this act indicating that the construction authorized by the construction permit has been completed in accordance with the construction permit, the State Uniform Construction Code and any ordinance implementing said code.

“Commissioner” means the Commissioner of Community Affairs.

“Code” means the State Uniform Construction Code.

“Construction” means the construction, erection, reconstruction, alteration, conversion, demolition, removal, repair or equipping of buildings or structures.

“Construction board of appeals” means the board provided for in section 9 of this act.

“Department” means the Department of Community Affairs.

“Enforcing agency” means the municipal construction official and subcode officials provided for in section 8 of this act and assistants thereto.

“Equipment” means plumbing, heating, electrical, ventilating, air conditioning; refrigerating and fire prevention equipment, and elevators, dumb waiters, escalators, boilers, pressure vessels and other mechanical facilities or installations.

“Hearing examiner” means a person appointed by the commissioner to conduct hearings, summarize evidence, and make findings of fact.

“Maintenance” means the replacement or mending of existing work with equivalent materials or the provision of additional work or material for the purpose of the safety, healthfulness, and upkeep of the structure

and the adherence to such other standards of upkeep as are required in the interest of public safety, health and welfare.

“**[Mobile]** *Manufactured home or mobile home*” means a vehicular, portable structure which is built on a chassis and designed to be used without a permanent foundation as a dwelling for year round rather than temporary occupancy when connected to required utilities.

“Municipality” means any city, borough, town, township or village.

“Owner” means the owner or owners in fee of the property or a lesser estate therein, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee, or any other person, firm or corporation, directly or indirectly in control of a building, structure, or real property and shall include any subdivision thereof of the State.

“Premanufactured system” means an assembly of materials or products that is intended to comprise all or part of a building or structure, exclusive of a public school facility, and that is assembled offsite by a repetitive process under circumstances intended to insure uniformity of quality and material content.

“Public school facility” means any building or any part thereof where the plans and specifications are submitted to, and approved by, the State Board of Education pursuant to N. J. S. 18A:18-2.

“State sponsored code change proposal” means any proposed amendment or code change adopted by the commissioner in accordance with subsection c. of section 5 of this act for the purpose of presenting such proposed amendment or code change at any of the periodic code change hearings held by the National Model Code Adoption Agencies, the codes of which have been adopted as subcodes under this act.

“Stop construction order” means the order provided for in section 14 of this act.

“State Uniform Construction Code” means the code provided for in section 5 of this act, or any portion thereof, and any modification of or amendment thereto.

“Structure” means, exclusive of a public school facility, a combination of materials to form a construction for occupancy, use, or ornamentation whether installed on, above, or below the surface of a parcel of land; provided, the word “structure” shall be construed when used herein as though followed by the words “or part or parts thereof and all equipment therein” unless the context clearly requires a different meaning.

9. Section 5 of P. L. 1975, c. 217 (C. 52:27D-123) is amended to read as follows:

5. Adoption of a State Uniform Construction Code.

a. The commissioner shall after public hearing pursuant to section 4 of the “Administrative Procedure Act,” P. L. 1968, c. 410 (C. 52:14B-4)

adopt a State Uniform Construction Code for the purpose of regulating the structural design, construction, maintenance and use of buildings or structures to be erected and alteration, renovation, rehabilitation, repair, maintenance, removal or demolition of buildings or structures already erected. Prior to the adoption of said code, the commissioner shall consult with the code advisory board and other departments, divisions, bureaus, boards, councils or other agencies of State Government heretofore authorized to establish or administer construction regulations.

Such prior consultations with departments, divisions, bureaus, boards, councils, or other agencies of State Government shall include but not be limited to consultation with the Commissioner of Health and the Public Health Council prior to adoption of a plumbing subcode pursuant to paragraph b. of this section. Said code shall include any code, rule or regulation incorporated therein by reference.

b. The code shall be divided into subcodes which may be adopted individually by the commissioner as he may from time to time consider appropriate. Said subcodes shall include but not be limited to a building code, a plumbing code, an electrical code, an energy code, a fire prevention code, a *manufactured or mobile home code* and mechanical code.

These subcodes shall be adoptions of the model codes of the Building Officials and Code Administrators International, Inc., the National Electrical Code, and the National Standard Plumbing Code, provided that for good reasons, the commissioner may adopt as a subcode a model code or standard of some other nationally recognized organization upon a finding that such model code or standard promotes the purposes of this act. The initial adoption of a model code or standard as a subcode shall constitute adoption of any subsequent revisions or amendments thereto.

The commissioner shall be authorized to adopt a barrier free subcode or to supplement or revise any model code adopted hereunder, for the purpose of insuring that adequate and sufficient features are available in buildings or structures so as to make them accessible to and usable by the physically handicapped.

c. Any municipality through its construction official, and any State agency or political subdivision of the State may submit an application recommending to the commissioner that a State sponsored code change proposal be adopted. Such application shall contain such technical justification and shall be submitted in accordance with such rules of procedure as the commissioner may deem appropriate.

At least 45 days prior to the final date for the submission of amendments or code change proposals to the National Model Code Adoption Agency, the code of which has been adopted as a subcode under this act,

the commissioner shall hold a public hearing in accordance with the Administrative Procedure Act P. L. 1968, c. 410 (C. 52:14B-1 et seq.), at which testimony on any application recommending a State sponsored code change proposal will be heard.

The commissioner shall maintain a file of such applications, which shall be made available to the public upon request and upon payment of a fee to cover the cost of copying and mailing.

After public hearing, the code advisory board shall review any such applications and testimony and shall within 20 days of such hearing present its own recommendations to the commissioner.

The commissioner may adopt, reject or return such recommendations to the code advisory board for further deliberation. If adopted, any such proposal shall be presented to the subsequent meeting of the National Model Code Agency by the commissioner or by persons designated by the commissioner as a State sponsored code change proposal. Nothing herein, however, shall limit the right of any municipality, the department, or any other person from presenting amendments to the National Model Code Agency on its own initiative.

The commissioner may adopt further rules and regulations pursuant to this subsection and may modify the procedures herein described when a model code change hearing has been scheduled so as not to permit adequate time to meet such procedures.

d. The Department of Education shall annually update its rules and regulations concerning public school facilities for the purpose of, insofar as appropriate for such facilities making them conform with the State Uniform Construction Code. Such updating shall be undertaken in consultation with the commissioner. Within 3 years from the effective date of this act, the Department of Education and commissioner shall submit to the Legislature reports on the extent to which the Department of Education's rules and regulations have been brought into conformity with the code, and identifying problems still outstanding for purposes of applying the provisions of the code to all public school facilities.

10. P. L. 1972, c. 148 (C. 52:27D-25.1 through 52:27D-25.9) is repealed."

SENATE COUNTY AND MUNICIPAL
GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 3142

with Senate committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 16, 1981

Senate Bill No. 3142 would permit the State of New Jersey to qualify as an enforcing agent of the Federal Government under the "National Manufactured Home Construction and Safety Standards Act of 1974." That federal act has superseded most of the State laws providing for the regulation and inspection of manufactured or mobile homes. However, the federal act permits a State to enforce and administer the federal standards, provided an appropriate State plan is established. In addition, the State may impose standards for aspects not covered by federal standards.

The bill makes the Commissioner of the Department of Community Affairs the enforcing agent for the federal standards. In addition, the commissioner is given the power to establish, by rule and regulation, and enforce additional standards not set by the Federal Government, if the standards are those of a nationally recognized code or standards writing organization.

The bill sets forth specific violations relating to the manufacture, sale or importation of manufactured homes in the State. Violators are liable for a civil penalty not to exceed \$1,000.00 for each violation. Each violation is a separate offense, but the maximum penalty for a related series of violations shall not exceed \$1,000,000.00. These penalties are collected by the commissioner.

A violation which threatens the health or safety of any purchaser is a crime, subject to a fine of not more than \$1,000.00, or 1 year's imprisonment, or both.

The commissioner is to be authorized to establish a monitoring inspection fee in an amount established by the Secretary of the U. S. Department of Housing and Urban Development, which is payable to HUD.

The Senate committee amendments, proposed by the sponsor and based upon suggestions of the Department of Community Affairs, would:

(1) Integrate the provisions of the bill more fully with those of the "State Uniform Construction Code Act;"

(2) Limit the penalty provisions of the amended section 5 (section 9 of the unamended bill) to violations of federal standards and to rules and regulations adopted by the Commissioner of Community Affairs in the enforcement of the federal standards—any other violation of standards or other requirements adopted by the commissioner will be subject to the penalty provisions of the "State Uniform Construction Code Act;"

(3) Incorporate into the act changes in terminology contained in the 1980 amendments to the federal act;

(4) Simplify and make more readable the provisions of the bill; and,

(5) Repeal the "Uniform Standards Code for Mobile Homes Act," P. L. 1972, c. 148 (C. 52:27D-25.1 et seq.) under which the State currently imposes and enforces standards regarding manufactured homes. That act has been mostly superseded by the federal act, and would be rendered unnecessary by this act.

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S-3451, sponsored by Senator Joseph Merlino (D-Mercer), correcting various errors in certain statutes created by the enactment of the very same statutes. Most of the errors were typographical or inadvertent. This corrective legislation was necessary because recent laws granting the Division of Legal Services the power to make such corrections did not apply to these statutes.

S-3142, sponsored by Senator William Hamilton (D-Middlesex), enabling the State of New Jersey to administer and enforce the Federal Mobile Home Construction and Safety Act in this state.

S-3235, sponsored by Senator Wynona Lipman (D-Essex), establishing within the Department of Health a "hereditary disorders program." The bill actually mandates nothing new--the Department already has such a program--but the bill does ensure the program's continuance. No appropriation is made, or deemed necessary.

S-3359, also by Senator Merlino, and a companion bill to S-1549, the "Community Development Bond Act of 1981," sponsored by Merlino and enacted by the Governor on Tuesday. This bill designates the New Jersey Economic Development Authority as the agency to undertake the projects outlined in the Bond Act (See January 13, 1982 rel

Appropriations from the Bond Act will be contingent upon the approval of the voters next November.

S-3517, sponsored by Senator John Russo (D-Ocean), allowing the Supreme Court indefinitely suspend without pay any judge accused of wrongdoing. Currently, the Court may only suspend without pay a judge for 90 days. After 90 days, the suspect could continue, but with pay.