

Illinois Modular Dwelling and Mobile Structure Safety Act.

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§ 430 ILCS 115/1(was Ill.Rev.Stat., Ch. 67 1/2, Para. 501). [Short title].

Section 1. This Act may be cited as the Illinois Modular Dwelling and Mobile Structure Safety Act.

(Source: P.A. 98-959, eff. 8-15-14.)

§ 430 ILCS 115/2 (was Ill.Rev.Stat., Ch. 67 1/2, Para. 502). [Definitions].

Section 2. Unless clearly indicated otherwise by the context, the following words and terms when used in this Act, for the purpose of this Act, shall have the following meanings:

- (a) (Blank)
- (b) "Person" means a person, partnership, corporation, or other legal entity.
- (c) "Manufacturer" means any person who manufactures mobile homes or manufactured housing at the place or places, either on or away from the building site, at which machinery, equipment and other capital goods are assembled and operated for the purpose of making, fabricating, forming or assembling mobile homes or manufactured housing.

- (d) "Department" means the Department of Public Health.
- (e) "Director" means the Director of the Department of Public Health.
- (f) (Blank)
- (g) "Codes" means the safety codes for manufactured housing and mobile homes promulgated by the Department. The Codes shall contain the standards and requirements for manufactured housing and mobile homes so that adequate performance for the intended use is made the test of acceptability. The Code of Standards shall permit the use of new and used technology, techniques, methods and materials, for both manufactured housing and mobile homes, consistent with recognized and accepted codes and standards developed by the International Code Council (ICC) or by the organizations that formed the ICC in 1994: Building Officials and Code Administrators, the International Conference of Building Officials, the Southern Building Codes Congress International, the National Fire Protection Association, the International Association of Plumbing and Mechanical Officials, the American National Standards Institute, the Illinois State Plumbing Code, and the United States Department of Housing and Urban Development, hereinafter referred to as "HUD", applying to manufactured housing and mobile homes installed and set up according to the manufacturer's instructions. A copy of said safety codes, including said revisions thereof is on file with the Department.
- (h) "Seal" means a device or insignia issued by the Department to be displayed on the exterior of the mobile home or the interior of a manufactured housing unit or modular home to evidence compliance with the applicable safety code.
- (i) "Modular home" means a building assembly or system of building sub-assemblies, designed for habitation as a dwelling for one or more persons, including the necessary electrical, plumbing, heating, ventilating and other service systems, which is of closed or open construction and which is made or assembled by a manufacturer, on or off the building site, for installation, or assembly and installation, on the building site, installed and set up according to the manufacturer's instructions on an approved foundation and support system. The construction of modular dwelling units located in Illinois is regulated by the Illinois Department of Public Health.
- (j) "Closed construction" is any building, component, assembly or system manufactured in such a manner that all portions cannot readily be inspected at the installation site without disassembly, damage to, or destruction thereof.
- (k) (Blank)
- (l) "Approved foundation and support system" means, for a modular home or modular dwelling unit, a closed perimeter formation consisting of materials such as concrete, mortared concrete block, or mortared brick extending into the ground below the frost line

which shall include, but not necessarily be limited to, cellars, basements, or crawl spaces, and does include the use of piers supporting the marriage wall of the home that extend below the frost line.

- (m) "Code compliance certificate" means the certificate provided by the manufacturer to the Department that warrants that the manufactured housing unit or mobile home complies with the applicable code.
- (n) "Mobile structure" means a movable or portable unit, which, when assembled, is 8 feet or more in width and is 32 body feet in length, constructed to be towed on its own chassis (comprised of frame and wheels), and designed for occupancy with or without a permanent foundation. "Mobile structure" includes units designed to be used for multi-family residential, commercial, educational, or industrial purposes, excluding, however, recreational vehicles and single family residences.

(Source: P.A. 98-749, eff. 7-16-14; 98-959, eff. 8-15-14; 99-78, eff. 7-20-15.)

§ 430 ILCS 115/3 (was Ill.Rev.Stat., Ch. 67 1/2, Para. 503). [Unlawful rental, sale, or offer for sale; manufacture of mobile homes].

Section 3. It is unlawful for any person to manufacture, rent, sell, or offer for sale for location within this State, any modular dwelling or mobile structure after the effective date of this amendatory Act of the 98th General Assembly, unless such modular dwelling or mobile structure complies with this Act and all rules adopted by the Department under this Act.

(Source: P.A. 98-959, eff. 8-15-14.)

§ 430 ILCS 115/4 (was Ill.Rev.Stat., Ch. 67 1/2, Para. 504). [Seal and certification of compliance with safety code; coextensive municipal provisions; adoption by reference].

Section 4.

- (a) No person may rent, sell, or offer for sale to anyone within this State any modular dwelling or mobile structure after the effective date of this amendatory Act of the 98th General Assembly, unless it bears a seal issued by the Department and a certification by the manufacturer, that the mobile structure or modular dwelling complies with the applicable safety code.
- (b) Nothing in this Act prohibits a city, town, village, township, or county from adopting construction standards for mobile structures or modular dwellings under local ordinances, provided such ordinances incorporate the rules adopted under this Act and are approved by the Department. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State. Any unit of local government is authorized to adopt by reference the safety codes as promulgated by the Department.

(Source: P.A. 98-959, eff. 8-15-14.)

§ 430 ILCS 115/5 (was Ill.Rev.Stat., Ch. 67 1/2, Para. 505). [Seals issued by Department].

Section 5. The Department shall issue seals to any manufacturer upon application supported by affidavit or such other evidence which the Department shall deem necessary to satisfy itself that the seals shall be affixed only to mobile structures or modular dwelling units which comply with the applicable safety code.

(Source: P.A. 98-959, eff. 8-15-14.)

§ 430 ILCS 115/6 (was Ill.Rev.Stat., Ch. 67 1/2, Para. 506). [Alteration of mobile homes to which seals have been affixed].

Section 6. Alteration of mobile structures or modular dwelling units to which seals have been affixed.

(a) A unit of local government may regulate the location of the modular dwellings and mobile structures and their foundation, and the installation of the on-site utilities.

(b) It is unlawful for any person to make any alteration of any mobile structure or modular dwelling unit to which a seal has been affixed if such alteration causes the mobile structure or modular dwelling unit to be in violation of the applicable code.

(Source: P.A. 98-959, eff. 8-15-14.)

§ 430 ILCS 115/7 (was Ill.Rev.Stat., Ch. 67 1/2, Para. 507). [Reciprocity with other states].

Section 7. If any other State has a safety code for mobile structures or modular dwellings at least equal to the codes promulgated by the Department and the Department determines that such safety standards are being enforced by such other state, the Department shall place such other state upon a reciprocity list, which list shall be available to any interested person. Any mobile structures or modular dwelling which bears the seal of any state which has been placed on the reciprocity list, or which bears a seal approved by such state as sufficient evidence of compliance, shall not be required to affix the seal of this state prescribed by Section 4 of this Act. (Source: P.A. 98-959, eff. 8-15-14.)

§ 430 ILCS 115/8 (was Ill.Rev.Stat., Ch. 67 1/2, Para. 508). [Schedule of fees].

Section 8. The Department, by regulation, shall establish a schedule of fees to defray a portion of the cost of the administration and enforcement of this Act.

(Source: P.A. 85-1261.)

§ 430 ILCS 115/9 (was Ill.Rev.Stat., Ch. 67 1/2, Para. 509). [Administration and enforcement].

Section 9.

(a) The Department is hereby charged with the administration and enforcement of this Act. The Department is authorized to:

- (1) promulgate such reasonable regulations as may be necessary to administer and enforce this Act, and
- (2) adopt any revisions of the Code as may be necessary to protect the health and safety of the public against dangers inherent in the use of substandard construction and unsafe plumbing, electrical and heating systems.

The Department may impose an administrative penalty against any person who violates this Act or any rule adopted under this Act, or who violates any determination or order of the Department under this Act. The Department shall establish violations and penalties by rule, with each day's violation constituting a separate offense. The maximum penalty shall be \$1,000 per day per violation.

The Attorney General may bring an action in the circuit court to enforce the collection of an administrative penalty imposed under this subsection (a).

All penalties collected under this subsection (a) shall be deposited into the Facility Licensing Fund. Subject to appropriation, moneys in the Fund shall be used for the enforcement of this Act.

(b) (Blank).

(c) (Blank).

(d) The Department is authorized to perform necessary inspection of manufacturing facilities and products to implement the provisions of this Act. The Department may require and approve non-governmental inspectors or inspection agencies, provided the Department shall at all times exercise supervisory control over such inspectors or agencies to insure effective and uniform enforcement of the codes consistent with rules, regulations and interpretations promulgated by the Department.

(e) The issuance of seals may be suspended or revoked from any manufacturer who is convicted under Section 10 of this Act of manufacturing products that do not conform to the codes or rules adopted under this Act. Issuance of seals shall not be resumed until such manufacturer submits proof satisfactory to the Department that the conditions which caused the violation of the codes have been remedied. Seals may be repossessed if a manufacturer is found by the Department to have affixed a seal in violation of the codes or rules adopted.

(f) No person may interfere with, obstruct or hinder an authorized representative of the Department in the performance of its duties under this Act.

(Source: P.A. 98-959, eff. 8-15-14.)

§ 430 ILCS 115/10 (was Ill.Rev.Stat., Ch. 67 1/2, Para. 510). [Seal to remain property of Department; penalty; injunctive relief].

Section 10

a) The seal shall remain the property of the Department, and may not be placed upon a

mobile structure or modular dwelling which is in violation of this Act. Compliance with this Act is the responsibility of the manufacturer and neither the State nor the Department, shall be civilly or criminally liable for the issuance of any seal which is thereafter placed upon a nonconforming mobile structure or modular dwelling.

- (b) Any person who violates this Act, in regards to violations relating to modular dwellings or mobile structures, shall, upon conviction by a court, be guilty of a Class B misdemeanor. Each day of violation constitutes a separate offense. The State's Attorney of the county in which the violation occurred or the Attorney General shall bring such action in the name of the People of the State of Illinois. The Court may enjoin the rent, sale, offer for sale, or manufacture of mobile structures or modular dwelling manufactured in violation of this Act or of the safety code promulgated thereunder until it has been corrected to comply with this Act or the minimum standards contained in the applicable codes.

(Source: P.A. 98-959, eff. 8-15-14.)

§ 430 ILCS 115/11 (was Ill.Rev.Stat., Ch. 67 1/2, Para. 511). [Record of proceedings involving refusal to issue or renew, or suspension or revocation of seal; notice; hearing; subpoenas; contempt].

Section 11. The Director, after notice and opportunity for hearing to an applicant or seal holder, may deny, suspend, or revoke a seal, or assess civil penalties in conformance with this Act, in any case in which he or she finds that there has been a substantial failure to comply with the provisions of this Act or the standards, rules, and regulations under this Act.

Notice shall be provided by certified mail or by personal service setting forth the particular reasons for the proposed action and fixing a date, not less than 15 days from the date of the mailing or service, within which time the applicant or seal holder must request in writing a hearing. Failure to serve upon the Department a request for hearing in writing within the time provided in the notice shall constitute a waiver of the person's right to an administrative hearing.

The hearing shall be conducted by the Director or by an individual designated in writing by the Director as a hearing officer to conduct the hearing. The Director or hearing officer shall give written notice of the time and place of the hearing, by certified mail or personal service, to the applicant or seal holder, at least 10 days prior to the hearing. On the basis of the hearing, or upon default of the applicant or seal holder, the Director shall make a determination specifying his or her findings and conclusions. A copy of the determination shall be sent by certified mail or served personally upon the seal holder. The decision of the Director shall be final on issues of fact, and final in all respects unless judicial review is sought as provided in this Act.

The procedure governing hearings authorized by this Section shall be in accordance with rules adopted by the Department. A full and complete record shall be kept of all proceedings, including the notice of hearing, complaint, and all other documents in the nature of pleadings, written motions filed in the proceedings, and the report and orders of the Director and hearing officer.

The Department, at its expense, shall provide a court reporter to take testimony. Technical error in the proceedings before the Department or hearing officer or their failure to observe the

technical rules of evidence shall not be grounds for the reversal of any administrative decision unless it appears to the Court that the error or failure materially affects the rights of any party and results in substantial injustice to any party.

The Department or hearing officer, or any parties in an investigation or hearing before the Department, may compel the attendance of witnesses and the production of books, papers, records, or memoranda.

The Department shall not be required to certify any record to the Court or file any answer in Court or otherwise appear in any Court in a judicial review proceeding, unless there is filed in the Court with the complaint, a receipt from the Department acknowledging payment of the costs of furnishing and certifying the record. The cost shall be paid by the party requesting a copy of the record. Failure on the part of the person requesting a copy of the record to pay the cost shall be grounds for dismissal of the action.

(Source: P.A. 98-959, eff. 8-15-14.)

§ 430 ILCS 115/12 (was Ill.Rev.Stat., Ch. 67 1/2, Para. 512). [Judicial review].

Section 12. All final administrative decisions of the Director under this Act shall be subject to judicial review pursuant to the provisions of the Administrative Review Law [735 ILCS 5/3-101 et seq.], and all amendments and modifications thereof, and the regulations adopted pursuant thereto. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure [735 ILCS 5/3-101].

Appeals from all final orders and judgment entered by a circuit court in review of a final administrative decision of the Director may be taken by either party to the action, and shall be governed by the rules applying to other civil cases.

An aggrieved party may obtain a review of any final judgment of the circuit court, and the appeal shall be taken as in other civil cases.

(Source: P.A. 82-783.)

§ 430 ILCS 115/13 (was Ill.Rev.Stat., Ch. 67 1/2, Para. 513). [Severability].

Section 13. If any provision of this Act or the application thereof to any person or circumstance is held to be unconstitutional or invalid for any reason by any court of competent jurisdiction, the remainder of the Act and the application of such provisions to other persons and circumstances shall not thereby be rendered invalid or unconstitutional or affected thereby but shall remain in full force and effect.

(Source: P.A. 78-929.)

§ 430 ILCS 115/14 (was Ill.Rev.Stat., Ch. 67 1/2, Para. 514). [Effective date].

Section 14. This Act takes effect on July 1, 1974.

(Source: P.A. 78-929.)

§ 430 ILCS 115/15 (was Ill.Rev.Stat., Ch. 67 1/2, Para. 515). [Advisory council].

Section 15. (Repealed).

(Source: P.A. 79-731. Repealed by P.A. 98-959, eff. 8-15-14.)

§430 ILCS 115/16 [Illinois Administrative Procedure Act].

Section 16. Illinois Administrative Procedure Act. The provisions of the Illinois Administrative Procedure Act are hereby expressly adopted and shall apply to all administrative rules and procedures of the Department of Public Health under this Act. The Department of Public Health is authorized to use peremptory rulemaking under Section 5-50 of the Illinois Administrative Procedure Act. The Department will make any rule adopted hereunder available electronically to the public and shall not be required to furnish copies in any other format.

(Source: P.A. 98-959, eff. 8-15-14.)

§430 ILCS 115/17 [Facility Licensing Fund].

Section 17. Facility Licensing Fund. All fees and penalties collected under this Act shall be deposited into the Facility Licensing Fund. Subject to appropriation, all money deposited into the Facility Licensing Fund under this Act shall be available to the Department for administration of this Act.

(Source: P.A. 98-959, eff. 8-15-14.)