

SENATE BILL NO. 354  
INTRODUCED BY J. BOHLINGER

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A PRISON INDUSTRIES FACTORY-BUILT MODULAR HOME PROGRAM; PROVIDING GUIDELINES FOR CONSTRUCTION; ALLOWING FOR PURCHASE OF HOMES THROUGH THE BOARD OF HOUSING'S LOAN PROGRAM; REQUESTING LOCAL GOVERNMENTS TO WORK WITH PRISON INDUSTRIES AND THE BOARD OF HOUSING TO IDENTIFY VACANT LOTS FOR USE AS POTENTIAL SITES FOR FACTORY-BUILT MODULAR HOUSING; PROVIDING CONDITIONS ON RESALE OF FACTORY-BUILT MODULAR HOMES; EXTENDING THE DUTIES OF THE BOARD OF HOUSING TO INCLUDE PARTICIPATION IN THE PRISON INDUSTRIES MODULAR HOME PROGRAM; AMENDING SECTIONS 50-60-404, 53-30-132, AND 90-6-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Findings -- purpose.** (1) The legislature finds and declares that:

(a) state policy is to foster and encourage reasonably sized, affordable, energy-efficient, low-maintenance homes that allow individuals to live independently;

(b) an increased number of homes increases a community's property tax base, which may be used to promote the general welfare of the people;

(c) state policy encourages implementation of supervised programs intended to provide inmates with training that can be useful in getting a job when they are no longer incarcerated so that former inmates may be less likely to return to prison; and

(d) neither the public sector nor the private sector currently satisfies the housing needs of low-income Montanans.

(2) The purpose of [sections 1 through 6] is to create a program to provide affordable housing and to provide on-the-job training under the supervision of a journeyman carpenter, electrician, and plumber within the prison industries program.

**NEW SECTION. Section 2. Prison industries factory-built modular home program -- guidelines.**

(1) There is a prison industries factory-built modular home program as authorized under 53-30-132.

(2) Homes constructed by inmates under this program may be purchased using the board of housing's loan program established under 90-6-134.

(3) Homes constructed under this program must comply with applicable standards for housing provided for under Title 50, chapter 60.

(4) The prison industries factory-built modular home program shall purchase construction materials in accordance with the guidelines set forth by the department of administration under Title 18, chapter 4.

**NEW SECTION. Section 3. Sales restrictions -- land availability.** (1) Sales of the prison industries factory-built modular homes are restricted to:

(a) low-income residents of Montana whose gross income is no greater than 70% of the allowable income limits established under the board of housing loan program; and

(b) individuals who make the factory-built modular home a principal residence.

(2) The board of housing shall require a commitment of land availability before proceeding with a loan for the purchase of a factory-built modular home.

(3) The board of housing and the prison industries program may work with local governments and nonprofit community organizations registered with the internal revenue service under 26 U.S.C. 501(c)(3) to determine availability of land on which the factory-built modular homes may be placed, including vacant lots owned by a local government and made available by the local government for loan or purchase in conjunction with the purchase of a factory-built modular home.

**NEW SECTION. Section 4. Fund established.** There is an enterprise fund, as provided in 17-2-102(2), established within the department of corrections for the purposes of making expenditures for the prison industries factory-built modular home program and receiving revenue from sales of the housing.

**NEW SECTION. Section 5. Sale provisions -- resale.** (1) Proceeds from the sale of prison industries factory-built modular homes must be used for materials and to reimburse the board of housing for any loan made as part of the program.

(2) After payments have been made under subsections (1) and (3), any further proceeds from sales of the factory-built modular homes must be deposited in the fund created in [section 4] to provide continued support for the program.

(3) The loan agreement for the purchase of a prison industries factory-built modular home must contain

a provision incorporating this subsection. A purchaser of a factory-built modular home may retain a profit on the resale of the home according to the following schedule:

- (a) for a sale within the first year of ownership, 0% of the profit;
- (b) for a sale after 1 year, 10% of the profit a year for each full year of ownership.
- (4) A sale of the home must describe whether the agreement includes the land in the sale.

**NEW SECTION. Section 6. Prison industries modular home advisory board.** (1) There is a seven-member prison industries modular home advisory board appointed by the governor.

- (2) Members of the advisory board include:
  - (a) a representative of the board of housing;
  - (b) a representative of the prison industries program;
  - (c) a representative of the home building industry;
  - (d) a representative of the manufactured housing industry;
  - (e) a licensed plumber;
  - (f) a licensed electrician; and
  - (g) a member of the public who is not represented by any of the above categories.

(3) The advisory board is attached to the department of corrections for administrative purposes only pursuant to 2-15-121.

(4) Board members may be reimbursed for expenses for attending meetings pursuant to 2-18-501 through 2-18-503. A member who is a full-time salaried officer or employee of the state or of any political subdivision of the state may not be reimbursed if expenses are otherwise covered.

- (5) The board shall meet once a year to:
  - (a) review and establish minimum standards for program eligibility;
  - (b) advise the department of corrections on program efficiency, cost-effectiveness, and safety;
  - (c) assess the program biennially and report to the appropriate legislative interim committee by September 1 in even-numbered years regarding whether the program is:
    - (i) meeting a standard of noncompetitiveness with the state's commercial home building industry and the state's manufactured housing industry; and
    - (ii) meeting a need not provided elsewhere for low-income housing.

**Section 7.** Section 50-60-404, MCA, is amended to read:

**"50-60-404. Enforcement of building construction standards for modular homes.** (1) The provisions of this chapter apply to factory-built modular or prebuilt homes or buildings.

(2) A municipality may regulate the construction of factory-built modular or prebuilt homes or buildings as provided in 50-60-106 if:

- (a) the homes or buildings are constructed inside the jurisdiction of the municipality;
- (b) the homes or buildings are sold primarily to persons in the county in which the factory is located;
- (c) the factory does not manufacture more than 100 homes or buildings a year; and
- (d) the municipality has an agency or officer assigned to inspect and enforce building construction standards.

(3) Inspection and enforcement approval given by a municipality under this section may be recognized and accepted by any other municipality of the state to which the factory-built home or building is transported for final installation. Additional inspections need not be conducted.

(4) Inspection by the department of a factory-built modular home constructed under the prison industries factory-built modular home program, provided for in 53-30-132, may be recognized and accepted in lieu of municipal or other state inspections."

**Section 8.** Section 53-30-132, MCA, is amended to read:

**"53-30-132. Inmate participation and status in prison work programs -- prison industries and vocational training program -- wages and benefits.** (1) The department of corrections may:

(a) establish prison industries that will result in the production or manufacture of products and the rendering of services that may be needed by any department or agency of the state or any political subdivision of the state, by any agency of the federal government, by any other states or their political subdivisions, or by nonprofit organizations and that will assist in the rehabilitation of inmates in institutions;

(b) obtain federal certification of specific prison industries programs in order to gain access to interstate markets for prison industries products;

(c) contract with private industry for the sale of goods or components manufactured or produced in shops under its jurisdiction and for the employment of inmates in federally certified prison industries programs;

(d) print catalogs describing goods manufactured or produced by prison industries and distribute the catalogs;

(e) fix the sale price for goods produced or manufactured by prison industries. Prices may not exceed prices existing in the open market for goods of comparable quality.

- (f) require a correctional facility to purchase needed goods from other correctional facilities;
  - (g) provide for the repair and maintenance of property and equipment of institutions by inmates;
  - (h) provide for the removal of graffiti from property and equipment of institutions and the removal of litter from the property of institutions, public roads, and public parks by inmates;
  - (i) provide for construction projects, up to the aggregate sum of \$200,000 for each project, performed by inmates. The department of administration may:
    - (i) exempt projects authorized by this subsection from the provisions of Title 18, chapter 2, relating to construction, public bidding, bonding, or contracts; and
    - (ii) exempt inmates who provide labor for those projects from the labor and wage requirements of Title 18, chapter 2, part 4. Inmates providing labor for projects under this subsection must be paid a rate of pay as provided in subsection (5).
  - (j) provide for the repair and maintenance by prison industries of furniture and equipment of any state agency;
  - (k) provide for the manufacture by prison industries of motor vehicle license plates and other related articles;
  - (l) sell manufactured or agricultural products and livestock on the open market;
  - (m) provide for the manufacture by prison industries of highway, road, and street marking signs for the use of the state or any of its political subdivisions, except when the manufacture of the signs is in violation of a collective bargaining contract;
  - (n) provide for the construction of factory-built modular homes under a prison industries factory-built modular home program established in [section 2]. Homes built in the program must be constructed in a manner that will achieve energy conservation goals similar to the goals established for the weatherization assistance program described in 90-4-201.
  - ~~(n)~~(o) pay an inmate from receipts from the sale of products produced or manufactured or services rendered in a program in which the inmate is working;
  - ~~(o)~~(p) collect 15% of the net wages paid to an inmate employed in a federally certified prison industries program for transfer to the crime victims compensation and assistance program in the department of justice for deposit in the state general fund as provided in Title 53, chapter 9, part 1; and
  - ~~(p)~~(q) collect from an inmate employed in a federally certified prison industries program charges for room and board consistent with charges established by the director for inmates assigned to prerelease centers.
- (2) Except as provided in subsection (3), furniture made in the prison may be purchased by state

agencies in accordance with the procurement provisions under Title 18, chapter 4. All other prison-made furniture may be sold only through licensed wholesale or retail furniture outlets or through export firms for sale to international markets.

(3) Any state institution, facility, or program operated by the department of corrections may purchase prison-made furniture without complying with the procurement provisions under Title 18, chapter 4.

(4) While engaged in on-the-job training and production, inmates not employed in a federally certified prison industries program may be paid a wage in accordance with subsection (5). Inmates employed in a federally certified prison industries program must be paid as provided in subsection (5).

(5) (a) Except as provided for in subsection (5)(b), payment for the performance of work may be based on the following criteria:

- (i) knowledge and skill;
- (ii) attitude toward authority;
- (iii) physical effort;
- (iv) responsibility for equipment and materials; and
- (v) regard for safety of others.

(b) The maximum rate of pay must be determined by the appropriation established for the program, except that an inmate employed in a federally certified prison industries program must be paid at a rate not less than the rate paid for similar work in the locality where the inmate performs the work.

(6) Premiums for workers' compensation and occupational disease coverage for federally certified prison industries programs must be paid by the prison industries program or by the department of corrections. If the department of corrections pays the premium, reimbursement for premium payments for workers' compensation and occupational disease coverage must be made to the department of corrections by the private company contracting with the federally certified prison industries program for services and products.

(7) Inmates not working in a federally certified prison industries training program are not employees, either public or private, and employment rights accorded other classes of workers do not apply to the inmates. Inmates working in a federally certified prison industry program are entitled to coverage and benefits as provided in 39-71-744.

(8) Able-bodied persons committed to a state prison as adult offenders must be required to perform work as provided for by the department of corrections, including the manufacture of products or the rendering of services. In order to ensure the public safety, the department may secure inmates performing work."

**Section 9.** Section 90-6-104, MCA, is amended to read:

**"90-6-104. General powers of the board.** (1) The board may:

(1)(a) sue and be sued;

(2)(b) have a seal;

(3)(c) adopt all procedural and substantive rules necessary for the administration of this part, including rules concerning its mortgage, construction, and temporary lending programs;

(4)(d) make contracts, agreements, and other instruments necessary or convenient for the exercise of its powers under this part;

(5)(e) enter into agreements or other transactions with any federal, state, or local governmental agency, any persons, and any domestic or foreign partnership, corporation, association, or organization in carrying out this part;

(6)(f) enter into agreements under its rules with sponsors, mortgagors, or lending institutions for the purpose of regulating the analysis, planning, development, and management of housing developments financed in whole or in part by the proceeds of its loans or securities and mortgage purchase programs;

(7)(g) enter into agreements or other transactions with, and accept grants and the cooperation of, any governmental agency in furtherance of this part, including but not limited to the development, leasing, maintenance, operation, and financing of any housing development;

(8)(h) accept services, appropriations, gifts, grants, bequests, and devises and ~~utilize~~ use or dispose of them in carrying out this part;

(9)(i) acquire real or personal property or any right, interest, or easement ~~therein~~ in real or personal property by gift, purchase, transfer, foreclosure, lease, or otherwise; hold, sell, assign, lease, encumber, mortgage, or otherwise dispose ~~thereof~~ of real or personal property; hold, sell, assign, or otherwise dispose of any mortgage or loan owned by it or in its control or custody; release or relinquish any right, title, claim, interest, easement, or demand, however acquired, including any equity or right of redemption; do any of the foregoing by public or private sale, with or without public bidding; commence any action to protect or enforce any right conferred upon it by any law, mortgage, contract, or other agreement; bid for and purchase property at any foreclosure or other sale or acquire or take possession of it in lieu of foreclosure; and operate, manage, lease, dispose of, and otherwise deal with ~~such~~ property in any manner necessary or desirable to protect its interests and the holders of its bonds or notes and consistent with any agreement with ~~such~~ those holders;

(10)(j) service and contract and pay for the servicing of loans;

(11)(k) provide general technical services in the analysis, planning, design, processing, construction,

rehabilitation, and management of housing developments for persons and families of lower income ~~where~~ when these services are not otherwise available;

~~(12)~~(l) provide general consultative services to housing developments for persons and families of lower income and the residents ~~thereof~~ of housing developments with respect to counseling and training in management, home ownership, and maintenance ~~where~~ when these services are not otherwise available;

~~(13)~~(m) invest any funds not required for immediate use, subject to any agreements with its bondholders and noteholders, as provided in Title 17, chapter 6, except all investment income from funds of the board less the cost for investment as prescribed by law must be deposited in the housing authority enterprise fund;

~~(14)~~(n) sell its loans or securities to the federal national mortgage association or any other agency or instrumentality of the United States and invest in the capital stock issued by the association or other agency or instrumentality to the extent, if any, required as a condition of the sale;

~~(15)~~(o) consent, whenever it considers it necessary or desirable in fulfilling its purposes, to the modification of the rate of interest, time, and payment of any installment of principal or interest, security, or any other term of any contract, mortgage, mortgage loan, mortgage loan commitment, construction loan, advance contract, or agreement of any kind, subject to any agreement with bondholders and noteholders;

~~(16)~~(p) collect reasonable interest, fees, and charges in connection with making and servicing its loans, notes, bonds, commitments, and other evidences of indebtedness and in connection with providing technical, consultative, and project assistance services. Interest fees and charges are limited to the amounts required to pay the costs of the board, including operating and administrative expenses and reasonable allowances for losses that may be incurred.

~~(17)~~(q) procure insurance against any loss in connection with its mortgages and mortgage loans and other assets or property in amounts and from insurers as the board considers desirable or necessary;

~~(18)~~(r) act as agent for governmental agencies concerning acquisition, construction, leasing, operation, or management of a housing development;

~~(19)~~(s) issue notes and bonds and replace lost, destroyed, or mutilated notes and bonds; and

~~(20)~~(t) develop special programs for housing developments for veterans of the armed forces of the United States who are unable to acquire safe and sanitary housing through lending institutions by conventional means.

(2) The board shall work with the prison industries program and local governments to establish and maintain the prison industries factory-built modular home program established in [section 2]."



NEW SECTION. **Section 10. Codification instruction.** [Sections 1 through 6] are intended to be codified as an integral part of Title 53, chapter 30, part 1, and the provisions of Title 53, chapter 30, part 1, apply to [sections 1 through 6].

NEW SECTION. **Section 11. Effective date.** [This act] is effective on passage and approval.

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