Sixty-second
Legislative Assembly
of North Dakota

SENATE BILL NO. 2284

Introduced by

Senators Lyson, Wardner

Representatives Rust, Steiner

A BILL for an Act to provide for an interstate compact on industrialized or modular buildings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1.

Compact on industrialized or modular buildings.

The interstate compact on industrialized or modular buildings is entered with all jurisdictions legally joining the compact in the form substantially as follows:

ARTICLE 1. FINDINGS AND DECLARATIONS OF POLICY

1. The compacting states find that:
   a. Industrialized or modular buildings are constructed in factories in the various states and are a growing segment of the nation's affordable housing and commercial building stock.
   b. The regulation of industrialized or modular buildings varies from state to state and locality to locality, which creates confusion and burdens state and local building officials and the industrialized or modular building industry.
   c. Regulation by multiple jurisdictions imposes additional costs, which are ultimately borne by the owners and users of industrialized or modular buildings, restricts market access, and discourages the development and incorporation of new technologies.
2. It is the policy of each of the compacting states to:
   a. Provide the states which regulate the design and construction of industrialized or modular buildings with a program to coordinate and uniformly adopt and administer the states' rules and regulations for such buildings, all in a manner to assure interstate reciprocity.

b. Provide to the United States Congress assurances that would preclude the need for a voluntary preemptive federal regulatory system for modular housing, as outlined in section 572 of the Housing and Community Development Act of 1987, including development of model standards for modular housing construction, such that design and performance will ensure quality, durability, and safety; will be in accordance with lifecycle cost-effective energy conservation standards; all to promote the lowest total construction and operating costs over the life of such housing.

ARTICLE 2. DEFINITIONS

As used in this compact, unless the context clearly requires otherwise:

1. "Commission" means the interstate industrialized or modular buildings commission.
2. "Industrialized or modular building" means any building which is of closed construction, i.e., constructed in such a manner that concealed parts or processes of manufacture cannot be inspected at the site, without disassembly, damage or destruction, and which is made or assembled in manufacturing facilities, off the building site, for installation, or assembly and installation, on the building site. "Industrialized or modular building" includes modular housing which is factory-built single-family and multifamily housing, including closed wall panelized housing, and other modular, nonresidential buildings. "Industrialized or modular building" does not include any structure subject to the requirements of the National Manufactured Home Construction and Safety Standards Act of 1974.
3. "Interim reciprocal agreement" means a formal reciprocity agreement between a noncompacting state wherein the noncompacting state agrees that labels evidencing compliance with the model rules and regulations for industrialized or modular buildings, as authorized in article VIII, section 9, shall be accepted by the state and its subdivisions to permit installation and use of industrialized or modular buildings. Further, the noncompacting state agrees that by legislation or regulation, and appropriate enforcement by uniform administrative procedures, the noncompacting state requires all industrialized or modular building manufacturers within that state to comply with the model rules and regulations for industrialized or modular buildings.

4. "State" means a state of the United States, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

5. "Uniform administrative procedures" means the procedures adopted by the commission, after consideration of any recommendations from the rules development committee, which state and local officials, and other parties, in one state, will utilize to assure state and local officials, and other parties in other states, of the substantial compliance of industrialized or modular building construction with the construction standard of requirements of such other states; to assess the adequacy of building systems; and to verify and assure the competency and performance of evaluation and inspection agencies.

6. "Model rules and regulations for industrialized or modular buildings" means the construction standards adopted by the commission, after consideration of any recommendations from the rules development committee, which govern the design, manufacture, handling, storage, delivery, and installation of industrialized or modular buildings and building components. The construction standards and any amendments thereof shall conform insofar as practicable to model building codes and referenced standards generally accepted and in use throughout the United States.

ARTICLE 3. CREATION OF COMMISSION

The compacting states hereby create the interstate industrialized or modular buildings commission, hereinafter called commission. Said commission shall be a body corporate of each compacting state and an agency thereof. The commission shall have all the powers and duties set forth herein and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states.

ARTICLE 4. SELECTION OF COMMISSIONERS

The commission shall be selected as follows. As each state becomes a compacting state, one resident shall be appointed as commissioner. The commissioner shall be selected by the governor of the compacting state, being designated from the state agency charged with regulating industrialized or modular buildings or, if such state agency does not exist, being designated from among those building officials with the most appropriate responsibilities in the state. The commissioner may designate another official as an alternate to act on behalf of the commissioner at commission meetings which the commissioner is unable to attend.

Each state commissioner shall be appointed, suspended, or removed and shall serve subject to and in accordance with the laws of the state which said commissioner represents; and each vacancy occurring shall be filled in accordance with the laws of the state wherein the vacancy exists.

When three state commissioners have been appointed in the manner described, those state commissioners shall select one additional commissioner who shall be a representative of manufacturers of industrial- or commercial-use industrialized or modular buildings. When six state commissioners have been appointed in the manner described, the state commissioners shall select a second additional commissioner who shall be a representative of consumers of industrialized or modular buildings. With each addition of three state commissioners, the state commissioners shall appoint one additional representative commissioner, alternating between a representative of manufacturers of industrialized or modular buildings and consumers of industrialized or modular buildings. The ratio between state commissioners and representative commissioners shall be three to one. In the event states withdraw from the compact or, for any other reason, the number of state commissioners is reduced, the state commissioners shall remove the last added representative commissioner as necessary to maintain a ratio of state commissioners to representative commissioners of three to one.

Upon a majority vote of the state commissioners, the state commissioners may remove, fill a vacancy created by, or replace any representative commissioner, provided that any replacement is made from the same representative group and a three-to-one ratio is maintained. Unless provided otherwise, the representative commissioners have the same authority and responsibility as the state commissioners.

In addition, the commission may have as a member one commissioner representing the United States government if federal law authorizes such representation. Such commissioner shall not vote on matters before the commission. Such commission shall be appointed by the President of the United States, or in such other manner as may be provided by Congress.

ARTICLE 5. VOTING

Each commissioner, except the commissioner representing the United States government, shall be entitled to one vote on the commission. A majority of the commissioners shall constitute a quorum for the transaction of business. Any business transacted at any meeting of the commission must be by affirmative vote of a majority of the quorum present and voting.

ARTICLE 6. ORGANIZATION AND MANAGEMENT

The commission shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The commission shall also select a secretariat, which shall provide an individual who shall serve as secretary of the commission. The commission shall fix and determine the duties and compensation of the secretariat.

The commissioners shall serve without compensation, but shall be reimbursed for their actual and necessary expenses from the funds of the commission.

The commission shall adopt a seal.

The commission shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules, and regulations.

The commission shall establish and maintain an office at the same location as the office maintained by the secretariat for the transaction of its business and may meet at any time, but in any event must meet at least once a year. The chairman may call additional meetings and upon the request of a majority of the commissioners of three or more of the compacting states shall call an additional meeting.

The commission annually shall make the governor and legislature of each compacting state a report covering its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall be reported in the annual report of the commission and shall include the nature, amount, and conditions, if any, of the donation, gift, grant, or services borrowed and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

ARTICLE 7. COMMITTEES

The commission will establish such committees as it deems necessary, including the following:

1. An executive committee which functions when the full commission is not meeting, as provided in the bylaws of the commission. The executive committee will ensure that proper procedures are followed in implementing the commission's programs and in carrying out the activities of the compact. The executive committee shall be elected by vote of the commission. It shall be comprised of at least three and no more than nine commissioners, selected from those commissioners who are representatives of the governor of their respective state.

2. A rules development committee appointed by the commission. The committee shall be consensus-based and consist of not less than seven nor more than twenty-one members. Committee members will include state building regulatory officials; manufacturers of industrialized or modular buildings; private, third-party inspection agencies; and consumers. This committee may recommend procedures which state and local officials, and other parties in one state may utilize to assure state and local officials, and other parties in other states of the substantial compliance of industrialized or modular building construction with the construction standard requirements of such other states; to assess the adequacy of building systems; and to verify and assure the competency and performance of evaluation and inspection agencies. This committee may also recommend construction standards for the design, manufacture, handling, storage, delivery, and installation of industrialized or modular buildings and building components. The committee will submit its recommendations to the commission, for the commission's consideration in adopting and amending the uniform administrative procedures and the model rules and regulations for industrialized or modular buildings. The committee may also review the regulatory programs of the compacting states to determine whether those programs are consistent with the uniform administrative procedures or the model rules and regulations for industrialized or modular buildings and may make recommendations concerning the states' programs to the commission. In carrying out its functions, the rules committee may conduct public hearings and otherwise solicit public input and comment.

3. Any other advisory, coordinating, or technical committees, membership on which may include private persons, public officials, associations, or organizations. Such committees may consider any matter of concern to the commission.

4. Such additional committees as the commission's bylaws may provide.

ARTICLE 8. POWER AND AUTHORITY

In addition to the powers conferred elsewhere in this compact, the commission shall have power to:

1. Collect, analyze, and disseminate information relating to industrialized or modular buildings.

2. Undertake studies of existing laws, codes, rules and regulations, and administrative practices of the states relating to industrialized or modular buildings.

3. Assist and support committees and organizations which promulgate, maintain, and update model codes or recommendations for uniform administrative procedures or model rules and regulations for industrialized or modular buildings.

4. Adopt and amend uniform administrative procedures and model rules and regulations for industrialized or modular buildings.

5. Make recommendations to compacting states for the purpose of bringing such states' laws, codes, rules and regulations, and administrative practices into conformance with the uniform administrative procedures or the model rules and regulations for industrialized or modular buildings, provided that such recommendations shall be made to the appropriate state agency with due consideration for the desirability of uniformity while also giving appropriate consideration to special circumstances which may justify variations necessary to meet unique local conditions.

6. Assist and support the compacting states with monitoring of plan review programs and inspection programs, which will assure that the compacting states have the benefit of uniform industrialized or modular building plan review and inspection programs.

7. Assist and support organizations which train state and local government and other program personnel in the use of uniform industrialized or modular building plan review and inspection programs.

8. Encourage and promote coordination of state regulatory action relating to manufacturers, public, or private inspection programs.

9. Create and sell labels to be affixed to industrialized or modular building units, constructed in or regulated by compacting states, where such labels will evidence compliance with the model rules and regulations for industrialized or modular buildings, enforced in accordance with the uniform administrative procedures. The commission may use receipts from the sale of labels to help defray the operating expenses of the commission.

10. Assist and support compacting states' investigations into and resolutions of consumer complaints which relate to industrialized or modular buildings constructed in one compacting state and sited in another compacting state.

11. Borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, association, person, firm, or corporation.

12. Accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same.

13. Establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

14. Enter into contracts and agreements, including interim reciprocal agreements with noncompacting states.

ARTICLE 9. FINANCE

The commission shall submit to the governor or designated officer or officers of each compacting state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the compacting states. The total amount of appropriations requested under any such budget shall be apportioned among the compacting states as follows: one-half in equal shares; one-fourth among the compacting states in accordance with the ratio of their populations to the total population of the compacting states, based on the last decennial federal census; and one-fourth among the compacting states in accordance with the ratio of industrialized or modular building units manufactured in each state to the total of all units manufactured in all of the compacting states.

The commission shall not pledge the credit of any compacting state. The commission may meet any of its obligations in whole or in part with funds available to it by donations, grants, or sale of labels: provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except if the commission makes use of funds available to it by donations, grants, or sale of labels, the

commission shall not incur any obligation prior to the allotment of funds by the compacting states adequate to meet the same.

The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the compacting states and any person authorized by the commission.

Nothing contained in this article shall be construed to prevent commission compliance relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

ARTICLE 10. ENTRY INTO FORCE AND WITHDRAWAL

This compact shall enter into force when enacted into law by any three states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof. The commission shall arrange for notification of all compacting states whenever there is a new enactment of the compact.

Any compacting state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a compacting state prior to the time of such withdrawal.

ARTICLE 11. RECIPROCITY

If the commission determines that the standards for industrialized or modular buildings prescribed by statute, rule, or regulation of compacting state are at least equal to the commission's model rules and regulations for industrialized or modular buildings, and that such state standards are enforced by the compacting state in accordance with the uniform administrative procedures, industrialized or modular buildings approved by such a compacting state shall be deemed to have been approved by all the compacting states for placement in those states in accordance with procedures prescribed by the commission.

ARTICLE 12. EFFECT ON OTHER LAWS AND JURISDICTION

Nothing in this compact shall be construed to:

1. Withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation, or other entity or subject matter, except to the extent that such jurisdiction pursuant to this compact, is expressly conferred upon another agency or body.
2. Supersede or limit the jurisdiction of any court of the United States.

ARTICLE 13. CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person, or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.