McGlinchey Stafford and the Manufactured Housing Institute (MHI) are pleased to bring you the Manufactured Housing Law Update. With content prepared by McGlinchey Stafford's nationally-recognized consumer financial services team, the Update focuses on legal and regulatory actions in the manufactured housing industry. More about MHI and McGlinchey Stafford can be found at the end of the Update.

WELCOME!

Our hearts and best wishes go out to those affected by the recent hurricanes. After Harvey and Irma, some readers will find the following update a gentle breeze.

Texas has issued two bulletins relating to those in the manufactured housing industry affected by Hurricane Harvey.

The "Show Me State" of Missouri will show us how many new regulations it can issue in a month.

Cannonball‼‼! Just in time for the last gasps of summer, New Jersey manufactured home community owners better get out the sunscreen if the community has a pool.

Oregon has decided to get into the mortgage servicer licensing business. On a positive note, it is also instituting a Rent Guarantee Program that is sure to benefit landlord communities.

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CASE LAW

Rent increase

CASE NAME: *Pot-Nets Lakeside, LLC v. Lakeside Comm. Homeowners Assoc., Inc.*
DATE: *07/17/2017*
CITATION: *Superior Court of Delaware. Not Reported in A.3d. 2017 WL 3168969*

Appellant Pot–Nets Lakeside, LLC wanted to increase the 2017 lot rent at the manufactured home community known as Pot–Nets Lakeside by $33.74 per month, based on a $64,791 increase in salaries and wages and a $108,389 increase in repair and maintenance for the fiscal year ended June 30, 2016, compared to the 2015 fiscal year. Appellant sent out the required notice of the rent increase to all affected tenants. Lakeside Community Homeowners Association, Inc., the homeowners association for those manufactured home owners who lease lots in Pot–Nets Lakeside, filed a petition for arbitration and the Arbitrator issued his decision that the Appellant had not proven that it was entitled to the rent increase. Pot–Nets appealed.

The Court agreed with the Arbitrator that the Appellant did not provide enough financial information to justify its rent increase. The Appellant provided two years of summarized expenses, a few exhibits and the brief testimony of four witnesses to support its request. In the absence of enough financial information to allow the Arbitrator to understand in any meaningful way how and why the Salaries & Wages and the Repair and Maintenance expenses increased from year-to-year, he was simply in no position to determine if the increases were justified.

The Appellant provided the total amount it spent on Salaries & Wages and Repair & Maintenance for 2015 and 2016 and the year-over-year increase for each. The Appellant also broke down Salaries & Wages into four categories. The Appellant's controller and outside auditor testified that the amounts presented for Salaries & Wages and Repair & Maintenance were properly categorized and correct. The Appellant's owner and arborist explained why some of the expenses increased. The Appellant argued that this was more than adequate and that it was not required to provide source level accounting data. The Appellant also argued that the Appellee offered nothing to contradict its evidence.

The Court found that the Arbitrator did not require, or expect, the Appellant to provide source level accounting data. The Arbitrator was simply not persuaded by the summarized financial information and brief testimony that the Appellant did provide. As to the fact that the Appellee did not challenge the Appellant's presentation, it did not matter. The Appellant had the burden of proof, not the Appellee. Moreover, the information provided by the Appellant was so brief it was not susceptible to challenge.

Affirmed.

CASE LAW

Discrimination

CASE NAME: *Fair Housing Center of Central Indiana v. MH Leasing, LLC*
DATE: *07/26/2017*
CITATION: *United States District Court, S.D. Indiana, Indianapolis Division. Slip Copy. 2017 WL 3187471*

Plaintiffs Fair Housing Center of Central Indiana, Ana Roman, and Miguel Ceballos Alvarez alleged the Defendants (entities related to the manufactured home community in which Roman and Alvarez lived and its community manager) discriminated against Roman and Alvarez on the basis of their national origin and other residents on the basis of their familial status in violation of the Fair Housing Act ("FHA") and 42 U.S.C. § 1981.2.

FHCCI further contended Defendants violated the FHA by discriminating against disabled tenants.

Roman and Alvarez owned their manufactured home and leased their lot from Shiloh Estates. Roman believed Ziemer, the community manager, treated her family "like trash" and treated them differently than the "American" families.

The Magistrate Judge concluded that Plaintiffs stated facts sufficient to allege a constructive eviction, under 42 U.S.C. § 3617 and the Court agreed that Plaintiffs provided sufficient factually supported allegations to survive summary judgment.

The Court also agreed with the Magistrate Judge that an objective, ordinary reading of the rules cited by Plaintiffs did not indicate a preference against families with children. Accordingly, the Court adopted the Magistrate Judge's recommendation that Defendants' Motion for Summary Judgment be granted with respect to claims under 42 U.S.C. § 3604(c).

In their Amended Complaint, Plaintiffs alleged that Defendants violated 42 U.S.C. § 3604(f)(3)(B) by refusing to make reasonable accommodations to afford a person with a disability equal opportunity to use and enjoy a dwelling. Plaintiffs cited three incidents that they alleged demonstrated violations of these provisions: (1) Defendants' failure to timely build a ramp as requested by Greta Willis; (2) Defendants' refusal to allow Jackie Murray to build a wheelchair ramp to her front door; and (3) Defendants' refusal to allow Carol Willis to terminate her lease without a termination fee.

The Court found that Greta Willis did not allege that she requested permission to build a ramp at her own expense, therefore, the protections of 42 U.S.C. § 3604(f)(3)(A) were never triggered. Nor did the evidence establish the length of any alleged delay in constructing the ramp. Plaintiffs therefore could not establish that any delay was unreasonable.

With respect to Murray, Defendants argued that they satisfied their statutory obligations by offering Murray an alternative accommodation (building the ramp to the back door). However, the Court found that Defendants had not presented evidence that construction of the ramp at the front door (at Murray's expense) would have placed an undue hardship or burden on them. Therefore, the Court found that a reasonable jury could conclude that Murray's accommodation request was reasonable and that Defendants failed to accommodate it.

The Court further found that the request to be permitted to break a lease without a termination fee did not constitute the use and enjoyment of a dwelling and was, therefore, not a refusal to accommodate Carol Willis' disability.

The Court found that Plaintiffs identified a number of pieces of evidence that would support a finding of national-origin based harassment under 42 U.S.C. § 3617 and a claim they were deprived of full and equal rights and benefits under 42 U.S.C. § 1981 based on their race, color, or ethnicity, such as (1) Ziemer calling Hispanics "dirty and stupid" and "illegal spics;" (2) Ziemer calling a mixed-race child an "undesirable" and telling a pool monitor not to let "the little black children" into the pool;" (3) Ziemer publicly blaming the "n*****s and Hispanics" for stealing rent checks from the drop box; and (4) Ziemer calling Roman's family "ignorant.

CASE LAW

Eviction – Application of payments

CASE NAME: *Colonial Investors, LLC v. Furbush*
DATE: *08/01/2017*
CITATION: *Appellate Court of Connecticut. --- A.3d --- - 175 Conn.App. 154*

The plaintiff leases lots in Colonial Mobile Home Park to tenants who own mobile homes. The defendant signed a one year rental agreement for a lot, and, in August, 2013, signed a renewal for an additional year, pursuant to

which the defendant was to pay a base rent, as well as additional rent, which included utility charges for kerosene, propane, and water.

As of April 1, 2014, the defendant had an outstanding arrearage of $1615.13. On April 11, 2014, the defendant made a $600 payment, which was applied to the outstanding arrearage.

On April 30, 2014, the plaintiff served the defendant with a notice to quit possession of the premises on or before June 2, 2014. The ground stated in the notice was for nonpayment of rent totaling $1015.13. Pursuant to the notice to quit, the defendant could avoid eviction should she pay the total arrearage due within thirty days of receipt of the notice.

On June 13, 2014, the plaintiff commenced summary process action. The defendant filed an answer and special defenses. The first special defense alleged that the defendant tendered, and the plaintiff accepted, rent for the month of April, 2014, prior to the delivery of the notice to quit. The second special defense alleged that the plaintiff submetered water at the park without the necessary approval. The third special defense alleged that the notice to quit did not state correctly the rent due for April, 2014. The trial court rendered judgment of possession of the premises for the plaintiff. The defendant appealed.

The Court found that the notice to quit clearly specified the total arrearage due, and that the use and occupancy disclaimer provided the required notice period, making it clear that the defendant had a thirty day grace period in which she could make payments totaling the past arrearage due in order to avoid eviction. The use and occupancy disclaimer clearly indicated that future payments by the defendant would be accepted for use and occupancy, not as rent, but could help avoid eviction should the total of her payments equal her past arrearage due.

The Court determined that there was no ambiguity regarding the use and occupancy disclaimer.

The Court also concluded that the customer service charges were a proper component of the rent billed to the defendant. Under the clear language of the renewal, all utilities were billed based on usage, and the rates at which they were billed were posted in the park office. The renewal also stated that service charges could be collected if they were itemized in billing to the tenant and authorized elsewhere in the rental agreement. Moreover, the defendant's monthly statements itemized these customer service charges.

Further, as a metropolitan district established through a special act, the water and sewerage provider was not required to receive approval to submeter at the park. Accordingly, the trial court properly rejected the defense that the submetering was in violation of the Regulations of Connecticut State Agencies.

Finally, the Court found that each monthly statement given to the defendant included any balance remaining from her previous month, thus providing her with the past arrearage due. On many of these occasions, the payments tendered exceeded the monthly rent and thus lowered her past arrearage due. Consequently, the defendant was aware that her payments were applied first to her total arrearage due and then to her current monthly obligation. Nothing in the record suggested that she gave the plaintiff direction to apply the April, 2014 payment first to the April rent obligation instead of the past arrearage due. The Court concluded that the trial court properly determined that the defendant's April, 2014 payment was correctly applied to the past arrearage due rather than to her April, 2014 rent obligation.

Affirmed.

LEGISLATION
Illinois
Evictions

2017 IL H 3359. Enacted 8/18/2017. Effective 1/1/2018.

This bill amends the Forcible Entry and Detainer Article of the Code of Civil Procedure by changing references to forcible entry and detainer actions and actions for possession to references to eviction actions.

The bill also changes references to orders of possession and judgment of possession to references to eviction orders and makes corresponding changes to the Counties Code, the Municipal Code, the Service Member Civil Relief Act, the Environmental Protection Act, the Clerks of Courts Act, and the Code of Civil Procedure.

LEGISLATION
Illinois
Security deposits

2017 IL H 3001. Enacted 8/22/2017. Effective 1/1/2018.

This bill amends 765 Ill. Comp. Stat. 710/1, under the Security Deposit Return Act, to provide that a lessor shall deliver receipts for the repair or replacement of the damage allegedly caused to the leased premises, or the security deposit, as applicable, to a lessee in person or by postmarked mail directed to the last known address of the lessee or another address provided by the lessee.

The bill provides that if the lessee fails to provide the lessor with a mailing address or electronic mail address, the lessor shall not be held liable for any damages or penalties as a result of the lessee's failure to provide an address.

AMENDED PROPOSED RULE
Kentucky
Water submetering

The proposed amendments to 401 Ky. Admin. Regs. 8:020, Public and semipublic water systems; submetering; general provisions, originally published 4/23/2017, have been amended after comments.

The amendments include:

Submetering. (1) A property using submeters as defined by 401 Ky. Admin. Regs. 8:010(26) shall not be considered a public water system as defined by 40 C.F.R. 141.2 and, except for this administrative regulation and the emergency authority provisions established in Section 1431 of the federal Safe Drinking Water Act, shall be exempt from the requirements of 401 Ky. Admin. Regs. Chapter 8 (adding, "and the emergency authority provisions established in Section 1431 of the federal Safe Drinking Water Act").

Also:

Each community water system shall establish and maintain a flushing program that ensures:

(a) Dead end and low usage mains are flushed periodically;

(b) Drinking water standards are met;

(c) Sediment and air are removed; and

(d) Disinfectant residuals established in 401 Ky. Admin. Regs. 8:150, Section 1 are maintained.

As originally proposed, subsection (c) read: Sediment and air removal and disinfectant residuals established in 401 Ky. Admin. Regs. 8:150, Section 1 are maintained.

PROPOSED RULE
Missouri
Inspections

This rule amends Mo. Code Regs. Ann. tit. 4, § 240-121.050.

The rule sets forth the extent to which pre-owned mobile (formerly, manufactured) homes rented, leased, sold or offered for rent, lease, or sale by persons other than dealers are subject to inspection by the manager (formerly, the director).

("Manager" means the manager of the manufactured housing and modular units program of the Public Service Commission and persons working under his or her supervision)

ADOPTED RULE
Missouri
Forms

Effective 10/30/2017, this rule amends Mo. Code Regs. Ann. tit. 2, § 90-10.013 to provide that, prior to new construction, major renovations, or additions to mobile home parks, form MPSC-0910 (formerly, MPGC-0910) must be completed and submitted to the inspection authority.

PROPOSED RULE
New Jersey
Swimming pools

This rule implements the provisions of the State Sanitary Code affecting Public Recreational Bathing as established by the Public Health Council and amends N.J. Admin. Code §§ 8:26-1 to 8 (non seq).

N.J. Admin. Code § 8:26-5.1, Specially exempt facilities from first aid personnel and lifeguard requirements only (formerly, Specially exempt facilities), has been amended to provide that a mobile home park that does not voluntarily comply with the exempted requirements listed in N.J. Admin. Code § 8:26-5.2(b), (b)1, (d), and (e); 5.6(b); 5.8(b) and (b)1; and 5.10(b), (b)1, (c), and (e), shall have an owner or operator on the premises at all times when its swimming area or swimming pool is open for use.

The rule further provides that specially exempt facilities that do not voluntarily comply with the exempted requirements shall post a sign at least three feet by four feet in size.

The sign shall be prominently displayed at every entrance to each swimming area, and shall state:

"No lifeguard on duty."

"Persons under the age of 16 must be accompanied by an adult."

"No swimming alone."

The sign shall include the hours that the public recreational bathing facility is open, and can be added to an existing sign.

The information on the sign shall be easily readable with contrasting colors.

At mobile home parks the sign shall also state:

"This swimming area is closed when the owner or operator is not on the premises." or

"This pool is closed when the owner or operator is not on the premises."

LEGISLATION
New Jersey
Discrimination

2016 NJ S 726. Enacted 8/7/2017. Effective immediately.

This bill amends N.J. Stat. Ann. § 10:5-12 to add that it is unlawful to discriminate against any person or group or persons because of "liability for service in the Armed Forces of the United States."

The bill provides that it is unlawful for or any person, including but not limited to, any owner, lessee, sublessee, assignee or managing agent of, or other person having the right of ownership or possession of or the right to sell, rent, lease, assign, or sublease any real property or part or portion thereof, or any agent or employee of any of these to discriminate against any person or group of persons because of liability for service in the Armed Forces of the United States.

It is unlawful for any such person to print, publish, circulate, issue, display, post or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment or sublease of any real property or part or portion thereof, or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment, or sublease of any real property, or part or portion thereof which expresses, directly or indirectly, any limitation, specification or discrimination as to liability for service in the Armed Forces of the United States.

The bill provides that it is unlawful for any person, including but not limited to, any real estate broker, real estate salesperson, or employee or agent thereof:

(1) To refuse to sell, rent, assign, lease or sublease, or offer for sale, rental, lease, assignment, or sublease any real property or part or portion thereof to any person or group of persons or to refuse to negotiate for the sale, rental, lease, assignment, or sublease of any real property or part or portion thereof to any person or group of persons because of liability for service in the Armed Forces of the United States, or to represent that any real property or portion thereof is not available for inspection, sale, rental, lease, assignment, or sublease when in fact it is so available, or otherwise to deny or withhold any real property or any part or portion of facilities thereof to or from any person or group of persons because of liability for service in the Armed Forces of the United States;

(2) To discriminate against any person because of liability for service in the Armed Forces of the United States in the terms, conditions or privileges of the sale, rental, lease, assignment or sublease of any real property or part or portion thereof or in the furnishing of facilities or services in connection therewith;

(3) To print, publish, circulate, issue, display, post, or mail, or cause to be printed, published, circulated, issued, displayed, posted or mailed any statement, advertisement, publication or sign, or to use any form of application for the purchase, rental, lease, assignment, or sublease of any real property or part or portion thereof or to make any record or inquiry in connection with the prospective purchase, rental, lease, assignment, or sublease of any real property or part or portion thereof which expresses, directly or indirectly, any limitation, specification or discrimination as to liability for service in the Armed Forces of the United States or any intent to make any such limitation, specification or discrimination, and the production of any such statement, advertisement, publicity, sign, form of application, record, or inquiry purporting to be made by any such person shall be presumptive evidence in any action that the same was authorized by such person.

The bill provides that it is unlawful for any person, bank, banking organization, mortgage company, insurance company or other financial institution, lender or credit institution involved in the making or purchasing of any loan or extension of credit, for whatever purpose, whether secured by residential real estate or not, including but not limited to financial assistance for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any real property or part or portion thereof or any agent or employee thereof:

(1) To discriminate against any person or group of persons because of liability for service in the Armed Forces of the United States in the granting, withholding, extending, modifying, renewing, or purchasing, or in the fixing of the rates, terms, conditions or provisions of any such loan, extension of credit or financial assistance or purchase thereof or in the extension of services in connection therewith;

(2) To use any form of application for such loan, extension of credit or financial assistance or to make record or inquiry in connection with applications for any such loan, extension of credit or financial assistance which expresses, directly or indirectly, any limitation, specification or discrimination as to liability for service in the Armed Forces of the United States or any intent to make any such limitation, specification or discrimination; unless otherwise required by law or regulation to retain or use such information.

The bill provides that it is unlawful for any multiple listing service, real estate brokers' organization or other service, organization or facility related to the business of selling or renting dwellings to deny any person access to or membership or participation in such organization, or to discriminate against such person in the terms or conditions of such access, membership, or participation, on account of liability for service in the Armed Forces of the United States.

PROPOSED RULE

Oklahoma

Water supply

These rules would amend Okla. Admin. Code §§ 252:626-1-2 and 252:631-1-2 to provide that mobile home parks which are constructed, inspected and maintained under a State or locally approved plumbing code, purchase water from a permitted water system, do not provide treatment, and do not resell water, are not classified as Public Water Supply systems.

"Public Water Supply (PWS) system" means any system providing water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days per year, whether receiving payment for same or not.

LEGISLATION

Oregon

Rent Guarantee Program

2017 OR H 2724. Enacted 8/8/2017. Effective 1/1/2018.

This bill adds as yet uncodified sections to provide that the Housing and Community Services Department shall develop and implement the Rent Guarantee Program for the purpose of providing incentives and financial assistance to landlords that rent or lease to low income households by guaranteeing payments to landlords for unpaid rent and for eviction and property damage costs. Department administration of the program is subject to Oregon Housing Stability Council policy, rules and standards.

The bill includes requirements for tenant eligibility.

A landlord may submit a request for financial assistance to the department in accordance with rules adopted by the council.

Reimbursement for unpaid rent and payment of eviction and damage costs are limited to circumstances involving rental or lease agreements entered into with tenants determined to be eligible.

Financial assistance is limited to reimbursement for unpaid rent and eviction and damage costs incurred during the first 12 months of any single rental or lease agreement.

Reimbursement for unpaid rent is limited to a maximum of $2,000 per eligible tenant.

Financial assistance paid under the program to a landlord is limited to a maximum of $5,000 per landlord.

The bill provides that:

"Landlord" means an owner of a dwelling unit that has entered into a rental or lease agreement with a tenant.

"Low income household" means a household of one or more individuals whose combined incomes are at or below 60 percent of the area median income and includes, but is not limited to, a household of one or more individuals who are homeless or at risk of becoming homeless.

"Tenant" means an individual or a family who has or will be entering into a rental or lease agreement with a landlord.

LEGISLATION

Oregon

Complaints - Fees

2017 OR H 2795. Enacted 8/8/2017. Effective immediately.

This bill amends Or. Rev. Stat. § 105.130 to increase the filing fee for the filing of a complaint in the case of a dwelling unit to which Or. Rev. Stat. chapter 90 applies (the Residential Landlord and Tenant chapter) from $79 to $83.

The court shall collect a filing fee of $83 (formerly, $79) from a defendant that demands a trial under this section.

ADOPTED RULE

Tennessee

Taxes – Multiple-use

Effective 11/1/2017, this rule adopts Tenn. Comp. R. & Regs. 0600-12-.1 thru .9, Multiple-Use Subclassification, to implement the provision of Tenn. Code. Ann. § 67-5-801(b) concerning the establishment of guidelines for apportionment among subclasses where a parcel of real property is used for more than one (1) purpose, which would result in different subclassifications and different assessment percentages.

The rule includes mobile home parks with on-site privately owned mobile homes as examples of when multiple-use subclassification is appropriate.

Multiple-use subclassification requires that each use of the property be distinct and ongoing. Where a parcel is used predominantly for one purpose and another use is sporadic and generates insignificant annual income, the parcel should be assessed in accordance with the predominant use. Where a parcel is used predominantly for one purpose and another use is sporadic but generates regular annual income that is not insignificant, the parcel should be assessed using multiple-parcel subclassification.

Where the uses of a property include two or more subclasses, the assessor shall determine the share of the market value of the property attributable to each subclass and value the property according to the proportion each share constitutes of the total market value.

The rule provides examples of apportioning among subclasses, including EXAMPLE E:

A mobile home park owner owns the land and multiple homes located on the land within the mobile home park, and he leases out the mobile homes to tenants. All of the property (land, improvements, and mobile homes)

should be subclassified as "industrial and commercial property". On the other hand, if a mobile home park owner owns the land within the mobile home park but leases the land out to multiple tenants who own their own mobile homes situated on the land, then the land and any improvements rented with the land should be subclassified as "industrial and commercial property" but each mobile home that is used for residential purposes by the mobile home owner or owner's lessee should be subclassified as "residential property" unless it is part of multiple rental units under common ownership.

PRESS RELEASE

Vermont

Disclosure of fees

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Issued June 30, 2017.

The Vermont Attorney announced that Ship Sevin, LLC and Ship Sevin, LLC II ("Ship Sevin"), agreed to pay a penalty of $30,000 to the State of Vermont, and to reimburse Vermonters for illegal fees paid to Ship Sevin. Ship Sevin leases mobile homes, mobile home lots, and residential rental properties.

Ship Sevin violated Vermont's Consumer Protection Act by charging tenants unreasonable and undisclosed fees. Vermont law requires that all terms governing mobile home rentals be contained in a written lease, and that all lease terms be reasonable and fair. Landlords may only collect properly disclosed rental and utility charges, and other reasonable incidental service charges.

In addition to paying a $30,000 penalty to the State of Vermont, Ship Sevin has agreed to hire a Third-Party Administrator to determine the refund amounts owed to all former and current tenants of Ship Sevin, to vacate any evictions where illegal fees were included with nonpayment of rent, and to notify public housing authorities if vouchers were terminated on that basis so occupants may request having their vouchers restored.

DEFAULT SERVICING

CASE LAW

Bankruptcy – Value of collateral

☹

CASE NAME: *In re Fields*
DATE: *08/17/2017*
CITATION: *United States Bankruptcy Court, D. Kansas. Slip Copy. 2017 WL 3580169*

Fields purchased a 1996 Skyline Springbrook single-wide manufactured home from the Lamars in 2014, after it was already "set" in a mobile home park they owned at that time. The home, the lot, and the park were all well maintained.

The home's purchase price was $20,000; $2,000 down, and $18,000 in equal monthly payments over 180 months at 13% interest. Fields was also required to pay insurance and taxes and monthly lot rent. He was current when he filed chapter 13. The Lamars had sold the park, but retained legal title to the home. The Lamars filed a proof claim for $17,500.

Fields offered the testimony of Chuck Fairleigh, a realtor with experience both as a realtor and a sales person. Fairleigh personally inspected Fields' home and did research on www.MHVillage.com, a website devoted to the buying and selling mobile and manufactured homes by dealers and private parties. He said that homes of comparable age and size had asking prices from $12,500 to $15,000. Fairleigh based his appraisal on the home remaining in place. Finding Fields' home to be of "above-average condition," but 21 years old, Fairleigh concluded it was worth $10,500 "as is." Fairleigh did not use NADA to supplement his value research because he believed that resource is more appropriate for setting the conventional loan value for a home. He did not provide any comparative sales or marketing information.

The Lamars responded with the testimony of Wendy Powers, an Accredited Community Manager of mobile

home parks. Powers based her $21,500 value on her recent experience in selling a home on a lease-purchase agreement in a park. She opined that Fields' home was "top of the line," and would show well in its current setting. She stated that she had sold a smaller 1993 Skyline home for $32,000 a few weeks before trial, but did not provide any descriptive details about the home that would allow the Court to compare it to the Fields' home. When asked what Fields' home would bring on a dealer's lot, she stated she believed a dealer would ask at least $30,000, based on her recent visits to three dealers' lots.

Pamela Lamar testified that if she recovered this home in bankruptcy, she would offer it where it sat in the park for not less than $28,000. But the Court found that her allegation that the 21 year old mobile home was worth $8,000 more than she charged Fields for it in 2014 was not credible.

Section 506(a)(2) requires the Court to determine the price that a "retail merchant" would charge for property that is the same age and in the same condition as the property being valued. When the value of a secured creditor's collateral is at issue, the debtor has the burden to meet the presumption of validity that attends the creditor's claim; once that presumption is met, however, the burden of proof shifts to the creditor. Fields' and Fairleigh's testimony sufficed to shift the burden to the Lamars.

The Court regretted that neither value witness looked to the NADA manufactured housing appraisal guide but found that Fairleigh's report more fairly represented "what a retail merchant would charge" and was therefore more reliable for § 506(a)(2) purposes.

The Court valued the home at $10,500. As that was more than the Trustee reported he could pay under the current version of his plan, Fields failed to show that his plan was feasible. Confirmation was therefore denied without prejudice. Mr. Fields had 21 days to amend his plan, convert his case to chapter 7, or see his case dismissed.

CASE LAW

Super priority lien – Federal Foreclosure Bar

CASE NAME: *Berezovsky v. Moniz*
DATE: *08/25/2017*
CITATION: *United States Court of Appeals, Ninth Circuit. --- F.3d ----. 2017 WL 3648519*

Berezovsky purchased a home at a homeowners association foreclosure sale. He argued that the Nevada super priority lien provision empowered the association to sell the home to him free of any other liens or interests, priority status aside. The Federal Home Loan Mortgage Corporation ("Freddie Mac") claimed it had a priority interest in the home Berezovsky. Freddie Mac is under the conservatorship of the Federal Housing Finance Agency ("Agency"), meaning the Agency temporarily owns and controls Freddie Mac's assets. The Federal Foreclosure Bar prohibits nonconsensual foreclosure of Agency assets.

Berezovsky sued to quiet title in Nevada state court. Freddie Mac intervened and counterclaimed for the property's title, removed the case to federal district court, and moved for summary judgment. The Agency joined Freddie Mac's counterclaim. Together the federal entities argued that Berezovsky did not acquire "clean title" in the home because the Federal Foreclosure Bar preempted Nevada law, invalidating any purported extinguishment of Freddie Mac's interest through the association foreclosure sale. The district court agreed with the federal entities. Berezovsky appealed.

The appeals court found that because Freddie Mac possessed an enforceable property interest and was under the Agency's conservatorship at the time of the homeowners association foreclosure sale, the Federal Foreclosure Bar served to protect the deed of trust from

extinguishment. Freddie Mac continued to own the deed of trust and the note after the sale to Berezovsky.

Affirmed.

LEGISLATION
Illinois
Arrearage payments

2017 IL H 2965. Enacted 8/22/2017. Effective 1/1/2018.

This bill adds 205 Ill. Comp. Stat. 635/5-8.5, Arrearage payments, under the Residential Mortgage License Act, to provide that when a mortgagor is in arrears more than one month, no licensee shall refuse to accept any payments offered by the mortgagor in whole month payment amounts. Such payments shall be applied to the unpaid balance in the manner provided in the licensee's mortgage with that mortgagor.

Nothing in this Section shall be construed to otherwise impair the ability of the licensee to enforce its rights under the mortgage with that mortgagor; nothing in this Section shall be construed to otherwise impair the obligations of the mortgagor under the mortgage with the licensee.

LEGISLATION
Illinois
Tax sales - Redemption

2017 IL H 466. Enacted 8/24/2017. Effective immediately.

This bill amends 35 Ill. Comp. Stat. 516/370, Notice of Expiration of Period of Redemption, under the Mobile Home Local Services Tax Enforcement Act, to provide that a purchaser or assignee shall not be entitled to a tax certificate of title to a mobile home sold unless, not less than 3 months nor more than 6 (formerly, 5) months prior to the expiration of the period of redemption, he or she gives notice of the sale and the date of expiration of the period of redemption to the owners, occupants, and parties interested in the mobile home.

The bill also amends 35 Ill. Comp. Stat. 516/390, Petition for certificate of title, to provide that, at any time within 6 (formerly, 5) months but not less than 3 months prior to the expiration of the redemption period for a mobile home sold pursuant to judgment and order of sale under Sections 55 through 65 or 200, the purchaser or his or her assignee may file a petition in the circuit court in the same proceeding in which the judgment and order of sale were entered, asking that the court direct the county clerk to issue a tax certificate of title if the mobile home is not redeemed from the sale. The petition shall be accompanied by the statutory filing fee.

LEGISLATION
Illinois
Common interest communities

2017 IL H 189. Enacted 8/24/2017. Effective 1/1/2018.

Amends 765 Ill. Comp. Stat. 160/1-20, Amendments to the declaration, bylaws, or operating agreement, under the Common Interest Community Association Act, to provide that if community instruments require approval of any mortgagee or lienholder of record and the mortgagee or lienholder of record receives a request to approve or consent to the amendment to the community instruments, the mortgagee or lienholder of record is deemed to have approved or consented to the request unless the mortgagee or lienholder of record delivers a negative response to the requesting party within 60 days after the mailing of the request. A request to approve or consent to an amendment to the community instruments that is required to be sent to a mortgagee or lienholder of record shall be sent by certified mail.

The bill similarly amends 765 Ill. Comp. Stat. 605/27, Amendments, under the Condominium Property Act, to

provide that if the condominium instruments require approval of any mortgagee or lienholder of record and the mortgagee or lienholder of record receives a request to approve or consent to the amendment to the condominium instruments, the mortgagee or lienholder of record is deemed to have approved or consented to the request unless the mortgagee or lienholder of record delivers a negative response to the requesting party within 60 days after the mailing of the request. A request to approve or consent to an amendment to the condominium instruments that is required to be sent to a mortgagee or lienholder of record shall be sent by certified mail.

The bill also makes other amendments relating to common interest communities.

LEGISLATION
Oregon
Servicing

☹

2017 OR S 98. Enacted 8/2/2017. Effective 1/1/2018.

This bill enacts the Mortgage Loan Servicer Practices Act, as yet uncodified.

The bill defines "residential mortgage loan" as a loan secured by a mortgage, deed of trust or an equivalent consensual security interest in real property on which four or fewer improvements designed for residential occupancy are planned or situated, including but not limited to individual units, condominiums and cooperatives.

"Residential mortgage loan modification service" means:

(a) A negotiation or arrangement, or an offer or attempt to negotiate or arrange, a change in the repayment obligations for or the terms and conditions of a borrower's residential mortgage loan, including but not limited to:

(A) A forbearance in collecting one or more payments due;

(B) A change in the interest rate;

(C) A change in the payment or repayment schedule;

(D) A substitution of different loan terms and conditions;

(E) A substitution of a different classification of loan;

(F) A capitalization of any arrearages; or

(G) A reduction in principal.

(b) Collecting or attempting to collect data to submit to a person that performs a residential mortgage loan modification service.

"Service a residential mortgage loan" means to:

(a) Receive a scheduled periodic payment from a borrower under the terms of a residential mortgage loan, including any amounts for deposit into an escrow account the lender establishes in accordance with the Real Estate Settlement Procedures Act, 12 U.S.C. § 2609;

(b) Pay to the lender or another person principal, interest and other amounts associated with a residential mortgage loan in accordance with the terms of any contract or agreement for servicing the residential mortgage loan; or

(c) Pay an amount to a borrower, if the residential mortgage loan is a home equity conversion mortgage or a reverse mortgage.

The bill provides that a person may not directly or indirectly service a residential mortgage loan in this state unless the person obtains or renews a license under this Act.

This does not apply to:

(a) A person, or an affiliate of the person, that in all operations within the United States during the calendar year services fewer than 5,000 residential mortgage loans, excluding loans that the person or the person's affiliate originates or owns.

(b) A financial institution, as defined in Or. Rev. Stat. § 706.008.

(c) A person that has obtained a license under Or. Rev. Stat. § 725.140.

(d) A financial holding company or bank holding company, both as defined in Or. Rev. Stat. § 706.008, if the financial holding company or bank holding company does not do more than control an affiliate or a subsidiary, as defined in 12 U.S.C. § 1841(d), and does not engage in business as a residential mortgage loan servicer.

(e) An attorney who is licensed or otherwise authorized to practice law in this state if the attorney:

(A) Services a residential mortgage loan as an ancillary matter while representing a client; and

(B) Does not receive compensation from a residential mortgage loan servicer.

(f) An agency or instrumentality of this state or the United States.

(g) A housing finance agency, as defined in 24 C.F.R. 266.5.

(h) An institution that the Farm Credit Administration regulates.

(i) A person that the Director of the Department of Consumer and Business Services designates by rule or order as exempt, including but not limited to a nonprofit organization that promotes affordable housing or financing.

Notwithstanding the above, the director may require any person to obtain a license before servicing a residential mortgage loan if the director determines that the person has violated state or federal law or has engaged in a course of dealing that is fraudulent, deceptive or dishonest.

The director by rule may require an applicant to submit the application to the Nationwide Mortgage Licensing System and Registry instead of, or in addition to, submitting the application to the director.

An applicant shall submit with or as part of an application:

(A) Fingerprints from all of the applicant's controllers, registered agents and managers;

(B) A unique identifier that the applicant applies for and receives from the Nationwide Mortgage Licensing System and Registry;

(C) The name and address of the applicant's registered agent in this state;

(D) The street address of the applicant's principal place of business and of each branch office in this state at or from which the applicant will service a residential mortgage loan;

(E) The name of the manager of any branch office the applicant maintains in this state;

(F) The assumed business name, if any, that the applicant intends to use or under which the applicant intends to operate; and

(G) Other information the director requires to conduct a background check and evaluate the application.

The director by rule may modify or waive, for an application to renew a license, any requirement that the director determines is not necessary for evaluating or approving the application for renewal.

The applicant shall also:

(a) Pay to the director a fee in an amount that the director specifies by rule. The director shall specify the fee in an amount that is sufficient, when aggregated with fees from other applicants, to meet the director's cost of administering this Act.

(b) Submit to the director a corporate surety bond or irrevocable letter of credit issued by an insured institution, as defined in Or. Rev. Stat. § 706.008, that runs to the State of Oregon in an amount the director

specifies by rule. If the applicant seeks to renew a license and submitted a corporate surety bond or irrevocable letter of credit previously, the applicant shall show that the corporate surety bond or irrevocable letter of credit remains effective in the amount the director specifies.

The director may not issue or renew a license under this section unless the director finds that:

(A) The applicant submitted a complete application that does not contain a material misstatement;

(B) The application identifies a registered agent in this state;

(C) The application names a manager for each of the applicant's branch offices in this state;

(D) The applicant and the applicant's controllers, registered agents and managers have not pleaded guilty or no contest in, or been convicted by, a state, federal, foreign or military court:

(i) In the seven years before the date of the application, if the plea or conviction was for a felony, or for a misdemeanor an essential element of which involved a false statement or dishonesty; or

(ii) At any time before the date of the application if the plea or conviction was for a felony an element of which was fraud, dishonesty, a breach of trust or laundering a monetary instrument;

(E) The applicant and the applicant's controllers, registered agents and managers have demonstrated adequate financial responsibility, character and general fitness to command the confidence of the community and warrant a determination that the applicant will operate honestly, fairly and efficiently under the provisions of this Act;

(F) The applicant has paid the fee and submitted the corporate surety bond or irrevocable letter of credit required under this section; and

(G) The applicant has satisfied any other criteria for evaluating the applicant's financial responsibility and fitness the director specifies by rule.

An applicant need not report a conviction on an application under this section if the conviction was later pardoned.

A license that the director issues or renews under this section expires on December 31 of the calendar year in which the director issued or renewed the license. A licensee shall display a copy of the license at the licensee's principal place of business and at each branch office in this state at or from which the licensee services a residential mortgage loan.

A licensee shall maintain in accordance with generally accepted accounting principles sufficient liquidity, operating reserves and tangible net worth to permit the licensee to adequately meet all costs, expenses and other financial requirements related to servicing residential mortgage loans in this state. The Director of the Department of Consumer and Business Services may specify by rule the standards a licensee must meet to comply with the requirements set forth in this subsection.

A licensee that the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or the Government National Mortgage Association has approved to service a residential mortgage loan complies with the requirements set forth if the licensee meets the standards for liquidity, operating reserves and tangible net worth established by the association or corporation that approved the licensee. If the applicable association's or corporation's standards do not apply to a particular residential mortgage loan, the licensee in servicing the residential mortgage loan shall meet the highest standards the association or corporation has established for liquidity, operating reserves and tangible net worth.

A licensee shall notify the Director of the Department of Consumer and Business Services in writing at least 30 days before the licensee:

(A) Relocates or closes the licensee's principal place of business or a branch office in this state; or

(B) Opens a branch office that the licensee did not list in an application.

A licensee shall notify the director in writing not later than 30 days after:

(A) Any appointment, resignation or other change occurs in the licensee's controllers, registered agents or managers; or

(B) Any material change occurs in the information that the licensee submitted in an application.

A licensee shall notify the director in writing not later than 10 days after:

(A) Filing for bankruptcy or reorganization;

(B) A controller, registered agent or manager of the licensee becomes subject to an indictment that is related in any manner to the licensee's activities;

(C) The licensee receives notice of a final order issued in this or another state that:

(i) Demands that the licensee cease and desist from any act;

(ii) Suspends or revokes a license or registration; or

(iii) Constitutes any other formal or informal regulatory action against the licensee;

(D) The licensee registers or changes and uses or operates under an assumed business name; or

(E) Another change in the licensee's operations or governance occurs in a manner or with an effect that the director determines by rule is significant enough to warrant the licensee notifying the director.

A licensee shall notify the director immediately if the licensee changes registered agents or if the name or address for the licensee's registered agent in this state changes. In the notice the licensee shall update the name and address for the registered agent.

The bill includes requirements for the servicing of a residential mortgage loan.

The bill also includes provisions regarding a person that performs a residential mortgage loan modification.

INSTALLATION

ADOPTED RULE

Kentucky

Trip permits

Effective 7/5/2017, this rule amends 601 Ky. Admin. Regs. 1:018, Special overweight or overdimensional motor vehicle load permits.

This administrative regulation establishes the procedures and requirements for the issuance of an overweight or overdimensional single trip or annual permit including the height, width, and length necessary for vehicles and loads; and escort safety requirements.

The amended rule includes the information that a manufactured home shall not exceed ninety (90) (formerly, 85) feet in length.

PROPOSED RULE

Missouri

Duties of the Manager

This rule amends Mo. Code Regs. Ann. tit. 4, § 240-120.031, Administration and Enforcement, to modify the duties and responsibilities of the manager of the Missouri Public Service Commission's Manufactured Housing and Modular Units Program.

Formerly, this rule provided: (1) The commission's powers and responsibilities under Chapter 700, Mo. Rev. Stat., with respect to new manufactured homes, except the power to revoke, deny, refuse to renew or place on probation a registration under Mo. Rev. Stat. § 700.090 are delegated to the director.

The amended rule provides:

(1) The following commission powers and responsibilities under Chapter 700, Mo. Rev. Stat., are delegated to the manager:

(A) The issuance of notices of annual registration;

(B) The processing of annual registrations;

(C) The development and implementation of inspection processes;

(D) The issuance of seals;

(E) Daily monitoring and administration of reasonable fees which are sufficient to cover all costs incurred in the administration of Chapter 700, RSMo; and

(F) Consumer complaint handling and remedial actions up to and including the dispute resolution process of Mo. Rev. Stat. § 700.689.

(2) The following commission powers and responsibilities under Chapter 700, Mo. Rev. Stat., are not delegated to the manager:

(A) Establishing, changing, or eliminating the amount of fees for seals or inspections, or both;

(B) Denying, refusing to renew, suspending, revoking, or placing on probation a registration for any reason under provisions of this rule; and

(C) Other duties as outlined under Chapter 700, Mo. Rev. Stat., or these rules not specifically delegated.

PROPOSED RULE

Missouri

Dealer set-up responsibilities

This rule amends Mo. Code Regs. Ann. tit. 4, § 240-120.065, Manufactured Home Dealer Setup Responsibilities, to modify the requirements related to proper initial setup of new manufactured homes by dealers. The rule modifies the property locator reporting deadlines, provides additional detail regarding the notification of inspections, and provides a waiver of applicable fees for good cause shown.

The rule provides that, if a dealer fails to arrange for the proper initial setup of a manufactured home, the commission may discipline the dealer's registration by suspending, revoking, or placing the registration on probation, pursuant to the provisions of Mo. Rev. Stat. § 700.100 if the manager provides evidence to the commission, incident to an inspection, of setup deficiencies and initiates action to discipline the registration within two years after the delivery date of a new manufactured home (formerly, within 5 years from the date of the sale).

The manager shall assess a two hundred dollar inspection fee to dealers that fail to hire commission licensed installers to set up a home and shall open an investigation of installations of manufactured homes sold by the dealer to ensure compliance with commission rules.

The rule provides that a dealer who sells a new manufactured home shall submit to the manufactured housing and modular units program a property locator indicating the destination of the home within five business days of the date the home leaves the dealer's location or the manufacturer's location if the home is shipped directly to the consumer. For multi-section homes the five business days begins when the first section leaves the dealer's or manufacturer's location.

The dealer shall use the property locator form provided by the commission.

The manager shall assess a fifty dollar per home inspection fee to dealers who fail to submit the property locator within five business days from the due date.

The manager may commence an action to discipline a dealer's registration for failure to timely report property locators or make payment upon property locator home inspection fees if the commission has assessed no fewer than two property locator home inspection fees against the dealer within the previous twelve months of the due date of the property locator at issue.

The manager (formerly, the director) will have a period of no more than one year from the delivery date of the home to the consumer (formerly, from the date the home is installed) to conduct the initial inspection of the home setup.

Within two years of the delivery date of the home to the consumer (formerly, after the one year period has passed and within two years of the delivery date, the manager (formerly, the director) may conduct an inspection of the home for code violations (formerly, setup and code violations) upon the receipt of a formal written complaint by the consumer.

The rule adds that a copy of an inspection report from a routine inspection of the setup of a manufactured home, which does not arise from a consumer complaint, shall be transmitted to the manufacturer, installer, or dealer, or each responsible entity, within ten days from the date of the inspection. Should an inspection occur as a result of a consumer complaint, copies of the inspection report will be provided to the complainant, and shall be trans mitted to the manufacturer, installer, or dealer, or each responsible entity, within ten days from the date of the inspection.

Should an initial inspection identify no code violations, or any re-inspection verify corrections have been made to address code violations identified on an initial inspection report, the manager shall issue a notice of completion indicating no outstanding issues remain to be addressed. Such notice shall be issued to each responsible entity. A complainant shall also be issued a notice of completion should an initial inspection occur subsequent to a consumer complaint. Such notice shall be issued within twenty days from the date of the final inspection or re-inspection. This notice is intended to notify parties when the manager has completed an inspection process, and will not serve to indemnify any responsible party from any future liability.

The manager shall submit to the commission any written request for a waiver of fees identified in this subsection, and the commission may grant such a waiver for good cause shown.

PROPOSED RULE

Missouri

Re-inspection

This rule amends Mo. Code Regs. Ann. tit. 4, § 240-120.085, Re-Inspection and Re-inspection Fee, to modify the procedure for the re-inspection of manufactured homes and third party requests for inspections, the fees associated with re-inspections pursuant to Mo. Rev. Stat. § 700.040, and also provides that certain fees may be waived for good cause shown.

The rule provides that the manager may conduct re-inspections of new manufactured homes to verify corrections have been made to address code violations identified on the initial routine inspection report.

The manager shall not assess the dealer, installer, or the manufacturer, or each entity, a fee for the first re-inspection.

The manager shall assess re-inspection fee(s) for any re-inspection subsequent to the first re-inspection. The fee is charged to the dealer, installer, or the manufacturer

who was responsible for making the corrections and completing the corrections.

For re-inspections subsequent to a consumer complaint. the manager may conduct re-inspections of new manufactured homes to determine if the required corrections have been completed by the dealer, installer, or manufacturer within sixty days of the initial inspection.

The manager shall assess the dealer, installer, or the manufacturer, or each entity, a fee for the re-inspection(s) if the dealer, installer, or the manufacturer responsible for making the required corrections fails to complete the required corrections within sixty days of receipt of a consumer complaint. The fee will not be charged to the dealer, installer, or the manufacturer who is responsible for making the required corrections if, during the re-inspection, it is found that the required corrections have been corrected within sixty days of the initial inspection.

The manufactured housing and modular units program (formerly, the commission) shall assess an inspection fee of four hundred dollars for all third party requests for inspections, except third party inspection requests for the purpose of serial number verification will be charged two hundred dollars. Third party requests for inspections must be submitted in writing to the manufactured housing and modular units program (formerly, the commission) and the inspection fee must accompany the request. Third parties do not include licensed manufacturers or dealers.

If the manufacturer, installer, or dealer has not paid the re-inspection fee within thirty days of the prescribed date, the manager shall file a complaint and the commission shall suspend manufacturer, installer, or dealer certificate or registration. The suspension shall last until the manufacturer, installer, or dealer pays all assessed fees and provides proof satisfactory to the manager that the conditions causing the re-inspection have been remedied or the commission takes action.

The rule adds that the manager shall submit to the commission any written request for a waiver of fees identified in this section, and the commission may grant such a waiver for good cause shown.

PROPOSED RULE
Missouri
Alterations – Inspections - Approvals

This rule amends Mo. Code Regs. Ann. tit. 4, § 240-120.090, Inspection and Approval of Alterations, to set forth the procedure by which commission approval of alterations made to certified new manufactured homes may be obtained.

The rule replaces “director” with “manager” and provides that no certified new manufactured home which entered the first stage of production after November 22, 1976 on which an alteration has been made shall be rented, leased or sold or offered for rent, lease or sale in this state unless the alteration has been approved in writing by the manager.

Manager approval of alterations shall be requested by a written application executed on a form provided by the manager upon request. Applications may be submitted only by the person or entity who owns the new manufactured home to which the alteration for which approval is sought has been made. To be complete, the applications shall include:

The make, model, and serial number of the new manufactured home (formerly, the make, style and manufacturer's identifying number) to which the alteration has been made; and

An affidavit of the applicant or the applicant's agent (formerly, authorized representative) if the applicant is a corporation, certifying that the alteration complies with the federal standards.

The rule provides that within fifteen (formerly, 8) working days of receipt of complete application for alteration has been received by the manager, s/he shall inspect the alteration to determine if it complies with the federal standards. If through no fault of the applicant the inspection is not conducted within the prescribed time, the requested approval shall be issued within the required time the application is found to comply with the provisions of this rule.

Written approval of an alteration or a written rejection or an application for the approval shall be issued by the manager within fifteen (formerly, 10) working days after a complete application for written approval has been received by the manager. A notice of rejection shall specify the reason for the rejection.

PROPOSED RULE
Missouri
Standards

This rule amends Mo. Code Regs. Ann. tit. 4, § 240-120.100, Code, to establish the code for new manufactured homes and the standards for installation as the manufacturer's installation manual.

The rule provides that the federal standards as incorporated by reference in 24 CFR sections 3280, 3282, 3285, and 3286 (adding, 3282, 3285 and 3286) constitute the code to be applied to new manufactured homes which entered the first stage of production after November 22, 1976 which are rented, leased, or sold or offered for rent, lease, or sale in the state.

All new manufactured homes shall be set up or installed according to the manufacturer's installation manual (formerly, the manufacturer's installation instructions).

PROPOSED RULE
Missouri
Complaints

This rule amends Mo. Code Regs. Ann. tit. 4, § 240-120.110, Complaints and Review of Manager Action(s), to modify the manner in which complaints may be filed and the procedure to request commission review of the decisions, directives, and interpretations of the manager.

The rule provides that any person aggrieved by a violation of this chapter or Chapter 700, RSMo, as it relates to new manufactured homes and the manufacturer, dealer, or installer of new manufactured homes (adding, and the manufacturer, dealer, or installer of new manufactured homes), may file a formal or informal complaint with the commission under Mo. Code Regs. Ann. tit. 4, § 240-2.070.

Any person aggrieved by the manager's decisions, directives, and interpretations of 24 CFR sections 3280, 3282, 3285, and 3286 (adding, of 24 CFR sections 3280, 3282, 3285, and 3286), this chapter or Chapter 700, Mo. Rev. Stat., as it relates to new manufactured homes, may file a written informal or formal complaint under Mo. Code Regs. Ann. tit. 4, § 240-2.070. In such a complaint the manager (formerly, the director) shall be denominated as the respondent.

PROPOSED RULE
Missouri
Seals

This rule amends Mo. Code Regs. Ann. tit. 4, § 240-121.030, Seals, to provide that an application for a seal for a preowned manufactured home shall be submitted to the manager (formerly, the director) and shall be executed by the person who owns the preowned mobile home to which the requested seal will be affixed. An application shall be executed on a form which shall be

provided by the manager upon delivery to him/her of a nonrefundable two dollar fee.

PROPOSED RULE
Missouri
Administration

This rule amends Mo. Code Regs. Ann. tit. 4, § 240-124.020, Administration and Enforcement, to modify the duties and responsibilities delegated by the Missouri Public Service Commission to the manager of the Manufactured Housing and Modular Units Program as they relate to manufactured home tie-down systems.

The following commission powers and responsibilities under Chapter 700, Mo. Rev. Stat., with respect to manufactured home tie-down systems are delegated to the manager (formerly, the director):

(A) The ability to approve, prior to being sold, being offered for sale, or being installed, any anchor or tie-down system designed and intended for manufactured homes; and

(B) The authority to seek sanctions in the form of a complaint against parties in violation of rules and regulations promulgated under Chapter 700, Mo. Rev. Stat., or commission rules, Mo. Code Regs. Ann. tit. 4, § 240-124.

PROPOSED RULE
Missouri
Tie-down systems - Approvals

This rule amends Mo. Code Regs. Ann. tit. 4, § 240-124.040, Commission Approval of Manufactured Home Tie-Down Systems, to modify the manner in which an approval of manufactured home tie-down systems may be obtained.

No person may sell, offer for sale, or as a business install or cause to be installed a manufactured home tie-down system unless the system has been approved in writing by the manager (formerly, the director) and the original or duplicate original of such approval is prominently displayed at the location where the system is sold, offered for sale, or offered for installation.

The application for approval shall include, among other things:

A brief description of the legal organization of the manufacturer who will use the program, whether a Missouri corporation, foreign corporation, partnership, proprietorship, or other business organization;

If manufacturer is a corporation, a Certificate of Good Standing from the secretary of state and a copy of the corporation's articles of incorporation and bylaws;

If manufacturer does business under a fictitious name, a copy of the fictitious name registration filed with the secretary of state;

If manufacturer has submitted the applicable information as set forth in subsections (2)(A)-(F) of this rule in a previous request for approval of manufacturing program, a statement that the information was previously submitted and remains unchanged;

If the information in subsections (2)(A)-(F) above is not available, or not applicable, a statement as to the reason the information is not submitted. The manager, in consult with staff counsel, shall determine if the request for approval can be processed without the required information;

Detailed drawings and the manufacturer's installation manual (formerly, Detailed drawings and installation instructions) of each type of anchor system and for each type of component for which approval is sought must accompany the submittal.

The rule requires a test report that includes a photograph or drawing of the anchor demonstrating it is fully set up as required.

PROPOSED RULE
Missouri
Anchoring

This rule amends Mo. Code Regs. Ann. tit. 4, § 240-124.045, Anchoring Standards, to modify certain standards related to the anchoring of any manufactured home purchased or relocated on or after the effective date of the rule.

PROPOSED RULE
Missouri
Decals

This rule would amend Mo. Code Regs. Ann. tit. 4, § 240-125.070, Installation Decals, to provide for installation decals to be issued by the manufactured housing and modular units program (formerly, the commission).

The rule provides that the decal must include the initials and license number of each installer involved with the initial setup and installation of the home (adding initial).

The rule increases the cost for the decals from $25 to $35.

The rule provides that the Installation Decal Report Form may be obtained online at www.psc.mo.gov (or by mail).

The manager may reject all monthly reports that are incomplete and require the installer to submit corrected reports.

A late submission fee of fifty dollars per report will be assessed for each report that is filed sixty days after the due date.

The commission may suspend the installer's license for any report not submitted within sixty days of the due date.

Failure to submit a completed monthly report within ninety days of the due date or failure to pay any required fees could result in revocation of the installer's license.

The manager shall submit to the commission any written request for a waiver of fees identified in this section, and the commission may grant such a waiver for good cause shown.

PROPOSED RULE
Missouri
Disputes

This rule amends Mo. Code Regs. Ann. tit. 4, § 240-125.090, Dispute Resolution, to modify the term "director" to "manager" and the complaint procedure under this rule.

The rule provides that if repairs are not completed by the original or duly-extended deadline, the staff counsel's office shall send a demand letter to the delinquent manufacturer, dealer, and/or installer. If the repairs are not completed by the date specified in the demand letter, or as duly-extended by the staff counsel's office in consultation with the manager, the manager shall file a formal complaint with the commission.

In any case where a deficiency is determined by the manager to be an imminent safety hazard or to constitute a serious structural defect, the manager may file a request asking the commission for an immediate hearing of the dispute.

PROPOSED RULE
Missouri
Definitions

This rule adds Mo. Code Regs. Ann. tit. 4, § 240-127.010, Definitions.

The purpose of this rule is to combine all definitions in Chapters 120 through 126, including:

"Code" means the standards relating to manufactured homes, or modular units as adopted by the commission. The commission, in its discretion, may incorporate, in whole or in part, the standards or codes promulgated by the International Code Council, in its entirety, the standards or codes promulgated by the American Standards Institute, the federal standards set forth in 24 CFR section 3280 of the Manufactured Home Construction and Safety Standards, and 24 CFR section 3282 of the Manufactured Home Procedural and Enforcement Regulations, and 24 CFR section 3285 of the Federal Manufactured Housing Installation Standards and any applicable standards promulgated by the United States Department of Housing and Urban Development or other recognized agencies or organizations;

"Commission" is the Missouri Public Service Commission;

"Continuing education" means that installers will be required to attend certification classes every three years, or as otherwise required by the commission;

"Dealer" is any person, other than a manufacturer, who sells or offers for sale four or more used manufactured homes or one or more new manufactured homes or modular units in any consecutive twelve-month period or as otherwise defined in Mo. Rev. Stat. § 700.010;

"Installation" is any work undertaken at the place of occupancy of a manufactured home to ensure the proper initial setup of the home, which shall include the joining of all sections of the home, installation of stabilization, support, and leveling systems, assembly of multiple or expanded units, and installation of applicable utility hookups and anchoring systems that render the home fit for habitation;

"Installation decals" are decals issued by the manufactured housing and modular units program to be attached to each new manufactured home installed or set up by a licensed installer;

"Installed" means the arrangement and assembly at the occupancy site of all portions of an anchoring system, in accordance with the manufacturer's design, that renders the anchoring system fit for its intended use;

"Installer" is an individual who is licensed by the manufactured housing and modular units program to install manufactured homes, pursuant to Mo. Rev. Stat. §§ 700.650 to 700.680;

"Installer license" is a manufactured housing installer license or license renewal issued by the manufactured housing and modular units program, issued for a one-year period;

"License renewal" is the renewal of manufactured housing installer licenses due annually by July 1;

"Limited use installer license" is a manufactured housing limited use installer license issued by the commission which is valid for a period of one hundred eighty days and is limited to one renewal;

"Manager" means the manager of the manufactured housing and modular units program of the Public Service Commission and persons working under his or her supervision;

"Manufactured housing and modular units program" means the unit within the commission authorized to carry out certain duties of the commission as they relate to manufactured homes and modular units

"Manufacturer" is any person or entity who manufactures manufactured homes, or modular units, including persons who engage in importing manufactured homes, or modular units for resale; and

"Primary installer" means an installer who is responsible for the initial installation of the home to include ensuring the home site is properly prepared, ensuring the foundation and/or piers meet the applicable standards before setting the home on the site, and placing the installation decal and sign-off portion of the decal on the home.

PROPOSED RULE
New Mexico
Inspections - Fees

This rule would amend N.M. Code R. § 14.12.10.8, subsections D and E, Manufactured Housing Fee.

These sections would provide:

D. Re-inspection fee (formerly, Inspection or Re-inspection fees): sixty-five dollars.

E. Inspection Permits (adding, Inspection): sixty-five dollars. The permit will be for the installation, permanent foundation and utility connections.

This change is proposed to acknowledge that charging an inspection fee and a permit fee for the initial inspection is a double charge for a single inspection action.

LENDING

ADOPTED RULE
California
Seismic retrofits

Effective 7/26/2017, this rule adopts on a permanent basis, Cal. Code Regs. tit, 4, §§ 8078.15 – 8078.21, filed 12/22/2016 as an emergency rule effective 12/22/2016.

These regulations assist qualified residential property and small business owners in obtaining loans to finance the costs of seismically retrofitting residences and small businesses. Additionally, the CalCAP/Seismic Safety Program provides a credit enhancement to support private bank loans to qualified residential and commercial property owners to make improvements to mitigate seismic damage.

The new rule includes Cal. Code Regs. tit, 4, § 8078.15, Definitions, to provide that:

"Qualified building" means a building in California that is certified by the appropriate local building code enforcement authority for the jurisdiction in which the building is located as hazardous and in danger of collapse in the event of a catastrophic earthquake. A "Qualified building" may be a single-family residence, multiunit housing building, multiunit housing building with commercial space, or mobilehome, manufactured home, and multifamily manufactured home installed in accordance with Section 18613 of the Health and Safety Code.

"Qualified Loan" means a loan or portion of a loan as defined in Section 44559.1(j) of the Health and Safety Code or a loan made to a Qualified residential property owner, where the proceeds of the loan or portion of the loan are limited to the Eligible Costs for an Eligible project under this Program, and where the loan or portion of the loan does not exceed two hundred fifty thousand dollars ($250,000), and where the term of loss coverage for each qualified loan is no more than ten years.

"Qualified residential property owner" means either an owner and occupant of a residential building that is a Qualified building or a Qualified small business that owns one or more residential buildings, including a multiunit housing building, that is a Qualified building.

"Registered mobilehome" means a mobilehome or manufactured home that is currently registered with the Department of Housing and Community Development and the Borrower's name is on the Department of Housing and Community Development registration for that mobilehome or manufactured home.

"Seismic retrofit construction" means alteration performed on or after January 1, 2017, of a Qualified building or its components to substantially mitigate seismic damage.

Cal. Code Regs. tit, 4, § 8078.17 provides:

(a) The terms and conditions of the Qualified Loans, including rates, fees and other conditions, shall be determined solely by agreement of the Participating Financial Institution and the Borrower, consistent with the Participating Financial Institution's usual methods for making determinations on loans that are not enrolled in the Program and subject to the safety and soundness standards as set forth in applicable federal banking regulations or State law regulating the Participating Financial Institution.

(b) A Participating Financial Institution shall be authorized to enroll under the Program all or a part of any Qualified Loan:

(1) by notifying the Authority in writing, within 15 business days after the Qualified Loan is made, that it is enrolling a Qualified Loan. For purposes of this section, the date on which the Participating Financial Institution makes a Qualified Loan is the date on which the Participating Financial Institution first disburses proceeds of the Qualified Loan to the Borrower; and

(2) by transmitting to the Authority the Fees collected from the Participating Financial Institution and the Borrower in connection with the Qualified Loan, and by providing written evidence that the Fees have been deposited in a Loss Reserve Account held either by the Participating Financial Institution or the Program Trustee.

(c) A Participating Financial Institution may enroll all or any portion of a Qualified Loan in the Program by submitting a CalCAP/Seismic Safety Loan Enrollment Application.

The application must include, among other things, the Participating Financial Institution's certification, and the Borrower's certification, when the Qualified building is a mobilehome or manufactured home, that the Borrower has provided a record of Borrower's name on a current registration from the Department of Housing and Community Development for the mobilehome or manufactured home.

ADOPTED RULE

Texas

Colonia Self-Help Center Program

Effective 8/20/2017, this rule adopts 10 Tex, Admin. Code §§ 25.1 - 25.9, concerning the Colonia Self-Help Center Program Rule.

Colonia Self-Help Centers are designed to assist individuals and families of low-income and very low-income to finance, refinance, construct, improve, or maintain a safe, suitable home in the designated Colonia service areas or in another area the Department has determined is suitable.

The rule provides a definition of Reconstruction as the demolition and rebuilding a Single Family Housing Unit on the same lot in substantially the same manner. The number of housing units may not be increased; however, the number of rooms may be increased or decreased dependent on the number of family members living in the housing unit at the time of Application. Reconstruction of residential structures also permits replacing an existing substandard unit of manufactured housing with a new or standard unit of housing, ENERGY STAR certified manufactured housing or otherwise.

A Colonia Self-Help Center may only serve Income Eligible Families in the targeted Colonias by (among other things):

Providing assistance in obtaining Loans or grants to enable an individual or a family to acquire fee simple title to property that originally was purchased under a Contract for Deed, contract for sale, or other executory contract;

Providing title-related services for unrecorded Contracts for Deed, clouded titles, property transfers, intestate estates, and other title ownership matters.

ADOPTED RULE
Texas
Single Family Programs Umbrella Rule

Effective 8/24/2017, this rule adopts 10 Tex. Admin. Code §§ 20.1 - 20.16, concerning the Single Family Programs Umbrella Rule.

This Chapter sets forth the common elements of the Texas Department of Housing and Community Affairs' (the "Department") single family Programs, which includes the Department's HOME Investment Partnerships Program (HOME), State Housing Trust Fund (SHTF or HTF), Texas Neighborhood Stabilization (NSP), and Office of Colonia Initiatives (OCI) Programs and other single family Programs as developed by the Department. Single family Programs are designed to improve and provide affordable housing opportunities to low-income individuals and families in Texas and in accordance with Chapter 2306 of the Texas Government Code and any applicable statutes and federal regulations. Excluded from this Chapter are loans facilitated by the Department's pass through first-time homebuyer Programs utilizing bond financing structures or mortgage credit certificates.

The rule provides that Single Family Housing Unit means a residential dwelling designed and built for a Household to occupy as its primary residence where single family Program funds are used for rental, acquisition, construction, reconstruction or rehabilitation Activities of an attached or detached housing unit, including Manufactured Housing Units after installation. May be referred to as a single family "home," "housing," "property," "structure," or "unit."

Activity Types for eligible single family housing Activities include the following, as allowed by the Program Rule or NOFA:

(1) rehabilitation, or new construction of Single Family Housing Units;

(2) reconstruction of an existing Single Family Housing Unit on the same site;

(3) replacement of existing owner-occupied housing with a new Manufactured Housing Unit;

(4) acquisition of Single Family Housing Units, including acquisition with rehabilitation and accessibility modifications;

(5) refinance of an existing Mortgage or Contract for Deed mortgage;

(6) tenant-based rental assistance; and

(7) any other single family Activity as determined by the Department.

LICENSING

PRESS RELEASE
Georgia
Cease and desist

On August 23, 2017, an Order to Cease and Desist issued by the Georgia Department of Banking and Finance ("Department") to Bonanza Mobile Homes and Construction LLC, located at 209 Soperton Avenue, East Dublin, Georgia 31027, became final.

The Order to Cease and Desist was issued by the Department after it obtained evidence that Bonanza Mobile Homes and Construction LLC, engaged in residential mortgage brokering and/or originating activities without a license or under an applicable exemption in violation of Ga. Code Ann. § 7-1-1002.

Pursuant to Georgia law, it is prohibited for any person to directly or indirectly solicit, process, place, or negotiate mortgage loans for others, or offer to solicit, process, place, or negotiate mortgage loans for others without a mortgage license or pursuant to an exemption from licensure.

It is also prohibited for any person knowingly to purchase, sell, or transfer a mortgage loan or loan application from or to an entity that is not licensed or exempt from licensing or registration provisions.

LEGISLATION

Illinois

Collateral Recovery Act - Auctioneers

2017 IL S 1834. Enacted 8/11/2017. Effective 1/1/2018.

This bill amends 225 Ill. Comp. Stat. 422/30, under the Collateral Recovery Act, which requires a license to repossess a vehicle or collateral in the State.

The amendment adds that the Act does not apply to a vehicle auctioneer licensed under the Illinois Vehicle Code or an employee of such a vehicle auctioneer involved in the selling of a vehicle that was repossessed under the Act unless the vehicle auctioneer or employee of a vehicle auctioneer involved in the selling of the vehicle directly performs repossessions covered by the Act.

The bill also provides that the Act does not apply to a forwarding person or entity that, acting on behalf of a creditor or lender having a security agreement, does not directly perform repossessions covered by this Act, but instead forwards the actual repossession assignment to a licensed repossession agency under this Act.

PROPOSED RULE

Missouri

Books and records

This rule amends Mo. Code Regs. Ann. tit. 4, § 240-120.060, Inspections, to modify the procedures related to inspection by the manager of the Missouri Public Service Commission's Manufactured Housing and Modular Units Program.

The rule provides that the books, records, inventory, and premises of manufacturers and dealers of new manufactured homes, from time-to-time during normal business hours, shall be subject to an inspection by the manager (formerly, the director) to ascertain if a manufacturer or dealer is complying with Chapter 700, Mo. Rev. Stat., as it relates to new manufactured homes, this chapter, the federal standards and the Housing and Urban Development regulations and also to ascertain if grounds exist under Mo. Rev. Stat. § 700.100 to file a complaint with the commission to reject an application for registration filed under Mo. Rev. Stat. § 700.090 or to refuse to renew, suspend, revoke, or place on probation a registration which has been made under Mo. Rev. Stat. § 700.090.

The rule adds that a dealer shall maintain a copy of the bill of sale in its files at the location where it sold the home to the purchaser, if possible, otherwise at its principal office for no less than five years.

PROPOSED RULE

Missouri

Reporting

This rule amends Mo. Code Regs. Ann. tit. 4, § 240-120.070, Manufacturers and Dealers Reports, to modify the provisions related to the information submitted monthly by manufacturers to the manager.

The rule provides that manufacturers shall mail or deliver to the manager (formerly, the director) by the tenth day of each month a report which identifies the new manufactured homes by make, model, and serial number (formerly, by make, style and identifying number) to which certification labels have been affixed since the previous report and the certification label number for each such manufactured home.

PROPOSED RULE
Missouri
Dealers – Moral character

This rule amends Mo. Code Regs. Ann. tit. 4, § 240-120.120, Criteria for Good Moral Character for Registration of Manufactured Home Dealers, to establish the procedure by which the manager will file a request with the commission requesting evaluation of the moral character of applicants requesting dealer registration.

The rule provides that the manager will file a request for review of the moral character of an applicant for registration as a manufactured home dealer if (formerly, this introduction provided, registration as a manufactured home dealer will be denied for lack of good moral character if):

(A) The applicant, within the ten years preceding the application, has been convicted in any federal or state court of a felony relating to the acquisition or transfer of a manufactured home or any other form of property; or

(B) The applicant, within the five years preceding the application, has been convicted in any federal or state court of a misdemeanor relating to the acquisition or transfer of a manufactured home or any other form of property.

The rule adds that if the commission finds an applicant lacks good moral character, the commission shall deny the application for registration.

PROPOSED RULE
Missouri
Dealers – Monthly reports

This rule amends Mo. Code Regs. Ann. tit. 4, § 240-120.130, Monthly Report Requirement for Registered Manufactured Home Dealers, to modify the information that registered manufactured home dealers shall file with the Missouri Public Service Commission, the form and manner of this filing, identify new deadlines where actions may be taken against a dealers registration for failure to submit monthly sales reports, and provide a waiver for fees for good cause shown.

The rule provides that each person registered as a manufactured home dealer shall (formerly, must) file a monthly sales report with the manufactured housing and modular unit program (formerly, the commission) no later than the tenth of the month following the month when the sales were made.

Manufactured home dealers shall only use the commission's form for monthly sales reports. This form may be obtained from the Missouri Public Service Commission, P.O. Box 360, Jefferson City, MO 65102, or at the website http://psc.mo.gov/ManufacturedHousing/Dealer_Forms (adding the reference to the website).

The rule provides that every monthly sales report shall contain, among other things, the model number for each unit sold.

The monthly sales report shall include the required information for each home sold in Missouri to be delivered out of state.

The rule provides that the manager may reject monthly sales reports that are incomplete and require dealers to submit corrected reports.

The dealer shall maintain a copy of this report for the records of the dealership.

A late submission fee of fifty dollars shall be assessed against a manufactured home dealer for each monthly sales report filed sixty days after the due date.

The commission may suspend the dealer's registration for any report not submitted within sixty days of the due date.

Failure to submit a completed monthly report within ninety days of due date and/or to pay any required fees could result in revocation of the dealer's registration under Mo. Rev. Stat. § 700.098.

The manager shall submit to the commission any written request for a waiver of fees identified in this section, and the commission may grant such a waiver for good cause shown.

PROPOSED RULE
Missouri
Manufacturers – Inspection fees

This rule amends Mo. Code Regs. Ann. tit. 4, § 240-120.140, New Manufactured Home Manufacturer's Inspection Fee, to provide for payment of an inspection fee by manufacturers of new manufactured homes for each home delivered to dealers in the state of Missouri pursuant to Mo. Rev. Stat. § 700.040.

The rule provides that the commission may suspend the manufacturer's certificate of registration for failure to pay the inspection fee within thirty days of the prescribed due date.

Formerly, failure to pay the inspection fee within thirty days of the prescribed due date constituted grounds for the denial, suspension, revocation, or placing on probation of a manufacturer's certificate of registration.

The rule adds that the manager shall submit to the commission any written request for a waiver of fees identified in this section, and the commission may grant such a waiver for good cause shown.

PROPOSED RULE
Missouri
Installers – Certification classes

This rule amends Mo. Code Regs. Ann. tit. 4, § 240-125.040, Manufactured Home Installer License, to require an installer to attend certification classes every three years or as otherwise required by the manager.

PROPOSED RULE
Missouri
Limited use installers

This rule amends Mo. Code Regs. Ann. tit. 4, § 240-125.050, Limited Use Installer License, to modify licensing guidelines for limited use installer licenses for manufactured home installers.

The rule provides that to be licensed as a manufactured home limited use installer, an applicant shall submit to the manufactured housing and modular units program (formerly, the commission) a completed application, signed and dated by the applicant, together with the required one hundred fifty dollar fee and proof of general liability and workmen's compensation insurance. A limited use installer license allows the holder to perform all of the work performed by a licensed installer under the supervision of a licensed installer until the limited use installer passes a commission-approved manufactured home installer examination.

A limited use installer license holder must take a commission approved manufactured home installer examination within a period of one hundred eighty days from the issuance of the limited use installer license.

Failure to attain a passing grade on the examination terminates the limited use installer license. However, the installer has a one-time option to reapply for a second limited use license. The applicant must take a second commission-approved manufactured home installer examination within a period of one hundred eighty days of the license renewal. Failure to attain a passing grade on the second examination terminates a limited use installer license and provides no opportunity for reapplication.

PROPOSED RULE
Missouri
Installers – Complaints

This rule amends Mo. Code Regs. Ann. tit. 4, § 240-125.060, Licensing, to modify manufactured home installer licensing, renewal and disciplinary requirements, and changes the term "director" to "manager".

The rule replaces the “commission” with the “manufactured housing and modular units program.”

The rule provides that the commission may suspend an installer license for up to thirty days for failure to comply with the provisions of Chapter 700, Mo. Rev. Stat., the rules promulgated thereunder, or the act or the code(s) as adopted under this chapter. If conditions have not been remedied within thirty days, the manager shall file with the commission, a complaint against the installer for failure to comply with a commission rule.

BULLETIN
Texas
Related persons

ENFORCEMENT BULLETIN Number 2017-006. Issued 8/22/2017.

Related Persons:

A related person is a person who directly participates in management or policy decisions for a licensed entity and satisfies the education requirements on behalf of the entity, if the entity is licensed or seeking licensure. A related person may satisfy the education requirements on behalf of a licensee.

Initial Education Requirements:

For Manufacturers - All related persons added to a manufacturer's license are required to take the initial eight hour course of instruction prior to being added to the manufacturer's license.

For Brokers - All related persons added to a broker's license are required to take the initial eight hour course of instruction prior to being added to the broker's license.

For Retailers - All related persons added to a retailer's license are required to take the initial eight hour course of instruction and the four hour retailer education course prior to being added to the retailer's license.

For Installers - All related persons added to an installer's license are required to take the initial eight hour course of instruction and the four hour installer education course prior to being added to the installer's license.

For Retailer/Installers or Retailer/Broker/Installers - All related persons added to a Retailer/Installer License or Retailer/Installer/Broker License are required to take the initial eight hour course of instruction, four hour retailer education course, and the four hour installer education course prior to being added to the license.

Continuing Education Requirements:

All related persons listed on a license are required to complete the eight hours of continuing education prior to the license being renewed.

SALES AND WARRANTIES

CASE LAW

Magnuson-Moss – Statute of limitations

CASE NAME: *Hardin v. Forest River, Inc.*
DATE: *08/03/2017*
CITATION: *United States District Court, E.D. Louisiana. Slip Copy. 2017 WL 3311260*

Plaintiffs purchased a new recreational vehicle from Defendant Southern RV. The RV was manufactured by Defendant Forest River. The sales contract was assigned to Defendant Bank of the West. Plaintiffs alleged that, when delivered, the RV was defective, but the defects were unknown to them. Plaintiffs contended that the defects were discovered within the warranty periods and that the Defendants were notified of the defects but failed to make repairs and the defects substantially impaired the use, value, and safety of the RV. Plaintiffs sought damages and requested rescission of the sales contract and cancellation of the debt.

Plaintiffs brought claims for (1) violations of the Louisiana redhibition laws, (2) lender liability, (3) violation of the Magnuson-Moss Warranty Act, and (4) negligent repair. Defendants moved to dismiss Plaintiffs' claims for violations of the Louisiana redhibition laws and violation of the Magnuson-Moss Warranty Act.

The Court noted that there is an exception to the prescriptive period provided for redhibition claims. Prescription is interrupted when the seller accepts the thing for repairs and commences anew from the day he tenders it back to the buyer. In January 2016, Defendants were willing to repair the defects and the RV was sent to the factory for repairs and later returned to Plaintiffs on July 26, 2016. As a result, prescription was interrupted and commenced anew on July 26, 2016. Additionally, the RV was again accepted for repairs on November 15, 2016 and had not been tendered back to the Plaintiffs. As a result, prescription was again interrupted and remained interrupted until the RV is tendered back to the Plaintiffs. Accordingly, the Court found that Plaintiffs' redhibition claim had not prescribed.

The Court also noted that the Magnuson-Moss Warranty Act does not contain a limitations period, so courts look to analogous state law to determine the applicable limitation period. Here, the analogous claim was a breach of warranty claim, which is brought in redhibition in Louisiana, and, for the reasons stated above, the Court found that Plaintiffs' Magnuson-Moss Warranty Act claim had not prescribed.

Also, Plaintiffs purchased the RV on October 9, 2014 with a limited warranty for a period of one year from the date of purchase. Though Defendants argued that the complained-of defects were discovered outside the warranty period, Plaintiffs alleged the defects were discovered within the warranty period. The Court held that if, after discovery, it was clear that the defects did indeed manifest outside the warranty period, Defendants could move for summary judgment on that issue. At the time of the decision, however, dismissal of Plaintiffs' claims was not warranted.

LEGISLATION

Illinois

Rental-purchase agreements

2017 IL S 1556. Enacted 8/25/2017. Effective 1/1/2018.

This bill amends 625 Ill. Comp. Stat. 5/6-305 to add that a person licensed under Section 5-101, 5-101.2 (Manufactured home dealers), or 5-102 of this Code shall not participate in a rental-purchase agreement vehicle program unless the licensee retains the vehicle in his or her name and retains proof of proper vehicle registration under Chapter 3 of this Code and liability insurance under Section 7-601 of this Code. The licensee shall transfer ownership of the vehicle to the renter within 20

calendar days of the agreed-upon date of completion of the rental-purchase agreement. If the licensee fails to transfer ownership of the vehicle to the renter within the 20 calendar days, then the renter may apply for the vehicle's title to the Secretary of State by providing the Secretary the rental-purchase agreement, an application for title, the required title fee, and any other documentation the Secretary deems necessary to determine ownership of the vehicle. For purposes of this subsection (l-5), "rental-purchase agreement" has the meaning set forth in Section 1 of the Rental-Purchase Agreement Act.

LEGISLATION

Illinois

Installment sales contracts

This bill creates the Installment Sales Contract Act, including provisions governing definitions, terms and conditions of installment sales contracts, applicability of other Acts, repairs, account statements, insurance proceeds, unlawful acts and waivers.

The definitions include:

"Buyer" means the person who is seeking to obtain title to a property by an installment sales contract or is obligated to make payments to the seller pursuant to the contract.

"Date of sale" means the date that both the seller and buyer have signed the written contract.

"Dwelling structure" means any private home or residence or any building or structure intended for residential use with not less than one nor more than 4 residential dwelling units.

"Installment sales contract" or "contract" means any contract or agreement, including a contract for deed, bond for deed, or any other sale or legal device whereby a seller agrees to sell and the buyer agrees to buy a residential real estate, in which the consideration for the sale is payable in installments for a period of at least one year after the date of sale, and the seller continues to have an interest or security for the purchase price or otherwise in the property.

"Residential real estate" means real estate with a dwelling structure, excluding property that is sold as a part of a tract of land consisting of 4 acres or more zoned for agricultural purposes.

"Seller" means an individual or legal entity that possesses a legal or beneficial interest in real estate and that enters into an installment sales contract more than 3 times during a 12-month period to sell residential real estate. Any individual or legal entity that has a legal or beneficial interest in real estate under the name of more than one legal entity shall be considered the same seller.

The bill provides that the seller of residential real estate by installment sales contract shall provide the buyer with a written contract that complies with certain, specified requirements, including that until both parties have a copy of the executed contract signed by the buyer and the seller with the signatures notarized, either party has the right to rescind the contract.

The bill lists required disclosures, including;

A certificate of compliance with applicable dwelling codes, or in the absence of such a certificate: (i) an express written warranty that no notice from any municipality or other governmental authority of a dwelling code violation that existed with respect to the residential real estate subject to the contract before the installment sales contract was executed had been received by the seller, his or her principal, or his or her agent within 10 years of the date of execution of the installment sales contract; or (ii) if any notice of a violation had been received, a list of all such notices with a detailed statement of all violations referred to in the notice;

A statement, in large bold font stating in substantially similar form: "NOTE TO BUYER: BEFORE SIGNING THE

CONTRACT THE BUYER HAS THE OPTION OF OBTAINING AN INDEPENDENT THIRD PARTY INSPECTION AND/OR APPRAISAL SO THAT THE BUYER CAN DETERMINE THE CONDITION AND ESTIMATED MARKET VALUE OF THE RESIDENTIAL REAL ESTATE AND DECIDE WHETHER TO SIGN THE CONTRACT;" and

A statement that: (i) if the buyer defaults in payment, any action brought against the buyer under the contract shall be initiated only after the expiration of 90 days from the date of the default; and (ii) a buyer in default may, prior to the expiration of the 90-day period, make all payments, fees and charges currently due under the contract to cure the default.

The disclosure requirements cannot be waived by the buyer or seller.

Within 10 business days of the date of sale of any residential real estate subject to an installment sales contract, and prior to any subsequent sale or other transfer of any interest in the residential real estate or contract by the seller, the seller shall record the contract or a memorandum of the contract with the county recorder of deeds.

If the seller fails to record the contract or the memorandum of the contract as required, the buyer has the right to rescind the contract until such time as the seller records the contract. If the seller fails to record the contract or the memorandum of the contract and title to the property becomes clouded for any reason that may affect the ability of the seller to comply with the terms of the installment sales contract regarding the conveyance of marketable title to the buyer, the buyer has the option to rescind, not just before the seller records, but at any time within 90 days of discovering the title problem.

The seller shall provide the buyer with an account statement, including amounts applied to principal, interest, tax, insurance, fees, and other charges, upon the buyer's request.

A seller is not required to provide a buyer with account statements without charge more than once in any 12-month period.

If the buyer's request for an account statement is made in response to a change in the terms of an installment sales contract, then the seller must provide the account statement without charge.

A buyer or seller who receives payment of insurance proceeds as a result of damage to a dwelling structure shall apply the proceeds to the repair of the damage. However, the buyer and seller may make a fair and reasonable distribution of the insurance proceeds between each of them by a signed written agreement. The written agreement shall not be made until at least 7 days after any award of insurance on a claim has been settled and written notice of the settlement and award has been made by the insurer to both the buyer and seller. There shall be an exception for the application of insurance proceeds to the seller's mortgage balance when required by the terms of the seller's mortgage, with a corresponding credit to the buyer for the amount payable due on the installment sales contract.

If the buyer defaults in payment, any action brought against the buyer under the contract shall be initiated only after the expiration of 90 days from the date of the default. A buyer in default may, prior to the expiration of the 90-day period, make all payments, fees, and charges currently due under the contract to cure the default.

The buyer or the seller may not waive any provisions of this Act by written contract or otherwise. Any contractual provisions or other agreements contrary to this Act are void and unenforceable.

A mandatory arbitration provision of an installment sales contract that is oppressive, unfair, unconscionable, or substantially in derogation of the rights of either party is void.

The seller may not charge or collect a prepayment penalty or any similar fee or finance charge.

Any contract term that would put the buyer in default of the contract for failure to make improvements and repairs to residential real estate for conditions that existed prior to the date of sale is prohibited and unenforceable.

LEGISLATION
Michigan
Records

2017 MI H 4323. Enacted 7/14/2017. Effective immediately.

This Omnibus Budget bill includes a provision that the department of state shall sell copies of records including, but not limited to, records of mobile homes, and shall charge $11.00 per record sold only as authorized in section 208b of the Michigan vehicle code, 1949 PA 300, Mich. Comp. Laws § 257.208b, section 7 of 1972 PA 222, Mich. Comp. Laws § 28.297, and sections 80130, 80315, 81114, and 82156 of the natural resources and environmental protection act, 1994 PA 451, Mich. Comp. Laws §§ 324.80130, 324.80315, 324.81114, and 324.82156.

LETTER
Texas
Hurricane Harvey

Letter from the Executive Director of the Texas Department Of Housing And Community Affairs Manufactured Housing Division to all retailers relating to the recovery efforts caused by Hurricane Harvey, dated 8/30/2017.

In the recovery efforts, the division will do everything it can to assist the consumer, the industry and its industry partners such as the taxing entities, appraisal districts, title companies and floor planners. Anyone needing titling assistance to make an insurance claim, obtain emergency housing, or for proof of ownership will be given the utmost priority.

For retailers with damaged or totaled/salvaged homes in inventory, the division is committed towards conducting any required inspections and/or issuing any Statements of Ownership will also be given priority handling.

Initially, one of the field staff will contact each retailer in the affected areas and schedule a visit to provide training on the required rebuilding process and any associated inspections. Additionally, the inspector will conduct a physical inventory of all manufactured homes needing repair, inspections and or being salvaged. This not only enables the division to account for these homes but also assists it in determining the demand for staff to effectively service the affected areas as quickly as possible.

Please contact the division at 877-313-3023 should you need any assistance.

Bulletin
Texas
Hurricane Harvey

INDUSTRY BULLETIN Number 2017-002. Issued 9/1/2017.

Flooded and/or Wind Damaged Homes.

Following weather conditions involving flooding and/or high winds, an inspector of the Manufactured Housing Division ("The Department") will contact and schedule a visit with licensed retailers in affected areas to provide assistance and training on the required rebuilding and inspection processes and take a physical inventory of all damaged manufactured homes which cannot be sold or offered for sale until properly repaired and inspected.

Considering the magnitude of homes affected by Hurricane Harvey, Retailers are encouraged to email an inventory list of flooded or wind damaged homes to licensing@tdhca.state.tx.us to minimize the time of each visit

This list should include the retailer's name and license number, contact person and email address, HUD label number and serial number of each home that has sustained damage. As a convenience, Retailers may submit their inventory of damaged homes online by going to the License Holder's webpage of the Department's website at http://www.tdhca.state.tx.us/mh/online-transactions.htm and select the option to SUBMIT INVENTORY OF DAMAGED HOMES.

Once an inventory of damaged homes is submitted by the Retailer or created by Department staff, an ownership record for each damaged home will be created and flagged in the system and website as "Damaged" until the required rebuilding and inspection process is completed and the home is sold and titled as normal.

Please contact the Department at 877-313-3023 with any questions or assistance needed.

TAXATION

CASE LAW

Assessment – Effective date

CASE NAME: *HARLAN W. JONES and PHYLLIS L. JONES, Petitioners-Appellants, v. STATE OF ILLINOIS PROPERTY TAX APPEAL BOARD and FRANKLIN COUNTY BOARD OF REVIEW, Respondents-Appellees*
DATE: *08/01/2017*
CITATION: *Appellate Court of Illinois, Fifth District. ---N.E.3d ----. 2017 IL App (5th) 160199*

Prior to the effective date of a new law, a mobile home was included in the statutory definition of real property only "if the structure [was] resting in whole on a permanent foundation" and mobile homes resting on permanent foundations were "assessed and taxed as real property." Mobile homes not resting on permanent foundations were instead subject to a "privilege tax" based on square footage.

Beginning January 1, 2011, new legislation eliminated the distinction between mobile homes resting on permanent foundations and those not resting on permanent foundations. Instead, the new law provides that all mobile homes and manufactured homes installed outside of mobile home parks on or after its effective date are to be assessed and taxed as real estate.

At issue here was a "grandfather clause" for mobile homes that were assessed and taxed as personal property under the Mobile Home Tax Act before the new law went into effect. Mobile homes and manufactured homes that were taxed as real property before the new law went into effect continued to be taxed as real property; and mobile homes and manufactured homes that were taxed as personal property under the Mobile Home Tax Act prior to the effective date of the new law continued to be taxed under that act. However, none of the provisions explicitly addressed the assessment or taxation of mobile homes or manufactured homes that were installed prior to the effective date of the new law but were not taxed or assessed under either provision of the old law because they were installed after the local assessor completed assessments for the year.

The petitioners, Harlan and Phyllis Jones, installed a manufactured home on their property in May or June of 2010. The tax assessor—who ordinarily completes his assessments by July 1 of each year—did not conduct a new assessment of the petitioners' property after the manufactured home was installed, and the property was therefore assessed and taxed as a vacant lot in 2010. The manufactured home was assessed and taxed as real

property beginning in 2011. The petitioners challenged this assessment. The Property Tax Appeal Board upheld the assessment, finding decisive the fact that the petitioners failed to register their manufactured home. The circuit court affirmed this decision. The petitioners appealed.

The appeals court noted that guidelines supplied by the Department of Revenue directed local taxing authorities to treat mobile homes that were not on the 2010 tax rolls the same way similar mobile homes that were on the tax rolls were treated.

The record showed that the home was placed on the property sometime late in May 2010, electric service to the home began on June 22, 2010, and water service began on July 22, 2010. The deadline for turning in assessments to the county board of review was the third Monday in June. In 2010, the third Monday in June was June 21. Although the home was physically in place before this date, the petitioners were not required to file the registration until the end of June, and it was not realistic to expect a reasonable homeowner to register the home at any earlier time considering it was likely not occupied until July, when water service began. Thus, the home was not on the Franklin County tax rolls for 2010 because it was installed too late for it realistically to be assessed before the assessment cycle was complete. As such, it fit squarely within the category addressed by the Department of Revenue's memorandum.

The Court also found that registration was not a prerequisite for taxation under the Mobile Home Tax Act.

The Court reversed the judgment of the circuit court and set aside the decision of the Property Tax Appeal Board.

TITLING AND PERFECTION

CASE LAW

Ownership – Divorce

CASE NAME: *TERESA COX APPELLANT v. HOMER COX, JENNIFER SAYLOR, and CLIFFORD SAYLOR APPELLEES*
DATE: *07/28/2017*
CITATION: *Court of Appeals of Kentucky. Not Reported in S.W.3d. 2017 WL 3498728*

In 2005, Teresa and Homer moved in together; however, at that time, both were married to other individuals. The parties eventually married on March 13, 2011.

Prior to their marriage, the parties resided in a Mobile Home, which was gift from a cousin of Homer's. The property on which the Mobile Home sat was made up of two purchased tracts of land, both deeded to Teresa. A loan financing the purchase of the Land was made from Teresa's uncle, Clifford Saylor.

It was undisputed that at the time the Land was acquired, Homer was still married to Karen. Teresa and Homer agreed that the Land was placed solely in Teresa's name to prevent Karen from claiming an interest during Homer's dissolution. All payments on the loan for the Land were made from a joint checking account that was in both Homer and Teresa's names. However, the money in the account was earned by Homer.

In her divorce petition, Teresa alleged that the parties acquired no real estate subject to equitable dissolution during their marriage. She maintained that the Mobile Home and Land were her non-marital property since she acquired them prior to the marriage. Homer alleged that the Mobile Home and Land were his non-marital property, or in the alternative, that he and Teresa owned the Mobile Home and Land jointly. The trial court, relying on the "source of funds rule," determined that Teresa held only equitable title in trust for Homer and thus, the

Mobile Home and Land were Homer's non-marital property. Teresa appealed.

The appeals court found that the trial court should have concluded that Teresa enjoyed a presumption that the Land was a gift to her from Homer. On remand, the trial court should afford Teresa the presumption of ownership with respect to the Land, and consider the impact, if any, of Homer's decision to place the Mobile Home on the Land that was titled only in Teresa's name.

The Court further held that the trial court should not give any evidentiary weight to Homer's explanation for titling the property only in Teresa's name; that he did not want to acquire it in his name because he did not want Karen to be able to claim any interest in it when the two divorced. Allowing such an explanation to carry evidentiary weight would be tantamount to sanctioning the fraud Homer perpetrated in the prior dissolution proceedings. Instead, the law instructs the courts should leave Homer to suffer the consequences of his fraudulent actions. Homer cannot plead his own fraudulent conduct to avoid the presumption that he intended the Land as a gift.

CASE LAW

Ownership – LLC

CASE NAME: *White v. White*
DATE: *08/03/2017*
CITATION: *Court of Appeals of Utah. --- P.3d ----. 2017 WL 3326790*

Before their divorce, Dean White and Julie Dawn White purchased a rental property. The parties formed a limited liability company, having the parties as its only members, and transferred ownership of the Property to the LLC.

The divorce decree awarded the LLC and "all right, title and interest" in the Property to Dean, and he began residing in the Property. Dean removed Julie as a member of the LLC, but the Property remained titled in the LLC's name, with Dean as the sole member.

In an attempt to recover on judgments entered against Dean, Julie filed a motion seeking a charging order against Dean's interest in the LLC. The charging order would have placed a lien upon Dean's membership interest in the LLC. Julie requested the foreclosure of the lien and the sale of Dean's interest in the LLC if he did not satisfy her judgments within thirty days.

Dean claimed the Property as his primary personal residence, entitling him to a $30,000 homestead exemption. According to Dean, because the Property was the LLC's only asset, his homestead exemption prevented Julie from executing on his LLC membership.

Before the hearing scheduled on Julie's charging order motion, the LLC sold the Property. Dean then dissolved the LLC. As the LLC's sole member, Dean received the $8,621.30 in net proceeds from the sale.

Julie filed a motion asserting that the sale of the Property amounted to a fraudulent transfer.

The commissioner determined that the sale of the Property was fraudulent and conducted in bad faith and that Dean was not entitled to a homestead exemption. The commissioner recommended that Dean be ordered to pay Julie all net proceeds from the sale of the Property. The district court entered an order accepting the commissioner's recommendations. Dean appealed.

The appeals court found that a homestead exemption must be claimed by a person as opposed to an entity and that the person claiming the exemption have a legally cognizable interest or estate in the subject property. Although Dean had an interest in the LLC through his membership, Dean did not claim that he had any ownership interest in the Property by virtue of that membership.

Julie sought to recover her judgments by levying on Dean's membership interest in the LLC, which held title to the Property; she did not seek to execute on whatever interest Dean might have had in the Property as a result

of his possession of it. Nonetheless, Dean apparently claimed entitlement to the exemption on the sale proceeds due to his occupancy of the Property. But by the time the district court ruled on the homestead exemption issue, Dean had vacated the Property. Dean failed to provide any evidence that his interest in the Property as an occupant had any legal substance or tangible value separate from the LLC's ownership that survived his relinquishment of possession as of the time of sale.

Affirmed.

LEGISLATION
Illinois
Application

2017 IL H 3045. Enacted 8/18/2017. Effective 1/1/2018.

This bill amends 625 Ill. Comp. Stat. 5/3-104 to provide that an application for a certificate of title for a vehicle must contain, if available, an email address of the owner.

LEGISLATION
Illinois
Transfer

2017 IL S 1556. Enacted 8/25/2017. Effective 1/1/2018.

This bill amends 625 Ill. Comp. Stat. 5/3-107 to require that a certificate of title include the fax numbers or electronic addresses of any lienholders.

The bill amends 625 Ill. Comp. Stat. 5/3-116 to add that the Secretary of State, upon receipt of an application for a certificate of title and the required fee, may issue a certificate of title to an out-of-state resident if the out-of-state resident is a bona fide purchaser of a vehicle or a manufactured home from a dealer licensed in this State under Section 5-101, 5-101.2, or 5-102 of this Code and the licensed dealer files for bankruptcy, surrenders his or her license, or is otherwise no longer operating as a licensed dealer and does not properly transfer the title application to the bona fide purchaser prior to the licensed dealer's business closure.

ADOPTED RULE
Oregon
Ownership documents

Effective 7/31/2017, this rule amends Or. Admin. R. 918-550-0000 through 918-550-0600, which establish requirements and procedures to obtain an ownership document for a manufactured structures or to obtain an ownership document for a manufactured structure that has been previously exempted.

The rules amend Or. Admin. R. 918-550-0010, Definitions, to delete definitions for “Lessor,” “Lien holder,” “Mortgagee” and “Trust deed beneficiary.”

The rules add the definition of “Ownership document” as a document reflecting the status of a manufactured structure as reported to the division, with respect to ownership, relevant security interests, and other information required by Ore. Rev. Stat. § 446.566.

The rules add Or. Admin. R. 918-550-0020, Agents of the Department, to provide:

(1) No county may carry out functions under Ore. Rev. Stat. §§ 446.566 to 446.646 related to manufactured structure ownership documents and trip permits unless it has entered into and maintained participation in an agent agreement with and approved by the division.

(2) Refusal by a county to enter into or maintain participation in an agent agreement with and approved by the division is a refusal to accept all applications submitted to that county under Ore. Rev. Stat. § 446.571(1)(b)(C).

(3) Refusal by a county that has entered into and maintained participation in an agent agreement with and

approved by the division to perform a duty under Ore. Rev. Stat. §§ 446.566 to 446.646 related to manufactured structure ownership documents and trip permits, is refusal to accept all applications submitted to that county under Ore. Rev. Stat. § 446.571(1)(b)(C).

The rules amend Or. Admin. R. 918-550-0100, Ownership Document Requirements, to provide that all applications for ownership documents must be made on valid division approved forms and must be accompanied by a division approved county notification form.

The county notification form must be signed by an authorized representative of the appropriate county.

The county notification form is only valid until the expiration date indicated on the form.

The rules amend Or. Admin. R. 918-550-0120, Sale of a Used Manufactured Structure, to provide that if a purchaser submits a division approved notice of sale under Ore. Rev. Stat. § 446.641(8), the purchaser must include at least one of the following as acceptable proof of sale:

(1) A bill of sale from the current owner of record on the division's ownership document; or

(2) A Department of Transportation certificate of title to the structure that has a release of ownership signed by the owner.

Formerly, this section provided:

If a purchaser submits a division approved notice of sale under Ore. Rev. Stat. § 446.641(8), the purchaser must include one or more of the following as acceptable proof of sale:

(1) A bill of sale from the current owner of record on the division's ownership document;

(2) A division ownership document or a Department of Transportation certificate of title to the structure that has a release of ownership signed by the owner ; or

(3) Any other documents the division, in its discretion, finds as sufficient proof of sale.

The rules amend Or. Admin. R. 918-550-0140, Notice of Transfer of Interest in Manufactured Structure, to provide that:

(1) A person who releases, terminates, assigns or otherwise transfers an interest in a manufactured structure, must within 30 days of the transfer, submit a completed and notarized copy of the (adding, “and notarized copy of the”) division approved form to record the release, termination, assignment or otherwise transfer of the interest in the manufactured structure.

(2) The division approved form submitted pursuant to (1) must be accompanied by a county notification form.

(3) The county notification form submitted pursuant to (2) must be signed by an authorized representative of the appropriate county.

(4) The county notification form submitted pursuant to (2) is only valid until the expiration date indicated on the form.

(5) Signing the division approved form serves as an acknowledgment of the release of the interest by the transferor.

The rules delete Or. Admin. R. 918-550-0160, Recording of Manufactured Structure in County Deed Records, and Or. Admin. R. 918-550-0180, Demonstration of Ownership for Lost or Misplaced Ownership Documents.

The rules also amend Or. Admin. R. 918-550-0200, Abandoned Manufactured Structures, to require an abandonment affidavit, instead of a certification affirming the landlord has complied with Ore. Rev. Stat. § 446.581.

The rules amend Or. Admin. R. 918-550-0600, Trip Permit Requirements, to require a division approved county notification form.

The rules also add that the division approved county notification form must be signed by an authorized representative of the appropriate county.

The rules provide that the division approved county notification form is only valid until the expiration date indicated on the form.

The expiration date for a trip permit is either the same date as indicated on the county notification form or 30 days after issuance of the trip permit, whichever is sooner.

The rules delete the provision that vehicle transporters who transport a manufactured structure for which a trip permit has been issued shall either forward a signed copy of the trip permit to the division within 10 days of the movement of the manufactured structure or electronically submit notice of the completion of the move within 10 days using the division's online LOIS system.

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ABOUT MHI:

The Manufactured Housing Institute (MHI) is the only national trade organization representing all segments of the factory-built housing industry. MHI members include home builders, lenders, home retailers, community owners and managers, suppliers and 50-affiliated state organizations.

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A leader in the manufactured housing and mortgage lending industries, McGlinchey Stafford represents clients in the areas of federal and state law compliance, preemption analysis and advice, nationwide document preparation, licensing support, due diligence, federal and state examination and enforcement action defense, individual and class action litigation defense, and white collar criminal defense.