

**ONE HUNDREDTH LEGISLATURE - SECOND SESSION -  
2008**

**COMMITTEE STATEMENT**

**LB892**

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**Hearing Date:** February 01, 2008

**Committee On:** Health and Human Services

**Introducer(s):** (Pedersen)

**Title:** Change modular housing and manufactured home provisions relating to the Public Service Commission

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**Roll Call Vote - Final Committee Action:**

Placed on General File

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**Vote Results:**

6 Yes	Senators Erdman, Gay, Hansen, Howard, Pankonin, Stuthman
0 No	
1 Absent	Senators Johnson
0 Present, not voting	

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**Proponents:**

Anne Boyle  
Martin Huff  
Mark Breiner

**Opponents:**

**Neutral:**

**Representing:**

Nebraska Public Service Commission  
Nebraska Manufactured Housing Association  
Nebraska Public Service Commission

**Representing:**

**Representing:**

## **Summary of purpose and/or change:**

LB 892 changes various provisions of the Nebraska Uniform Standards for Modular Housing Units Act (Modular Housing Act) (sections 71-1555 to 71-1568.01) and the Uniform Standard Code for Manufactured Homes and Recreational Vehicles (Manufactured Home and RV Act) (sections 71-4601 to 71-4620.01).

### Seal Fees

The bill increases the range of seal fees that may be charged by the Public Service Commission (commission). Under the Modular Housing Act, seal fees are raised from a range of \$80 - \$400 to a range of \$100 - \$1,000 per modular housing unit.

Under the Manufactures Home and RV Act, the bill increases the range of seal fees from \$10 - \$50 to a range of \$10 - \$75 per unit

### Administrative Fines

The bill permits the commission to assess administrative fines pursuant to section 75-156 (see below) to any person who violates the Modular Housing Act or the Manufactured Home and RV Act or rules or regulations adopted and promulgated under such acts.

### Inspection Fees

The bill increases the inspection fee charged by the commission for each inspection of a new recreational vehicle from \$75 to \$250.

### Plan Reviews

The bill increases the range of fees that may be charged by the commission for the review of proposed plans, specifications, etc. for modular housing units and manufactured homes. For the review of plans and specifications for modular housing units, the fee range is increased from \$15/hr - \$30/hr to a range of \$15/hr - \$60/hr based on sixty hours of review time as determined by the commission annually upon published notice and a public hearing (rule and regulation requirement is deleted). For manufactured homes, the fee range is increased from \$15/hr - \$50/hr to a range of \$15/hr - \$75/hr.

### Multifamily Housing Units

The bill deletes provisions relating to multifamily modular housing units.

### Technical

The bill makes various other technical changes in both the Modular Housing Act and the Manufactured Home and RV Act, including date references, where a commission seal must be placed on a modular housing unit, and reference to violation of a commission order.

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75-156. Civil penalty; procedure; order; appeal.

(1) In addition to other penalties and relief provided by law, the Public Service Commission may, upon a finding that the violation is proven by clear and convincing evidence, assess a civil penalty of up to ten thousand dollars per day against any person, motor carrier, regulated motor carrier, common carrier, contract carrier, grain dealer, or grain warehouseman for each violation of (a) any provision of sections 75-301 to 75-390 administered by the commission or section 75-126 as such section applies to any person or carrier specified in sections 75-301 to 75-390, (b) a commission order entered pursuant to the Automatic Dialing-Announcing Devices Act, the Emergency Telephone Communications Systems Act, the Intrastate Pay-Per-Call Regulation Act, the Nebraska Telecommunications Regulation Act, the Nebraska Telecommunications Universal Service Fund Act, or the Telecommunications Relay System Act, (c) any term, condition, or limitation of any certificate or permit issued by the commission pursuant to sections 75-301 to 75-390, (d) any rule, regulation, or order of the commission issued under authority delegated to the commission pursuant to sections 75-301 to 75-390, or (e) any rule, regulation, or order of the commission issued under the authority delegated to the commission pursuant to the Grain Dealer Act or the Grain Warehouse Act.

(2) In addition to other penalties and relief provided by law, the Public Service Commission may, upon a finding that the violation is proven by clear and convincing evidence, assess a civil penalty not less than one hundred dollars and not more than one thousand dollars against any jurisdictional utility for each violation of (a) any provision of the State Natural Gas Regulation Act, (b) any rule, regulation, order, or lawful requirement issued by the commission pursuant to the act, (c) any final judgment or decree made by any court upon appeal from any order of the commission, or (d) any term, condition, or limitation of any certificate issued by the commission issued under authority delegated to the commission pursuant to the act. The amount of the civil penalty assessed in each case shall be based on the severity of the violation charged. The commission may compromise or mitigate any penalty prior to hearing if all parties agree. In determining the amount of the penalty, the commission shall consider the appropriateness of the penalty in light of the gravity of the violation and the good faith of the violator in attempting to achieve compliance after notification of the violation is given.

(3) In addition to other penalties and relief provided by law, the Public Service Commission may, upon a finding that the violation is proven by clear and convincing evidence, assess a civil penalty of up to ten thousand dollars per day against any wireless carrier for each violation of the Enhanced Wireless 911 Services Act or any rule, regulation, or order of the commission issued under authority delegated to the commission pursuant to the act.

(4) In addition to other penalties and relief provided by law, the Public Service Commission may, upon a finding that the violation is proven by clear and convincing evidence, assess a civil penalty of up to one thousand dollars against any person for each violation of the Nebraska Uniform Standards for Modular Housing Units Act or the Uniform Standard Code for Manufactured Homes and Recreational Vehicles or any rule, regulation, or order of the commission issued under the authority delegated to the commission pursuant to either act. Each such violation shall constitute a separate violation with respect to each modular housing unit, manufactured home, or

recreational vehicle, except that the maximum penalty shall not exceed one million dollars for any related series of violations occurring within one year from the date of the first violation.

(5) The civil penalty assessed under this section shall not exceed two million dollars per year for each violation except as provided in subsection (4) of this section. The amount of the civil penalty assessed in each case shall be based on the severity of the violation charged. The commission may compromise or mitigate any penalty prior to hearing if all parties agree. In determining the amount of the penalty, the commission shall consider the appropriateness of the penalty in light of the gravity of the violation and the good faith of the violator in attempting to achieve compliance after notification of the violation is given.

(6) Upon notice and hearing in accordance with this section and section 75-157, the commission may enter an order assessing a civil penalty of up to one hundred dollars against any person, firm, partnership, limited liability company, corporation, cooperative, or association for failure to file an annual report or, beginning January 1, 2004, pay the fee as required by section 75-116 and as prescribed by commission rules and regulations or for failure to register as required by section 86-125 and as prescribed by commission rules and regulations. Each day during which the violation continues after the commission has issued an order finding that a violation has occurred constitutes a separate offense. Any party aggrieved by an order of the commission under this section may appeal. The appeal shall be in accordance with the Administrative Procedure Act.

(7) When any person or party is accused of any violation listed in this section, the commission shall notify such person or party in writing (a) setting forth the date, facts, and nature of each act or omission upon which each charge of a violation is based, (b) specifically identifying the particular statute, certificate, permit, rule, regulation, or order purportedly violated, (c) that a hearing will be held and the time, date, and place of the hearing, (d) that in addition to the civil penalty, the commission may enforce additional penalties and relief as provided by law, and (e) that upon failure to pay any civil penalty determined by the commission, the penalty may be collected by civil action in the district court of Lancaster County.

Source: Laws 1995, LB 424, § 18; Laws 1996, LB 1218, § 41; Laws 2000, LB 1285, § 9; Laws 2002, LB 1105, § 493; Laws 2002, LB 1211, § 10; Laws 2003, LB 187, § 22; Laws 2003, LB 735, § 1; Laws 2003, LB 790, § 73; Laws 2005, LB 319, § 3.

**Explanation of amendments, if any:**

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Senator Joel Johnson, Chairperson