

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 144**

Introduced by Haar, 21.

Read first time January 07, 2011

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the Uniform Standard Code for Mobile Home  
2 Parks; to amend sections 71-4625, 71-4630, 71-4631,  
3 71-4632, 71-4633, 71-4634, Reissue Revised Statutes of  
4 Nebraska; to require plans for shelter and evacuation as  
5 prescribed; to provide duties for the Nebraska Emergency  
6 Management Agency; to harmonize provisions; and to repeal  
7 the original sections.  
8 Be it enacted by the people of the State of Nebraska,

1           Section 1. (1) The licensee of a mobile home park shall  
2 provide each tenant with a plan for shelter or evacuation to a safe  
3 place in the event of severe weather, including, but not limited to,  
4 tornado, high wind, or flood. The plan shall be provided to such  
5 tenants when it is approved pursuant to subsection (2) of this  
6 section and whenever a new tenant signs a lease after such approval.

7           (2) The Nebraska Emergency Management Agency shall assist  
8 with the development of such plans. The agency shall hold a public  
9 hearing and approve the plan for each mobile home park which is in  
10 existence on the effective date of this act, by March 1, 2015, and  
11 every five years thereafter. The agency shall hold a public hearing  
12 and approve the plan for a mobile home park which begins operation  
13 after the effective date of this act, prior to beginning operation  
14 and every five years thereafter.

15           (3) The agency may hold joint public hearings in a place  
16 reasonably close to one or more mobile home parks but shall address  
17 each plan separately. The agency shall approve a plan if the agency  
18 finds that the plan reasonably provides shelter or evacuation for the  
19 residents of the park.

20           (4) Any person providing shelter pursuant to an approved  
21 plan shall be held harmless from any and all claims for damages,  
22 costs, and expenses, including attorney's fees, arising from or  
23 related to the provision of shelter pursuant to the plan. No cause of  
24 action shall lie against any such person providing shelter pursuant  
25 to an approved plan.

1                   Sec. 2. Section 71-4625, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   71-4625 No person shall construct, expand, remodel, or  
4 make alterations to the sanitary facilities in a mobile home park  
5 within this state without first obtaining a permit therefor from the  
6 department, except that no such permit shall be required in the  
7 making of minor repairs or in matters of general maintenance. The  
8 application for such permit shall be made to the department in such  
9 manner as may be prescribed by regulations of the department, which  
10 shall require the applicant to supply plans and specifications and  
11 otherwise provide a description of the nature, type, location, and  
12 extent of the sanitary facilities contemplated. When the application  
13 has been approved, the department shall issue a permit to the  
14 applicant to construct, expand, remodel, or make alterations to  
15 sanitary facilities, including water and sewage disposal, upon a  
16 mobile home park and the appurtenances thereto according to the plans  
17 and specifications and other data submitted with the approved  
18 application. No approval of plans and specifications and issuance of  
19 a permit to construct, expand, remodel, or make alterations upon a  
20 mobile home park and the appurtenances thereto by the department  
21 shall be made unless such park is in compliance with the ~~provisions~~  
22 ~~of sections 71-4621 to 71-4634~~ Uniform Standard Code for Mobile Home  
23 Parks and the rules, regulations, and standards of the department.  
24 Such a permit does not relieve the applicant from obtaining building  
25 permits when located within a municipality or county having a

1 building code or from complying with any other municipal or county  
2 resolution, ordinance, or regulation applicable thereto, and not in  
3 conflict with ~~sections 71-4621 to 71-4634.~~ the Uniform Standard Code  
4 for Mobile Home Parks.

5 Sec. 3. Section 71-4630, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 71-4630 (1) The Uniform Standard Code for Mobile Home  
8 Parks shall not apply to any mobile home park located within the  
9 jurisdiction of any city, village, or county which provides for the  
10 regulation of mobile home parks by resolution, ordinance, or  
11 regulation which at a minimum is not less stringent than the then  
12 current standards and specifications, and all subsequent revisions  
13 and amendments thereto, approved, adopted, and promulgated by the  
14 department, as such standards and specifications apply to mobile home  
15 parks. The resolution, ordinance, or regulation shall include  
16 provisions not less stringent than section 1 of this act. No such  
17 resolution, ordinance, or regulation shall become effective until a  
18 certificate of exemption has been issued by the department. Such  
19 certificate of exemption shall be available for inspection in the  
20 office of the city or county clerk as the case may be.

21 (2) If the department ~~shall determine~~ determines at any  
22 time after the issuance of such a certificate of exemption that such  
23 a resolution, ordinance, or regulation is being enforced in a manner  
24 contrary to or inconsistent with the standards mentioned in  
25 subsection (1) of this section or is otherwise being improperly

1 enforced in any city, village, or county holding a certificate of  
2 exemption, the department may revoke the certificate of exemption and  
3 the Uniform Standard Code for Mobile Home Parks shall apply in such  
4 city, village, or county until such standards are met and enforced  
5 and a new certificate is issued.

6 (3) Any city, village, or county desiring a certificate  
7 of exemption shall make application for such certificate by filing a  
8 petition for a certificate of exemption with the department. The  
9 department shall promptly investigate such petition. If the  
10 recommendation of the department is against the granting of a  
11 certificate of exemption and the applicant requests that a formal  
12 hearing be held, a formal hearing shall be held on the questions of  
13 whether (a) the resolution, ordinance, or regulation is at a minimum  
14 as stringent as the standards mentioned in subsection (1) of this  
15 section, (b) the resolution, ordinance, or regulation is being  
16 enforced in a manner contrary to or inconsistent with such standards  
17 or is otherwise being improperly enforced, and (c) adequate  
18 provisions have been made for enforcement. The burden of proof  
19 thereof shall be upon the applicant. A like formal hearing shall be  
20 held upon any proposed revocation of a certificate of exemption upon  
21 the request of the holder thereof. The procedure governing hearings  
22 authorized by this subsection shall be in accordance with the  
23 Administrative Procedure Act. The decision to deny or revoke a  
24 certificate of exemption may be appealed, and the appeal shall be in  
25 accordance with the Administrative Procedure Act.

1           Sec. 4. Section 71-4631, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           71-4631 (1) The department shall issue licenses for the  
4 establishment, operation, and maintenance of mobile home parks which  
5 are found to comply with the Uniform Standard Code for Mobile Home  
6 Parks and such rules, regulations, and standards as are lawfully  
7 adopted and promulgated by the department pursuant thereto.

8           (2) The department shall deny, refuse renewal of,  
9 suspend, or revoke licenses or impose a civil penalty not to exceed  
10 two thousand dollars per day on any of the following grounds:

11           (a) Violation of any of the provisions of the code or the  
12 rules, regulations, and standards lawfully adopted and promulgated  
13 pursuant thereto;

14           (b) Permitting, aiding, or abetting the commission of any  
15 unlawful act; or

16           (c) Conduct or utility or sanitation practices  
17 detrimental to the health or safety of residents of a mobile home  
18 park.

19           (3) ~~Should~~If the department ~~determine~~determines to  
20 deny, refuse renewal of, suspend, or revoke a license or impose a  
21 civil penalty, it shall send to the applicant or licensee, by either  
22 certified or registered mail, a notice setting forth the specific  
23 reasons for the determination.

24           (4) The denial, refusal of renewal, suspension,  
25 revocation, or imposition of a civil penalty shall become final

1 thirty days after the mailing of the notice in all cases of failure  
2 to pay the required licensure fee if not paid by the end of such  
3 period, and in all other instances unless the applicant or licensee,  
4 within such thirty-day period, shall give written notice of a desire  
5 for a hearing. Thereupon the applicant or licensee shall be given  
6 opportunity for a formal hearing before the department and shall have  
7 the right to present evidence on his or her own behalf.

8 (5) The procedure governing hearings authorized by this  
9 section shall be in accordance with the Administrative Procedure Act.  
10 On the basis of the evidence presented, the determination involved  
11 shall be affirmed or set aside, and a copy of such decision setting  
12 forth the findings of facts and the specific reasons upon which it is  
13 based shall be sent by either certified or registered mail to the  
14 applicant or licensee. The applicant or licensee may appeal such  
15 decision, and the appeal shall be in accordance with the  
16 Administrative Procedure Act.

17 (6) The department shall remit any collected civil  
18 penalty to the State Treasurer for distribution in accordance with  
19 Article VII, section 5, of the Constitution of Nebraska.

20 Sec. 5. Section 71-4632, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 71-4632 Any person who establishes, conducts, operates,  
23 or maintains a mobile home park without first obtaining a license  
24 therefor from the department as provided in ~~sections 71-4621 to~~  
25 ~~71-4634~~ the Uniform Standard Code for Mobile Home Parks shall be

1 guilty of a Class IV misdemeanor, and each day such mobile home park  
2 shall operate without a license after a first conviction shall be  
3 considered a separate offense. Such person shall also be guilty of  
4 maintaining a nuisance pursuant to section 28-1321, and upon  
5 conviction thereof, in addition to payment of the fine, such nuisance  
6 shall be removed.

7           Sec. 6. Section 71-4633, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           71-4633 The department may, in accordance with the laws  
10 governing injunctions and other process, maintain an action in the  
11 name of the state against any person for establishing, conducting,  
12 operating, or maintaining any mobile home park without first having a  
13 license therefor from the department as provided in ~~sections 71-4621~~  
14 ~~to 71-4634.~~ the Uniform Standard Code for Mobile Home Parks. In  
15 charging any defendant in a complaint in such action, it shall be  
16 sufficient to charge that such defendant did, upon a certain day and  
17 in a certain county, establish, conduct, operate, or maintain a  
18 mobile home park without having a license to do so without averring  
19 any further or more particular facts concerning the same.

20           Sec. 7. Section 71-4634, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           71-4634 Sections 71-4621 to 71-4634 and section 1 of this  
23 act shall be known and may be cited as the Uniform Standard Code for  
24 Mobile Home Parks.

25           Sec. 8. Original sections 71-4625, 71-4630, 71-4631,



1 71-4632, 71-4633, and 71-4634, Reissue Revised Statutes of Nebraska,  
2 are repealed.