

HB 4479 S

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2006



# ENROLLED

## House Bill No. 4479

(By Delegates Pethel, Poling, Cann,  
Frederick, Browning, Martin,  
Talbot and Hartman)



Passed March 10, 2006

In Effect from Passage

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**E N R O L L E D**

**H. B. 4479**

(BY DELEGATES PETHTEL, POLING, CANN,  
FREDERICK, BROWNING, MARTIN,  
TALBOTT AND HARTMAN)

[Passed March 10, 2006; in effect from passage.]

AN ACT to amend and reenact §21-9-9 and §21-9-10 of the Code of West Virginia, 1931, as amended, all relating to Manufactured Housing Construction and Safety Standards; creating a fund; providing for spending from certain funds; and authorizing the assessment of annual fees in satisfaction of assurance requirements.

*Be it enacted by the Legislature of West Virginia:*

That §21-9-9 and §21-9-10 of the Code of West Virginia, 1931, as amended, be amended and reenacted all to read as follows:

**ARTICLE 9. MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS.**

**§21-9-9. License required; fees; form of license; display of license; denial, suspension or revocation.**

- 1 (a) No manufacturer, dealer, distributor or contractor shall
- 2 engage in business in this state without first having applied for

3 and received a license pursuant to this section. The license shall  
4 authorize the holder to engage in the business permitted by the  
5 license. All license applications shall be accompanied by the  
6 required fee and surety bond or other form of assurance or fee  
7 assessed in satisfaction of assurance as required by rule or  
8 regulation promulgated by the board.

9 (b) All licenses shall be granted or refused within thirty  
10 days after proper and complete application. All licenses shall  
11 expire on the thirtieth day of June of each year, unless sooner  
12 revoked or suspended. Applications shall be deemed valid for  
13 a period of thirty days.

14 (c) The annual license fees shall be in the amounts pre-  
15 scribed from time to time by rules promulgated by the board but  
16 in no event less than the following amounts:

17 (1) For manufacturers, three hundred dollars;

18 (2) For dealers, one hundred dollars;

19 (3) For distributors, one hundred dollars; and

20 (4) For contractors, fifty dollars: *Provided*, That if a  
21 contractor has met the licensing requirements of this article and  
22 the West Virginia contractor licensing act in article eleven of  
23 this chapter, has paid the annual license fee under section eight,  
24 article eleven of this chapter and has furnished bond or other  
25 assurance or fee under section ten of this article, he or she shall  
26 not be required to pay the annual license fee set forth in this  
27 section.

28 (d) The board shall prescribe the form of license and each  
29 license shall have affixed thereon the seal of the state division  
30 of labor.

31 (e) Each licensee shall conspicuously display the license in .  
32 its established place of business.

33 (f) Pursuant to such rules and regulations as may be  
34 promulgated by the board, the board may deny the issuance of  
35 a license or revoke or suspend any license.

36 (g) All license fees collected shall be deposited in a special  
37 account in the State Treasury to be known as the "State Manu-  
38 factured Housing Administration Fund". Expenditures from the  
39 fund shall be for the administration of the provisions of this  
40 article and are not authorized from collections but are to be  
41 made only in accordance with appropriation by the Legislature  
42 and in accordance with the provisions of article two, chapter  
43 eleven-b of this code: *Provided*, That for the fiscal year ending  
44 the thirtieth day of June, 2006, expenditures are authorized  
45 from collections rather than pursuant to appropriation by the  
46 Legislature.

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

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

11 (b) The board may assess an annual fee on licensees in  
12 satisfaction of the surety bond or other form of assurance  
13 required by subsection (a). This annual fee shall be in the  
14 amounts prescribed from time to time by legislative rules

15 promulgated by the board but in no event less than the follow-  
16 ing amounts:

17 (1) For each manufacturer's licensed business location, two  
18 thousand five hundred dollars;

19 (2) For each dealer's and/or distributor's licensed business  
20 location, one thousand dollars;

21 (3) For each licensed contractor, five hundred dollars.

22 (c) All fees collected from fees assessed pursuant to this  
23 section or the proceeds from the forfeiture of any bond or other  
24 security provided pursuant to this section or any fines paid to  
25 the board shall be deposited in the special account in the State  
26 Treasury known as the "State Manufactured Housing Recovery  
27 Fund". Expenditures from the fund shall be for the purposes set  
28 forth in subsection (d) of this section. The assets of the fund  
29 may be invested and reinvested by the board in accordance with  
30 applicable law. Interest revenues derived from the fund shall be  
31 used solely to maintain the fund. If the balance of the fund on  
32 the thirtieth day of June of any year equals or exceeds three  
33 hundred thousand dollars, no assessments shall be collected  
34 from any previously licensed manufacturer, dealer, distributor  
35 or contractor for the next licensure period. New applicants for  
36 licensure shall pay the applicable assessment fee regardless of  
37 the balance of the fund. The board is authorized at any time to  
38 make special assessments upon all licensed manufacturers,  
39 dealers, distributors, and contractors if the board determines  
40 that the assessments are necessary to maintain the fiscal  
41 integrity of the fund. In no event may a special assessment be  
42 issued by the Board until or unless the balance of the fund falls  
43 below two hundred fifty thousand dollars.

44 (d) Moneys in the fund shall cover any misappropriation of  
45 funds of a purchaser or prospective purchaser of a manufac-

46 tured home, any deception or false or fraudulent representations  
47 or deceitful practices in selling or representing a product, any  
48 failure by a licensee, because of bankruptcy, insolvency or  
49 other reason, to fulfill warranty obligations and any failure of  
50 the licensee, its agents or employees, to comply with federal  
51 standards, this article or any rules or regulations promulgated  
52 by the board pursuant to this article: *Provided*, That any  
53 payment to purchasers or prospective purchasers by the board  
54 from licensee bonds or other forms of financial assurance shall  
55 not include punitive or exemplary damages, any compensation  
56 for property damage other than to the manufactured home, any  
57 recompense for any personal injury or inconvenience, any  
58 reimbursement for alternate housing, or any payments for  
59 attorney fees, legal expenses or court costs.

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

*Chad Whit*

Chairman Senate Committee

*R. B...*

Chairman House Committee

Originating in the House.

In effect from passage.

*Russell G. ...*

Clerk of the Senate

*Supp. M. ...*

Clerk of the House of Delegates

*Carl ...*

President of the Senate

*...*

Speaker of the House of Delegates

The within is approved this the 3rd  
day of April 2006.

*[Signature]*

Governor

PRESENTED TO THE  
GOVERNOR

MAR 23 2006

Time 3:45 pm