

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 371, As Amended in the Senate

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO FACTORY BUILT STRUCTURES; AMENDING SECTION 39-4001, IDAHO CODE,
2 TO PROVIDE THAT THE FACTORY BUILT STRUCTURES ADVISORY BOARD SHALL AS-
3 SIST IN THE ENFORCEMENT OF CERTAIN LAWS; AMENDING SECTION 39-4003,
4 IDAHO CODE, TO AUTHORIZE THE ADMINISTRATOR TO SEEK ASSISTANCE FROM THE
5 FACTORY BUILT STRUCTURES ADVISORY BOARD IN THE ENFORCEMENT OF CERTAIN
6 STANDARDS; AMENDING SECTION 39-4011, IDAHO CODE, TO PROVIDE THAT CER-
7 TAIN VIOLATIONS REGARDING MANUFACTURED HOMES MAY BE TRIED IN A COURT
8 OF COMPETENT JURISDICTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
9 SECTION 39-4301, IDAHO CODE, TO REVISE DEFINITIONS, TO DEFINE TERMS AND
10 TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-4302, IDAHO CODE,
11 TO REDESIGNATE THE MODULAR BUILDING ADVISORY BOARD AS THE FACTORY BUILT
12 STRUCTURES ADVISORY BOARD, TO PROVIDE CERTAIN AUTHORITY TO THE BOARD,
13 TO SPECIFY THAT THE BOARD SHALL SERVE AT THE PLEASURE OF THE GOVERNOR
14 AND TO PROVIDE FOR COMPOSITION AND TERMS OF THE BOARD; AMENDING SEC-
15 TION 39-4303, IDAHO CODE, TO PROVIDE THAT CERTAIN FEES SHALL BE PAID
16 INTO THE FACTORY BUILT STRUCTURES ACCOUNT; AMENDING SECTION 39-4306,
17 IDAHO CODE, TO PROVIDE THAT A VIOLATION OF A RULE OF THE FACTORY BUILT
18 STRUCTURES ADVISORY BOARD SHALL BE A MISDEMEANOR; AMENDING SECTION
19 44-2101A, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION 44-2103,
20 IDAHO CODE, TO PROVIDE THAT CERTAIN FEES SHALL BE PAID INTO THE FAC-
21 TORY BUILT STRUCTURES ACCOUNT; AMENDING SECTION 44-2104, IDAHO CODE,
22 TO PROVIDE THAT THE FACTORY BUILT STRUCTURES ADVISORY BOARD SHALL HAVE
23 CERTAIN AUTHORITY; AMENDING SECTION 44-2107, IDAHO CODE, TO PROVIDE
24 THAT PROCEEDINGS REGARDING CIVIL PENALTIES SHALL BE GOVERNED BY CERTAIN
25 PROVISIONS; AMENDING SECTION 67-2601, IDAHO CODE, TO REMOVE REFERENCE
26 TO THE MANUFACTURED HOUSING BOARD, TO REDESIGNATE THE MODULAR BUILDING
27 ADVISORY BOARD AS THE FACTORY BUILT STRUCTURES ADVISORY BOARD AND TO
28 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-2601A, IDAHO CODE, TO
29 REVISE TERMINOLOGY AND TO MAKE A CODIFIER'S CORRECTION; AND AMENDING
30 SECTION 63-201, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.
31

32 Be It Enacted by the Legislature of the State of Idaho:

33 SECTION 1. That Section 39-4001, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 39-4001. ENFORCEMENT OF LAW. The administrator of the division of
36 building safety shall enforce the provisions of this chapter. It shall be
37 the responsibility and duty of the ~~state building code~~ factory built struc-
38 tures advisory board to assist the administrator in the administration and
39 enforcement of the provisions of this chapter as hereinafter provided.

40 SECTION 2. That Section 39-4003, Idaho Code, be, and the same is hereby
41 amended to read as follows:

1 39-4003. ADMINISTRATOR -- DUTIES. The administrator shall by rule de-
 2 fine the term "manufactured home" to be consistent with 24 CFR 3280 (housing
 3 and urban development manufactured home construction and safety standards)
 4 and may ~~delegate~~ seek assistance from the factory built structures advisory
 5 board in the enforcement and administration of those standards to the Idaho
 6 building code board.

7 SECTION 3. That Section 39-4011, Idaho Code, be, and the same is hereby
 8 amended to read as follows:

9 39-4011. VIOLATIONS. (1) Any person who violates any of the follow-
 10 ing provisions relating to manufactured homes, or any rule promulgated by
 11 the administrator of the division of building safety to administer the pro-
 12 visions of this chapter, shall be liable for a civil penalty of not to ex-
 13 ceed one thousand dollars (\$1,000) for each such violation. Each such viola-
 14 tion shall constitute a separate violation with respect to each manufactured
 15 home, except that the maximum penalty shall not exceed one million dollars
 16 (\$1,000,000) for any related series of violations occurring within one (1)
 17 year from the date of the first violation. Violations include:

18 (a) Manufacturing for sale, leasing, selling, offering for sale, or
 19 introducing or delivering or importing, in the state of Idaho, any manu-
 20 factured home ~~which that~~ is manufactured on or after the effective date
 21 of any applicable federal manufactured home construction and safety
 22 standard which does not comply with such standard;

23 (b) Failure or refusal to permit entry or inspection as required by sec-
 24 tion 39-4003A, Idaho Code;

25 (c) Failure of manufacturer to give notification of any defects in any
 26 manufactured home, in the manner required by 42 U.S.C. 5414;

27 (d) Failure to furnish to distributor or dealer at the time of deliv-
 28 ery of each manufactured home produced by such manufacturer, certifi-
 29 cation that said manufactured home conforms to all applicable federal
 30 construction and safety standards or issuance of a certification to the
 31 effect that a manufactured home conforms to all applicable federal man-
 32 ufactured home construction and safety standards, if such person in the
 33 exercise of due care has reason to know that such certification is false
 34 or misleading in a material respect;

35 (e) Failure of any manufacturer, distributor or dealer of manufactured
 36 homes to establish and maintain such records, make such reports, and
 37 provide such information as the administrator of the division of build-
 38 ing safety may reasonably require to enable him to determine whether
 39 such manufacturer, distributor or dealer has acted or is acting in
 40 compliance with this chapter and with federal manufactured home con-
 41 struction and safety standards; or failure to permit, upon request of
 42 a person duly designated by the administrator, inspection of appro-
 43 priate books, papers, records and documents relative to determining
 44 whether such manufacturer, distributor or dealer has acted or is acting
 45 in compliance with federal manufactured home construction or safety
 46 standards.

47 (2) Any person or officer, director or agent of a corporation who
 48 ~~wilfully~~ willfully or knowingly violates the provisions enumerated in sub-
 49 section (1) (a) through (e) of this section, in any manner which threatens the

1 health or safety of any purchaser shall be fined not more than one thousand
2 dollars (\$1,000) or imprisoned for not more than one (1) year, or both.

3 (3) Violations of this chapter ~~shall~~ may be tried in any court of compe-
4 tent jurisdiction within the state of Idaho.

5 SECTION 4. That Section 39-4301, Idaho Code, be, and the same is hereby
6 amended to read as follows:

7 39-4301. DEFINITIONS. As used in this chapter:

8 (1) "Administrator" means the administrator of the division of build-
9 ing safety for the state of Idaho.

10 (2) "Board" means the ~~modular building~~ factory built structures advi-
11 sory board, as created in section 39-4302, Idaho Code.

12 (3) "Building site" means any tract, parcel or subdivision of land upon
13 which a modular building is installed or is to be installed.

14 (4) "Closed construction" means any manufactured ~~building or building,~~
15 structure or component which thereof that may enclose factory installed
16 structural, mechanical, electrical or plumbing systems and is not open for
17 visual inspection at the building site.

18 (5) "Commercial coach" means a modular building with permanent running
19 gear and a hitch assembly that is designed and constructed for nonresiden-
20 tial occupancy classifications only.

21 (6) "Division" means the Idaho division of building safety.

22 (7) "Factory built structure" means any building or building compo-
23 nent, including a manufactured home, a mobile home or a modular building,
24 that is of closed construction and is entirely or substantially prefabri-
25 cated or assembled at a place other than the building site.

26 (8) "Manufactured home" means a structure as defined in section
27 39-4105, Idaho Code.

28 (9) "Mobile home" means a structure as defined in section 39-4105,
29 Idaho Code.

30 (10) "Modular building" means any building or building component, other
31 than a manufactured or mobile home, which that is of closed construction and
32 is either entirely or substantially prefabricated or assembled at a place
33 other than the building site.

34 SECTION 5. That Section 39-4302, Idaho Code, be, and the same is hereby
35 amended to read as follows:

36 39-4302. ~~MODULAR BUILDING~~ FACTORY BUILT STRUCTURES ADVISORY
37 BOARD. (1) ~~A modular building~~ The factory built structures advisory board
38 is established in the division of building safety to advise the administra-
39 tor in the administration and enforcement of the provisions of this chapter
40 and chapter 40, title 39, and chapters 21, 22 and 25, title 44, Idaho Code.
41 The board shall consist of ~~five~~ eight (58) members, appointed by the gov-
42 ernor, ~~two~~ (2) ~~of whom~~. One (1) member shall represent a manufacturers of
43 commercial modular buildings, one (1) member shall be a consumer who lives
44 in a manufactured home, two (2) members shall be licensed as a retailer or
45 installer of manufactured or mobile homes, one (1) member shall represent a
46 manufacturer of manufactured homes, two (2) ~~of whom~~ members shall be either
47 a dealers or installer of modular buildings, and one (1) ~~of whom~~ member shall

1 be a consumer who uses or has used ~~a modular buildings~~. The board shall serve
 2 at the pleasure of the governor and shall serve the following terms commenc-
 3 ing July 1, 2007~~16~~: two (2) members shall be appointed for a term of one (1)
 4 year, ~~two three~~ (2~~3~~) members shall be appointed for a term of two (2) years,
 5 and ~~one three~~ (1~~3~~) members shall be appointed for a term of three (3) years.
 6 ~~The consumer member shall be a member appointed to a term beginning on July~~
 7 ~~1, 2007, or as soon thereafter as there is a vacancy on the board.~~ Thereafter
 8 board members shall be appointed for a term of three (3) years and shall serve
 9 at the pleasure of the governor. ~~Not more than three (3) members shall at~~
 10 ~~any time belong to the same political party.~~ Whenever a vacancy occurs, the
 11 governor shall appoint a qualified person to fill the vacancy for the unex-
 12 pired portion of the term. The members of the board shall be compensated as
 13 provided in section 59-509(n), Idaho Code, for each day spent in attendance
 14 at meetings of the board. A majority of members shall constitute a quorum,
 15 and a quorum at any meeting called by the administrator shall have full and
 16 complete power to act upon and resolve in the name of the board any matter,
 17 thing or question referred to it by the administrator, or which by reason of
 18 any provision of this chapter, it has the power to determine.

19 (2) The board shall, on the first day of each July or as soon thereafter
 20 as practicable, elect a chairman, vice-chairman and secretary from among
 21 its members, and these officers shall hold office until their successors are
 22 elected. As soon as the board has elected its officers, the secretary shall
 23 certify the results of the election to the administrator. The chairman shall
 24 preside at all meetings of the board and the secretary shall make a record of
 25 the proceedings which shall be preserved in the offices of the division of
 26 building safety. If the chairman is absent from any meeting of the board, his
 27 duties shall be discharged by the vice-chairman. All members of the board
 28 present at a meeting shall be entitled to vote on any question, matter, or
 29 thing which properly comes before the board.

30 (3) The board shall have the authority to promulgate rules in accor-
 31 dance with chapter 52, title 67, Idaho Code, to implement the provisions of
 32 this chapter and chapter 40, title 39, and chapters 21, 22 and 25, title 44,
 33 Idaho Code.

34 SECTION 6. That Section 39-4303, Idaho Code, be, and the same is hereby
 35 amended to read as follows:

36 39-4303. FEES. (1) The following fees, as provided by board rule,
 37 shall be paid by the manufacturer of a modular building:

38 (a) Per building, one (1) building permit, plan review and inspection
 39 fee for structural, plumbing, electrical and HVAC, based upon the 1997
 40 Uniform Building Code Table 1-A, plus ninety dollars (\$90.00) and two
 41 and one-half percent (2.5%) of the plumbing, electrical and HVAC in-
 42 stallation costs.

43 (b) The division may charge a one hundred dollar (\$100) insignia fee in
 44 instances where building permit fees are not charged for modular build-
 45 ings.

46 (2) All fees collected by the division under the provisions of this
 47 chapter shall be paid into the ~~modular building~~ factory built structures ac-
 48 count, which is hereby created in the dedicated fund. The expenses incurred
 49 in administering and enforcing the provisions of this chapter shall be paid

1 from the account. The fees set forth in subsection (1) of this section shall
 2 be the exclusive fee requirements applicable to modular buildings governed
 3 by the provisions of this chapter, and shall supersede any program of any
 4 political subdivision of the state which sets fee requirements for the same
 5 inspections or services.

6 SECTION 7. That Section 39-4306, Idaho Code, be, and the same is hereby
 7 amended to read as follows:

8 39-4306. VIOLATIONS MISDEMEANORS -- CIVIL PENALTIES. Any person,
 9 partnership, company, firm, association or corporation who shall willfully
 10 violate any of the provisions of this chapter, or the rules of the ~~modular~~
 11 building factory built structures advisory board or of the administrator
 12 herein provided for, or who shall refuse to perform any duty lawfully en-
 13 joined upon him by the administrator within the prescribed time; or who shall
 14 fail, neglect, or refuse to obey any lawful order given or made by the ad-
 15 ministrator, shall be guilty of a misdemeanor. In addition to any criminal
 16 proceedings, the administrator is authorized to bring either an adminis-
 17 trative action or a civil proceeding in the courts against the violator and
 18 impose and recover a civil penalty against the violator as established by
 19 administrative rule, but not to exceed one thousand dollars (\$1,000). Each
 20 day of such violation shall constitute a separate offense. A violation will
 21 be considered a second or additional offense only if it occurs within one (1)
 22 year from the previous violation.

23 SECTION 8. That Section 44-2101A, Idaho Code, be, and the same is hereby
 24 amended to read as follows:

25 44-2101A. DEFINITIONS. As used in this chapter:

26 (1) "Administrator" means the administrator of the division of build-
 27 ing safety of the state of Idaho.

28 (2) "Board" means the ~~manufactured housing~~ factory built structures
 29 advisory board established in section 44-2104 ~~39-4302~~, Idaho Code.

30 (3) "Engaged in the business" means the individual or entity buys,
 31 sells, brokers, trades, or offers for resale a manufactured or mobile home.

32 (4) "Installer" means a person who owns a business that installs a manu-
 33 factured home or mobile home at the site where it is to be used for occupancy.

34 (5) "Manufactured home" or "manufactured house" means a structure as
 35 defined in section 39-4105, Idaho Code.

36 (6) "Manufacturer" means any person engaged in the business of manufac-
 37 turing manufactured homes that are offered for sale, lease or exchange in the
 38 state of Idaho.

39 (7) "Mobile home" means a structure as defined in section 39-4105,
 40 Idaho Code.

41 (8) "Person" means a natural person, corporation, partnership, trust,
 42 society, club, association or other organization.

43 (9) "Place of business" refers to any physical location at which the
 44 business is lawfully conducted.

45 (10) "Resale broker" means any person engaged in the business of selling
 46 broker-owned, used, third-party owned, or other resale of manufactured or
 47 mobile homes.

1 (11) "Responsible managing employee" or "RME" means the person desig-
2 nated by the retailer, installer, manufacturer or resale broker to supervise
3 other employees, either personally or through others.

4 (12) "Retailer" means any person engaged in the business of selling or
5 exchanging new, used, resale or brokered manufactured or mobile homes.

6 (13) "Salesman" means any person employed by a retailer or resale broker
7 for a salary, commission or compensation of any kind to sell, list, purchase
8 or exchange or to negotiate for the sale, listing, purchase or exchange of
9 new, used, brokered or third-party owned units, except as otherwise provided
10 in this chapter.

11 SECTION 9. That Section 44-2103, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 44-2103. FEES -- DEPOSIT OF FEES. (1) Fees for licensing of retailers,
14 resale brokers, installers, manufacturers, salesmen and RMEs shall not ex-
15 ceed:

- 16 (a) Retailer or resale broker license \$500.00
- 17 (b) Manufacturer license \$500.00
- 18 (c) Installer license \$300.00
- 19 (d) Salesman license \$50.00
- 20 (e) RME license \$50.00

21 (2) All license fees collected by the division of building safety under
22 the provisions of this chapter shall be paid into the ~~manufactured housing~~
23 ~~factory built structures~~ account, ~~which is hereby created~~ established in the
24 ~~dedicated fund~~ section 39-4303, Idaho Code. The expenses incurred in admin-
25 istering and enforcing the provisions of this chapter shall be paid from the
26 account.

27 (3) The following performance bonding requirements shall be met before
28 the issuance of these licenses:

- 29 (a) Manufacturer \$20,000 bond
- 30 (b) Retailer \$40,000 bond
- 31 (c) Resale broker \$30,000 bond
- 32 (d) Installer \$5,000 bond

33 (4) The administrator is authorized to provide by rule, in accordance
34 with the provisions of section 44-2102, Idaho Code, for the acceptance of a
35 deposit of cash or securities in lieu of a bond in satisfaction of the bonding
36 requirements of this section.

37 (5) Fees and bond requirements of this section shall be the exclusive
38 fee and bond requirements for retailers, resale brokers, installers, manu-
39 facturers and salesmen governed by the provisions of this chapter, and shall
40 supersede any program of any political subdivision of the state which sets
41 fee or bond requirements for the same services.

42 (6) A retailer or resale broker must obtain a separate installer li-
43 cense, pay the license fee set forth in subsection (1) (c) of this section and
44 meet the bonding requirements of subsection (3) (d) of this section in order
45 to provide the services covered by an installer license.

46 SECTION 10. That Section 44-2104, Idaho Code, be, and the same is hereby
47 amended to read as follows:

1 44-2104. ~~MANUFACTURED HOUSING~~ FACTORY BUILT STRUCTURES ADVISORY
 2 BOARD. (1) ~~A manufactured housing~~ The factory built structures advisory
 3 board ~~is,~~ established in the division of building safety in accordance with
 4 the provisions of section 39-4302, Idaho Code, ~~to~~ shall advise the admin-
 5 istrator in the administration and enforcement of the provisions of this
 6 chapter. ~~The board shall consist of five (5) members, appointed by the~~
 7 governor, ~~four (4) of whom shall be licensed retailers and one (1) of whom~~
 8 shall be a consumer who lives in a manufactured home. Board members shall
 9 serve for a term of three (3) years. ~~Not more than three (3) members shall at~~
 10 any time belong to the same political party. Whenever a vacancy occurs, the
 11 governor shall appoint a qualified person to fill the vacancy for the unex-
 12 pired portion of the term. ~~The members of the board shall be compensated as~~
 13 provided in section 59-509(n), Idaho Code, for each day spent in attendance
 14 at meetings of the board. ~~A majority of members shall constitute a quorum,~~
 15 and a quorum at any meeting called by the administrator shall have full and
 16 complete power to act upon and resolve in the name of the board any matter,
 17 thing or question referred to it by the administrator, or which by reason of
 18 any provision of this chapter, it has the power to determine.

19 (2) ~~The board shall, on the first day of each January or as soon there-~~
 20 ~~after as practicable, elect a chairman, vice chairman and secretary from~~
 21 ~~among its members, and these officers shall hold office until their suc-~~
 22 ~~cessors are elected. As soon as the board has elected its officers, the~~
 23 ~~secretary shall certify the results of the election to the administrator.~~
 24 ~~The chairman shall preside at all meetings of the board and the secretary~~
 25 ~~shall make a record of the proceedings which shall be preserved in the of-~~
 26 ~~fices of the division of building safety. If the chairman is absent from any~~
 27 ~~meeting of the board, his duties shall be discharged by the vice chairman.~~
 28 ~~All members of the board present at a meeting shall be entitled to vote on any~~
 29 ~~question, matter, or thing which properly comes before it.~~

30 ~~(3) The board shall have the authority to promulgate rules in accor-~~
 31 ~~dance with chapter 52, title 67, Idaho Code, to implement the provisions of~~
 32 ~~this chapter.~~

33 SECTION 11. That Section 44-2107, Idaho Code, be, and the same is hereby
 34 amended to read as follows:

35 44-2107. PENALTY PROVISIONS. (1) Whoever shall violate any of the
 36 provisions of this chapter, or any laws or rules adopted pursuant to this
 37 chapter, or who shall refuse to perform any duty lawfully enjoined upon him
 38 by the administrator within the prescribed time, or who shall fail, neglect,
 39 or refuse to obey any lawful order given or made by the administrator, shall
 40 be guilty of a misdemeanor and shall be subject to the civil penalties es-
 41 tablished by administrative rule but not to exceed one thousand dollars
 42 (\$1,000) in accordance with the following:

43 (a) Each day of such violation shall constitute a separate offense. A
 44 violation will be considered a second or additional offense only if it
 45 occurs within one (1) year from the first violation.

46 (b) The same penalties shall apply, upon conviction, to any member of a
 47 copartnership, or to any construction, managing or directing officer of
 48 any corporation, limited liability company or limited liability part-

nership or other such organization consenting to, participating in, or aiding or abetting any such violation of this chapter.

(c) Proceedings related to the imposition of civil penalties shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(2) In addition to any other penalties specified in this section, whenever any person violates the provisions of this chapter by acting as a retailer, resale broker, installer or RME, without a license, the administrator may maintain an action in the name of the state of Idaho to enjoin the person from any further violations in accordance with the following:

(a) Such action may be brought either in the county in which the acts are claimed to have been or are being committed, in the county where the defendant resides, or in Ada county.

(b) Upon the filing of a verified complaint in the district court, the court, if satisfied that the acts complained of have been or probably are being or may be committed, may issue a temporary restraining order and/or preliminary injunction, without bond, enjoining the defendant from the commission of any such act or acts constituting the violation.

(c) A copy of the complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other similar civil actions. If the commission of the act or acts is established, the court shall enter a decree permanently enjoining the defendant from committing such act or acts. If an injunction issued under this section is violated, the court, or the judge thereof at chambers, may summarily try and punish the offender for contempt of court.

SECTION 12. That Section 67-2601, Idaho Code, be, and the same is hereby amended to read as follows:

67-2601. DEPARTMENT CREATED -- ORGANIZATION -- ~~DIRECTOR~~ BUREAU OF OCCUPATIONAL LICENSES CREATED. (1) There is hereby created the department of self-governing agencies. The department shall, for the purposes of section 20, article IV, of the constitution of the state of Idaho, be an executive department of the state government.

(2) The department shall consist of the following:

(a) Agricultural commodity commissions: Idaho apple commission, as provided by chapter 36, title 22, Idaho Code; Idaho bean commission, as provided by chapter 29, title 22, Idaho Code; Idaho beef council, as provided by chapter 29, title 25, Idaho Code; Idaho cherry commission, as provided by chapter 37, title 22, Idaho Code; Idaho dairy products commission, as provided by chapter 31, title 25, Idaho Code; Idaho pea and lentil commission, as provided by chapter 35, title 22, Idaho Code; Idaho potato commission, as provided by chapter 12, title 22, Idaho Code; the Idaho wheat commission, as provided by chapter 33, title 22, Idaho Code; the Idaho aquaculture commission, as provided by chapter 44, title 22, Idaho Code; and the Idaho alfalfa and clover seed commission, as provided in chapter 42, title 22, Idaho Code.

(b) Professional and occupational licensing boards: Idaho state board of ~~certified public~~ accountancy, as provided by chapter 2, title 54, Idaho Code; board of acupuncture, as provided by chapter 47, title 54, Idaho Code; board of architectural examiners, as provided by chapter 3, title 54, Idaho Code; ~~office of the state athletic director~~ commission,

1 as provided by chapter 4, title 54, Idaho Code; board of barber ex-
2 aminers, as provided by chapter 5, title 54, Idaho Code; board of
3 commissioners of the Idaho state bar, as provided by chapter 4, title 3,
4 Idaho Code; board of chiropractic physicians, as provided by chapter 7,
5 title 54, Idaho Code; Idaho board of cosmetology, as provided by chapter
6 8, title 54, Idaho Code; Idaho counselor state licensing board of pro-
7 fessional counselors and marriage and family therapists, as provided
8 by chapter 34, title 54, Idaho Code; state board of dentistry, as pro-
9 vided by chapter 9, title 54, Idaho Code; state board of denturistry, as
10 provided by chapter 33, title 54, Idaho Code; Idaho board of licensure
11 of professional engineers and professional land surveyors, as provided
12 by chapter 12, title 54, Idaho Code; state board ~~for~~ of registration ~~of~~
13 for professional geologists, as provided by chapter 28, title 54, Idaho
14 Code; speech and hearing services licensure board, as provided by chap-
15 ter 29, title 54, Idaho Code; Idaho physical therapy licensure board,
16 as provided by chapter 22, title 54, Idaho Code; Idaho state board of
17 landscape architects, as provided by chapter 30, title 54, Idaho Code;
18 liquefied petroleum gas safety board, as provided by chapter 53, title
19 54, Idaho Code; state board of medicine, as provided by chapter 18, ti-
20 tle 54, Idaho Code; state board of morticians, as provided by chapter
21 11, title 54, Idaho Code; board of naturopathic medical examiners, as
22 provided by chapter 51, title 54, Idaho Code; board of ~~nurses~~ nursing,
23 as provided by chapter 14, title 54, Idaho Code; board of examiners of
24 nursing home administrators, as provided by chapter 16, title 54, Idaho
25 Code; state board of optometry, as provided by chapter 15, title 54,
26 Idaho Code; Idaho outfitters and guides licensing board, as provided
27 by chapter 21, title 36, Idaho Code; board of pharmacy, as provided by
28 chapter 17, title 54, Idaho Code; state board of podiatry, as provided
29 by chapter 6, title 54, Idaho Code; Idaho state board of psychologist
30 examiners, as provided by chapter 23, title 54, Idaho Code; Idaho real
31 estate commission, as provided by chapter 20, title 54, Idaho Code; real
32 estate appraiser board, as provided by chapter 41, title 54, Idaho Code;
33 board of social work examiners, as provided by chapter 32, title 54,
34 Idaho Code; the board of veterinary medicine, as provided by chapter 21,
35 title 54, Idaho Code; the board of examiners of residential care facil-
36 ity administrators, as provided by chapter 42, title 54, Idaho Code; the
37 certified shorthand reporters board, as provided by chapter 31, title
38 54, Idaho Code; the driving businesses licensure board, as provided by
39 chapter 54, title 54, Idaho Code; the board of drinking water and waste-
40 water professionals, as provided by chapter 24, title 54, Idaho Code;
41 and the board of midwifery, as provided by chapter 55, title 54, Idaho
42 Code.

43 (c) The board of examiners, pursuant to section 67-2001, Idaho Code.

44 (d) The division of building safety: building code board, chapter 41,
45 title 39, Idaho Code; ~~manufactured housing board, chapter 21, title~~
46 ~~44, Idaho Code;~~ electrical board, chapter 10, title 54, Idaho Code;
47 public works contractors license board, chapter 19, title 54, Idaho
48 Code; plumbing board, chapter 26, title 54, Idaho Code; public works
49 construction management, chapter 45, title 54, Idaho Code; the heating,
50 ventilation and air conditioning board, chapter 50, title 54, Idaho

1 Code; and ~~modular building~~ factory built structures advisory board,
2 chapter 43, title 39, Idaho Code.

3 (e) The division of veterans services to be headed by a division ad-
4 ministrator who shall be a nonclassified employee exempt from the pro-
5 visions of chapter 53, title 67, Idaho Code. The administrator of the
6 division shall administer the provisions of chapter 2, title 65, Idaho
7 Code, and chapter 9, title 66, Idaho Code, with the advice of the vet-
8 erans affairs commission established under chapter 2, title 65, Idaho
9 Code, and shall perform such additional duties as are imposed upon him
10 by law.

11 (f) The board of library commissioners, pursuant to section 33-2502,
12 Idaho Code.

13 (g) The Idaho state historical society, pursuant to section 67-4123,
14 Idaho Code.

15 (h) The state public defense commission, pursuant to section 19-849,
16 Idaho Code.

17 (3) The bureau of occupational licenses is hereby created within the
18 department of self-governing agencies.

19 SECTION 13. That Section 67-2601A, Idaho Code, be, and the same is
20 hereby amended to read as follows:

21 67-2601A. DIVISION OF BUILDING SAFETY. (1) The division of building
22 safety will be headed by an administrator appointed by and serving at the
23 will of the governor. The division administrator, deputy administrators and
24 regional managers shall be nonclassified employees exempt from the provi-
25 sions of chapter 53, title 67, Idaho Code.

26 (2) The administrator shall administer the following provisions and
27 shall perform such additional duties as are imposed on him by law: chapter
28 43~~1~~, title 39, Idaho Code, relating to the building code board; chapter 40,
29 title 39, Idaho Code, relating to manufactured homes; chapter 43, title
30 39, Idaho Code, relating to ~~modular buildings~~ factory built structures;
31 chapter 21, title 44, Idaho Code, relating to manufactured home dealer and
32 installer licensing; chapter 25, title 44, Idaho Code, relating to mobile
33 home rehabilitation; chapter 10, title 54, Idaho Code, relating to electri-
34 cal contractors and journeymen; chapter 19, title 54, Idaho Code, relating
35 to licensing of public works contractors; chapter 26, title 54, Idaho Code,
36 relating to plumbing and plumbers; chapter 45, title 54, Idaho Code, relat-
37 ing to public works construction management licensing; chapter 50, title 54,
38 Idaho Code, relating to heating, ventilation and air conditioning systems;
39 chapter 80, title 39, Idaho Code, relating to school building safety; and
40 chapter 86, title 39, Idaho Code, relating to elevator safety.

41 (3) The administrator shall also have the authority to perform safety
42 inspections and safety training programs for logging operations in Idaho.

43 (a) When an inspection reveals evidence of a condition that poses an im-
44 mediate threat of serious bodily harm or loss of life to any person, the
45 administrator may issue an order to immediately stop the work or close
46 the facility or site where the threat exists. The safety order shall not
47 be rescinded until after the threat has been corrected or removed.

1 (b) The safety order may be enforced by the attorney general in a civil
2 action brought in the district court for the county wherein the haz-
3 ardous work site or facility is located.

4 (c) Any person who knowingly fails or refuses to comply with such an or-
5 der is guilty of a misdemeanor.

6 (d) The administrator shall promulgate rules adopting minimum logging
7 safety standards and procedures for conducting inspections and safety
8 training.

9 (4) In addition to safety inspections of state-owned public buildings
10 conducted under chapter 23, title 67, Idaho Code, the administrator may con-
11 duct safety inspections of buildings owned or maintained by political sub-
12 divisions of the state upon receipt of a written request from the governing
13 body of that political subdivision, subject to the availability of division
14 resources and the requesting entity's agreement to pay the division's cur-
15 rent fees for such an inspection.

16 (a) The findings of the inspection shall be reported to the governing
17 body of the political subdivision.

18 (b) The administrator may promulgate rules adopting minimum safety
19 standards and procedures for conducting such inspections, as well as
20 fees for performing the same.

21 (c) For purposes of this section, "political subdivision" means any
22 governmental unit or special district of the state of Idaho other than
23 public school districts.

24 (5) In administering the laws regulating professions, trades and occu-
25 pations that are devolved for administration upon the division, and in addi-
26 tion to the authority granted to the administrator by the laws and rules of
27 the agencies and entities within the division, the administrator may:

28 (a) Revise the operating structure of the division as needed to provide
29 efficient and appropriate services to the various professions, trades,
30 occupations and programs administered within the division;

31 (b) Conduct examinations to ascertain the qualifications and fitness
32 of applicants to exercise the profession, trade or occupation for which
33 an examination is held; pass upon the qualifications of applicants for
34 reciprocal licenses, certificates and authorities; prescribe rules for
35 a fair and impartial method of examination of candidates to exercise the
36 respective professions, trades or occupations; issue registrations,
37 licenses and certificates; and until fees are established in rule, the
38 administrator shall charge a fee of seventy-five dollars (\$75.00) for
39 each examination administered;

40 (c) Conduct hearings on proceedings to discipline, renew or reinstate
41 licenses, certificates or authorities of persons exercising the re-
42 spective professions, trades or occupations; appoint hearing officers,
43 administer oaths, issue subpoenas, and compel the attendance of wit-
44 nesses; revoke, suspend, refuse to renew, or take other disciplinary
45 action against such licenses, certifications or authorities; and pre-
46 scribe rules to recover costs and fees incurred in the investigation and
47 prosecution of any certificate holder, licensee or registrant of the
48 division, its boards, bureaus and programs, in accordance with the con-
49 tested case provisions of chapter 52, title 67, Idaho Code, and the laws
50 and rules of the boards, bureaus and programs the division administers;

- 1 (d) Assess civil penalties as authorized;
- 2 (e) Promulgate rules establishing: a coordinated system for the
3 issuance, renewal, cancellation and reinstatement of licenses, cer-
4 tificates, registrations and permits; assessment of all related fees;
5 the terms by which fees may be prorated, if any; and procedures for the
6 replacement of lost or destroyed licenses, certificates or registra-
7 tions; and
- 8 (f) Promulgate other rules as may be necessary for the orderly admin-
9 istration of the chapters specified in subsection (2) of this section
10 and such rules as may otherwise be required by those chapters as well as
11 rules for the standardization of operating procedures.
- 12 (6) Notwithstanding any law governing any specific board, bureau or
13 program comprising the division of building safety, each board member shall
14 hold office until a successor has been duly appointed and qualified.
- 15 (7) The administrator shall have the authority to employ individuals,
16 make expenditures, enter into contracts, require reports, make investiga-
17 tions, travel, and take other actions deemed necessary.

18 SECTION 14. That Section 63-201, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 63-201. DEFINITIONS. As used for property tax purposes in chapters 1
21 through 23, title 63, Idaho Code, the terms defined in this section shall
22 have the following meanings, unless the context clearly indicates another
23 meaning:

24 (1) "Appraisal" means an estimate of property value for property tax
25 purposes.

26 (a) For the purpose of estimated property value to place the value on
27 any assessment roll, the value estimation must be made by the assessor
28 or a certified property tax appraiser.

29 (b) For the purpose of estimating property value to present for an ap-
30 peal filed pursuant to sections 63-501A, 63-407 and 63-409, Idaho Code,
31 the value estimation may be made by the assessor, a certified property
32 tax appraiser, a licensed appraiser, or a certified appraiser or any
33 party as specified by law.

34 (2) "Bargeline" means those water transportation tugs, boats, barges,
35 lighters and other equipment and property used in conjunction with waterways
36 for bulk transportation of freight or ship assist.

37 (3) "Cogenerators" means facilities which produce electric energy, and
38 steam or forms of useful energy which are used for industrial, commercial,
39 heating or cooling purposes.

40 (4) "Collection costs" are amounts authorized by law to be added after
41 the date of delinquency and collected in the same manner as property tax.

42 (5) "Credit card" means a card or device, whether known as a credit card
43 or by any other name, issued under an arrangement pursuant to which a card is-
44 suer gives to a cardholder the privilege of obtaining credit from the card
45 issuer or other person in purchasing or leasing property or services, ob-
46 taining loans, or otherwise.

47 (6) "Debit card" means any instrument or device, whether known as a
48 debit card or by any other name, issued with or without a fee by an issuer for
49 the use of the cardholder in depositing, obtaining or transferring funds.

1 (7) "Delinquency" means any property tax, special assessment, fee,
2 collection cost, or charge collected in the same manner as property tax, that
3 has not been paid in the manner and within the time limits provided by law.

4 (8) "Electronic funds transfer" means any transfer of funds that is
5 initiated by electronic means, such as an electronic terminal, telephone,
6 computer, ATM or magnetic tape.

7 (9) "Fixtures" means those articles that, although once movable chat-
8 tels, have become accessory to and a part of improvements to real property
9 by having been physically incorporated therein or annexed or affixed thereto
10 in such a manner that removing them would cause material injury or damage to
11 the real property, the use or purpose of such articles is integral to the use
12 of the real property to which it is affixed, and a person would reasonably
13 be considered to intend to make the articles permanent additions to the real
14 property. "Fixtures" includes systems for the heating, air conditioning,
15 ventilation, sanitation, lighting and plumbing of such building.

16 (10) "Floating home" means a floating structure that is designed and
17 built to be used, or is modified to be used, as a stationary waterborne resi-
18 dential dwelling.

19 (11) "Improvements" means all buildings, structures, manufactured
20 homes, as defined in section 39-4105(8), Idaho Code, mobile homes as defined
21 in section 39-4105(9), Idaho Code, and modular buildings, as defined in
22 section 39-4301(710), Idaho Code, erected upon or affixed to land, fences,
23 water ditches constructed for mining, manufacturing or irrigation purposes,
24 fixtures, and floating homes, whether or not such improvements are owned
25 separately from the ownership of the land upon or to which the same may be
26 erected, affixed or attached. The term "improvements" also includes all
27 fruit, nut-bearing and ornamental trees or vines not of natural growth,
28 growing upon the land, except nursery stock.

29 (12) "Late charge" means a charge of two percent (2%) of the delin-
30 quency.

31 (13) "Lawful money of the United States" means currency and coin of the
32 United States at par value and checks and drafts which are payable in dollars
33 of the United States at par value, payable upon demand or presentment.

34 (14) "Legal tender" means lawful money as defined in subsection (13) of
35 this section.

36 (15) "Market value" means the amount of United States dollars or equiva-
37 lent for which, in all probability, a property would exchange hands between a
38 willing seller, under no compulsion to sell, and an informed, capable buyer,
39 with a reasonable time allowed to consummate the sale, substantiated by a
40 reasonable down or full cash payment.

41 (16) "Operating property" means real and personal property operated
42 in connection with any public utility, railroad or private railcar fleet,
43 wholly or partly within this state, and which property is necessary to the
44 maintenance and operation of the public utility, railroad or private railcar
45 fleet, and the roads or lines thereof, and includes all rights-of-way ac-
46 companied by title; roadbeds; tracks; pipelines; bargelines; equipment and
47 docks; terminals; rolling stock; equipment; power stations; power sites;
48 lands; reservoirs, generating plants, transmission lines, distribution
49 lines and substations; and all title and interest in such property, as owner,
50 lessee or otherwise. The term includes electrical generation plants under

1 construction, whether or not owned by or operated in connection with any
2 public utility. For the purpose of the appraisal, assessment and taxation of
3 operating property, pursuant to chapter 4, title 63, Idaho Code, the value of
4 intangible personal property shall be excluded from the taxable value of op-
5 erating property in accordance with the provisions of section 63-602L, Idaho
6 Code, and the value of personal property, other than intangible personal
7 property, shall be excluded from the taxable value of operating property in
8 accordance with the provisions of section 63-602KK, Idaho Code.

9 (17) "Party in interest" means a person who holds a properly recorded
10 mortgage, deed of trust or security interest.

11 (18) "Person" means any entity, individual, corporation, partnership,
12 firm, association, limited liability company, limited liability partner-
13 ship or other such entities as recognized by the state of Idaho.

14 (19) "Personal property" means everything that is the subject of owner-
15 ship and that is not included within the term "real property."

16 (20) "Private railcar fleet" means railroad cars or locomotives owned
17 by, leased to, occupied by or franchised to any person other than a railroad
18 company operating a line of railroad in Idaho or any company classified as a
19 railroad by the interstate commerce commission and entitled to possess such
20 railroad cars and locomotives except those possessed solely for the purpose
21 of repair, rehabilitation or remanufacturing of such locomotives or rail-
22 road cars.

23 (21) "Public utility" means electrical companies, pipeline companies,
24 natural gas distribution companies, or power producers included within fed-
25 eral law, bargelines, and water companies which are under the jurisdiction
26 of the Idaho public utilities commission. The term also includes telephone
27 corporations, as that term is defined in section 62-603, Idaho Code, except
28 as hereinafter provided, whether or not such telephone corporation has been
29 issued a certificate of convenience and necessity by the Idaho public utili-
30 ties commission.

31 This term does not include cogenerators, mobile telephone service or
32 companies, nor does it include pager service or companies, except when such
33 services are an integral part of services provided by a certificated utility
34 company, nor does the term "public utility" include companies or persons en-
35 gaged in the business of providing solely on a resale basis, any telephone or
36 telecommunication service which is purchased from a telephone corporation
37 or company.

38 (22) "Railroad" means every kind of railway, whether its line of rails
39 or tracks be at, above or below the surface of the earth, and without regard
40 to the kind of power used in moving its rolling stock, and shall be consid-
41 ered to include every kind of street railway, suburban railway or interur-
42 ban railway excepting facilities established solely for maintenance and re-
43 building of railroad cars or locomotives.

44 (23) "Real property" means land and all rights and privileges thereto
45 belonging or any way appertaining, all quarries and fossils in and under the
46 land, and all other property which the law defines, or the courts may inter-
47 pret, declare and hold to be real property under the letter, spirit, intent
48 and meaning of the law, improvements and all standing timber thereon, in-
49 cluding standing timber owned separately from the ownership of the land upon
50 which the same may stand, except as modified in chapter 17, title 63, Idaho

1 Code. Timber, forest, forest land, and forest products shall be defined as
2 provided in chapter 17, title 63, Idaho Code.

3 (24) "Record owner" means the person or persons in whose name or names
4 the property stands upon the records of the county recorder's office. Where
5 the record owners are husband and wife at the time of notice of pending issue
6 of tax deed, notice to one (1) shall be deemed and imputed as notice to the
7 other spouse.

8 (25) "Special assessment" means a charge imposed upon property for a
9 specific purpose, collected and enforced in the same manner as property
10 taxes.

11 (26) "System value" means the market value for assessment purposes of
12 the operating property when considered as a unit.

13 (27) "Tax code area" means a geographical area made up of one (1) or more
14 taxing districts with one (1) total levy within the geographic area, except
15 as otherwise provided by law.

16 (28) "Taxing district" means any entity or unit with the statutory au-
17 thority to levy a property tax.

18 (29) "Taxable value" means market value for assessment purposes, less
19 applicable exemptions or other statutory provisions.

20 (30) "Transient personal property" is personal property, specifically
21 such construction, logging or mining machinery and equipment which is kept,
22 moved, transported, shipped, hauled into or remaining for periods of not
23 less than thirty (30) days, in more than one (1) county in the state during
24 the same year.

25 (31) "Warrant of distraint" means a warrant ordering the seizure of per-
26 sonal property to enforce payment of property tax, special assessment, ex-
27 pense, fee, collection cost or charge collected in the same manner as per-
28 sonal property tax.