



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!

Time flies and we are already in mid-February. For those in Minnesota, Pennsylvania, and the New England states, we have nothing to report, other than the Eagles’ win.

Moving away from football and back to manufactured housing, Missouri finalized rules that we reported on in August, with changes. Those rules are set out in this update, indicating those changes to the proposed rules. If you operate a community in Louisiana, we have new sewer regulations to report on. Similarly, if you operate a community in New Jersey and have a swimming pool, take notice of the new sign requirements.

On the lending side, a federal case out of the Eastern District of California involving the assessment of convenience fees may be of interest. Also from the Eastern District of California, a case involving a violation of the bankruptcy discharge may be of interest.

If you sell manufactured homes, take a look at the FTC’s proposed home insulation rule regarding the required disclosure of insulation products’ R-value and related information.

We hope you enjoy the read, which might be light, unless you need to review the Missouri regulations.

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COMMUNITIES

ADOPTED RULE

Louisiana

Water - Sewer



Effective 1/20/2018, this rule amends La. Admin. Code Title 17, Construction, Part I. Uniform Construction Code.

The rule adds Chapter 16, Travel Trailer and Mobile/Manufactured Home Parks.

The rule adds the following definitions:

Mobile/Manufactured Home - a prefabricated home built on a permanent chassis which can be transported in one or more sections and is typically used as a permanent dwelling. Manufactured homes built since 1976 are built to the Manufactured Home Construction and Safety Standards (HUD Code) and display a HUD certification label on the exterior of each transportable section.

Park or Mobile/Manufactured Home Park or Travel Trailer Park - any lot, tract, parcel or plot of land upon which more than one travel trailer and/or mobile/manufactured homes parked for the temporary or permanent use of a person or persons for living, working or congregating.

Park Drainage System - the entire system of drainage piping within the park which is used to convey sewage or other wastes from the mobile/manufactured home or travel trailer drain outlet connection, beginning at its sewer inlet connection at the mobile/manufactured home or travel trailer site, to a community sewerage system, a commercial treatment facility, or an individual sewerage system.

Park Water Distribution System - all of the water distribution piping within the park, extending from the water supply system or other source of supply to, but not including, the mobile/manufactured home or travel trailer's water service connection, and including branch

service lines, fixture devices, service buildings and appurtenances thereto.

Service Building - a building housing toilet and bathing facilities for men and women, with laundry facilities.

Sewer Inlet - a sewer pipe connection permanently provided at the travel trailer or mobile/manufactured home site which is designed to receive sewage when a travel trailer or a mobile/manufactured home is parked on such site. It is considered the upstream terminus of the park drainage system.

Water Service Connection - as used in conjunction with mobile/manufactured homes and travel trailers, the water pipe connected between the inlet coupling of the park water distribution system and the water supply fitting provided on the mobile/manufactured home or travel trailer itself.

The rule adds Section 1601.1, Scope, to provide that the requirements set forth in this Chapter shall apply specifically to all new travel trailer and mobile/manufactured home parks, and to additions to existing parks as herein defined, and are to provide minimum standards for sanitation and plumbing installation within these parks, for the accommodations, use and parking of travel trailers and/or mobile/manufactured homes.

Section 1601.3 provides for Sewage Collection, Disposal, Treatment.

Section 1601.5, Materials, provides that, unless otherwise provided for in this Chapter, all piping fixtures or devices used in the installation of drainage and water distribution systems for travel trailer parks and mobile/manufactured home parks shall conform to the quality and weights of materials prescribed by this code.

Section 1601.6, Installation, provides that, unless otherwise provided for in this Chapter, all plumbing fixtures, piping drains, appurtenances and appliances designed and used in the park drainage, water

distribution system, and service connections shall be installed in conformance with the requirements of this code.

Section 1602.1, Service Buildings for Independent Travel Trailers, provides that each mobile/manufactured home park which also serves one or more independent travel trailers (in addition to mobile/manufactured homes) shall have at least one service building to provide necessary sanitation and laundry facilities. When a service building is required under this Section, it shall have a minimum of one water closet, one lavatory, one shower or bathtub for females and one water closet, one lavatory, and one shower or bathtub for males. In addition, at least one laundry tray or clothes washing machine and one drinking fountain located in a common area shall be provided.

The rule provides for Service Buildings in travel trailer or mobile/manufactured home parks that also accommodate dependent travel trailers.

Section 1603.1 provides that the sewer main and sewer laterals shall be separated from the park water service and distribution system.

Section 1603.2 provides that the minimum size pipe in any mobile/manufactured home park or travel trailer park drainage system shall be 4 inches. This includes branch lines or sewer laterals to individual travel trailers and mobile/manufactured homes.

Section 1603.3 provides that each mobile/manufactured home and travel trailer shall be considered as 6 fixture units in determining discharge requirements in the design of park drainage and sewage disposal systems.

Section 1603.4 provides that the discharge of a park drainage system shall be connected to a community sewerage system. Where a community sewerage system is not available, an approved commercial treatment facility or individual sewerage system shall be installed in

accord with the requirements of LAC 51:XIII (Sewage Disposal).

Section 1603.5 provides that manholes and/or cleanouts shall be provided and constructed as required in Chapter 7 of this code. Manholes and/or cleanouts shall be accessible and brought to grade.

Section 1603.6 provides that sewer inlets shall be 4 inches in diameter and extend above grade (G) 3 to 6 inches (76 to 152 mm). Each inlet shall be provided with a gas-tight seal when connected to a travel trailer or mobile/manufactured home and have a gas-tight seal plug for use when not in service.

Section 1603.7 provides that drain connections shall slope continuously downward and form no traps. All pipe joints and connections shall be installed and maintained gastight and watertight.

Section 1603.8 provides that no sewage, waste water, or any other effluent shall be allowed to be deposited on the surface of the ground.

Section 1603.9 requires that, upon completion and before covering, the park drainage system shall be subjected to a static water test performed in accordance with Section 312 of this code.

New section 1604.1 provides that every mobile/manufactured home and travel trailer site shall be provided with an individual branch water service line delivering potable water.

Section 1604.2 provides that water service lines to each mobile/manufactured home site shall be sized to provide a minimum of 17 gpm (1.1 L/s) at the point of connection with the mobile/manufactured home's water distribution system. All water service lines shall be a minimum of 3/4 inch. A separate service shutoff valve shall be installed on each water service line. In instances where a backflow prevention device or assembly is installed on the water service line (see Section 608.16.23), the shutoff valve

shall be located on the supply side of the device or assembly.

Section 1604.3 requires that the water service connection from the water service line to the mobile/manufactured home or travel trailer site shall be not less than 1/2-inch diameter.

ADOPTED RULE

New Jersey

Swimming pools



This rule concerns rules and regulations regarding public recreational bathing to implement the provisions of the State Sanitary Code affecting Public Recreational Bathing, as established by the Public Health Council and, effective 1/16/2018, 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 listed above 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."

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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."

DEFAULT SERVICING

CASE LAW

Bankruptcy – Bifurcation



CASE NAME: *In re: Edwards*

DATE: *12/29/2017*

CITATION: *United States Bankruptcy Court, E.D. North Carolina. Slip Copy. 2017 WL 6754026*

Edwards filed chapter 13, listing ownership of a mobile home valued at \$11,800, on which 21st Mortgage held a secured claim of \$28,054. The home was not permanently affixed and was therefore personal property. 21st Mortgage filed a proof of claim for \$27,221.04. Edwards proposed to bifurcate 21st Mortgage's claim by paying \$8,000 at 6% interest, with the remaining \$19,221.04 to be treated as unsecured.

According to the Court, Edwards testified credibly as to the Home's condition. No appliances were included in the initial purchase. The Home experienced significant flooding and its roof leaked. In addition, other interior components were in disrepair and over \$8,000 of repairs were required.

Edwards's expert was James Smith, who had experience in appraising and auctioning manufactured homes. He

was also a licensed broker and served as a County Commissioner, regularly revaluing manufactured homes for tax purposes.

Smith physically inspected the Home. He explained that the roof's replacement was a "necessary repair," and that the Home needed additional repairs. Smith provided an appraised value of \$17,200, explaining that he consulted various workbooks and guides to determine a baseline value, then adjusted the value to reflect the current condition and the amounts required to complete the required repairs.

21st Mortgage's expert was Robert A. Keck, who had served as a quality assurance manager for Clayton Homes. Keck also owned R. Keck Enterprises, LLC and appraised manufactured homes for lenders, conducted inspections for HUD, and refurbished manufactured homes.

Keck inspected the Home and employed the National Appraisal System in evaluating the home's "as-is value." The first step was to establish a base value pursuant to the NADA Guide. Next, he adjusted that figure for the home's geographic location, then for the home's condition.

Keck's baseline value was \$20,834.56, adjusted for the home's location in North Carolina by using a multiplier of 1.01. Keck then applied a "condition adjustment" to reflect a "good" condition. Keck deducted the cost to replace missing wheels, tires, a tow bar, and axles and added \$6,644 for additional components, \$2,100 for a foundation system, and \$1,653 for accessories. Keck's appraised value was \$31,900.

The court noted that 21st Mortgage's security interest did not attach to the stove, refrigerator, washer, dryer, and air conditioning unit. Also, certain items were not accessions and were excluded.

The court noted that Keck only performs appraisals for lenders and exclusively testifies on behalf of creditors.

The court took his potential bias into consideration. The court found Smith's written appraisal was conclusory and lacked detail.

The court accepted Keck's baseline NADA value, but found that the home's condition was between "good" and "fair." As a result, the court applied a condition adjustment to the baseline NADA value.

The court concluded that a deduction of a total of \$5,500 was required to account for all required, structural repairs, including the flooring damaged by water, broken window, and faulty doors.

The court found that the Home's value for plan confirmation purposes was \$20,714. Edwards was directed to file an amended plan to reflect this value.

CASE LAW

FDCPA – Foreclosure



CASE NAME: *Obduskey v. Wells Fargo*

DATE: *01/19/2018*

CITATION: *United States Court of Appeals, Tenth Circuit. --- F.3d ----. 2018 WL 477257*

Obduskey obtained a loan to buy a home. The loan was secured by his property and was serviced by Wells Fargo. Obduskey defaulted on the loan.

Wells Fargo hired McCarthy and Holthus, LLP to pursue a non-judicial foreclosure. McCarthy initially sent Obduskey a letter stating that McCarthy "MAY BE CONSIDERED A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT." Obduskey responded to the letter disputing the debt. Instead of replying to his letter, McCarthy initiated a foreclosure action. Obduskey filed suit claiming (1) a violation of the FDCPA; (2) a violation of the Colorado Consumer Protection Act; (3) defamation; (4) extreme and outrageous conduct—emotional distress; and (5) commencement of an unlawful collections action.

Regarding the FDCPA claim, the district court held that Wells Fargo was not liable because it began servicing the loan prior to default. It also held that McCarthy was not a “debt collector” because “foreclosure proceedings are not a collection of a debt,” but it noted that “not all courts have agreed” on whether foreclosure proceedings are under the FDCPA. To settle this confusion, the District Court of Appeals asked both parties to provide supplemental briefing on the issue.

The appeals court found that Wells Fargo was not a debt collector. Obduskey admitted that Wells Fargo began servicing the loan before he went into default and that it continued to do so after he defaulted.

The Court also found that McCarthy was not a debt collector for purposes of the FDCPA, because foreclosure activities are outside the scope of the FDCPA. According to the Court, a non-judicial foreclosure differs from a judicial foreclosure in that the sale does not preserve to the trustee the right to collect any deficiency in the loan amount personally against the mortgagor.

The Court further found that Obduskey's remaining claims warranted summary treatment.

Affirmed.

CASE LAW

FDCPA – Speedpay fees



CASE NAME: *Lindblom v. Santander Consumer USA Inc.*

DATE: 01/22/2018

CITATION: *United States District Court, E.D.*

California. Slip Copy. 2018 WL 500347

In March of 2005, Defendant Santander’s predecessor, Drive Financial, executed a “Speedpay” agreement with Western Union which allowed Santander to retain portions of fees paid by Santander customers using Western Union’s “Speedpay service.”

Plaintiffs signed a Retail Installment Contract to purchase a 2006 Jeep Liberty, which Plaintiffs financed with a loan serviced by Santander. At times, Plaintiffs made payments on the loan by phone or online using Western Union’s Speedpay service, paying a \$10.95 fee per transaction. Plaintiffs could have paid their loan without being charged a fee by sending a check through the mail. Plaintiffs knew they were not required to use Speedpay. While Plaintiffs were informed by Western Union of the fee when they used the Speedpay service, the Contract between Santander and Plaintiffs did not expressly mention or provide for a Speedpay fee.

After Plaintiffs’ car was repossessed in 2014, Plaintiffs filed a putative class action alleging, in part, that Defendant’s participation in the Speedpay fee-sharing agreement with Western Union, whereby Defendant retained a portion of the Speedpay fee, violated the California Rosenthal Fair Debt Collection Practices Act, which prohibits any entity covered by the Rosenthal Act from violating the FDCPA.

Defendant moved for summary judgment, arguing that: (1) Plaintiffs lack standing because they have suffered no injury; and (2) Plaintiffs expressly authorized the collection of Speedpay fees when they knowingly agreed to use the Speedpay service.

The Court found that Plaintiffs were injured by paying the unlawful fee numerous times.

Further, § 1692f(1) of the FDCPA forbids a debt collector from collecting “any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law.” However, the Court noted that under California Civil Code § 1698.3, a written contract can be modified by an oral agreement.

Defendant conceded that Contract was silent with respect to the Speedpay fee. The Court found that payment of the Speedpay fee did not alter the terms of

the Contract because there was no provision addressing the fee in the underlying Contract. Plaintiffs' oral agreement to pay Western Union did not alter or modify any part of the written Contract with Santander.

Moreover, even if the Court assumed that Plaintiffs fully executed an oral modification through their words or conduct—a finding that the Court did not make—the Court was not convinced that the oral modification could be consistent with statutory protections. Section 1692f(1) prohibits collection of fees “unless such amount is expressly authorized by the agreement creating the debt.” The phrase “expressly authorized by the agreement creating the debt” requires some actual knowledge or consent by the consumer during the course of the transaction which gives rise to the debt. Giving life to “oral modifications” based on subsequent acts—weeks, or even months later—is contrary to the plain language of the FDCPA that Plaintiffs must agree to the fee at the time the debt is created.

Santander's motion for summary judgment denied.

CASE LAW

Home Equity loan – Debt collection



CASE NAME: *Clark v. Deutsche Bank National Trust Company for Morgan Stanley ABS Capital I, Incorporated, Trust 2006-HE3*
DATE: 01/22/2018
CITATION: *United States Court of Appeals, Fifth Circuit. --- Fed.Appx. ----. 2018 WL 507292*

The Clarks executed a Texas Home Equity Note in 2006. Deutsche Bank National Trust Company was assigned the loan and Wells Fargo Bank, N.A. became the loan servicer. In 2011, the Clarks defaulted on their home equity loan. Throughout 2013, the Clarks attempted to modify their loan to help remedy the default. On December 13, 2013, the Clarks received what they described as a letter of eligibility for a Home Affordable Modification Program (HAMP) loan from Wells Fargo.

The Clarks immediately sent in the HAMP loan application with the requested documentation. One week later, the Clarks received a letter stating that they failed to qualify “because [Wells Fargo] is prohibited from adjusting the original terms of the mortgage due to state law restrictions as provided under Texas Constitution Art. 16, Sec. 50 (a)(6).” The Creditors then filed an Application for Home Equity Foreclosure Order on the Clarks' house, which was approved.

In response, the Clarks filed suit against the Creditors in state court, asserting claims for breach of contract and violations of the Texas Debt Collection Act (TDCA). The Creditors filed a motion to dismiss. The district court granted the motion in part, but allowed the Clarks to replead several of their claims, including the § 392.304(a)(19) TDCA claim under the Texas Finance Code. In their second amended complaint, the Clarks alleged that the Creditors “[u]se[d] false representations or deceptive means to collect a debt and obtain information concerning a consumer, violating § 392.304(a)(19) of the Texas Finance Code.” In particular, “[Creditors] deceptively instructed and encouraged [the Clarks] to apply for the HAMP loan modification” and “made affirmative statements about [the Clarks' loan] and a HAMP loan modification” even though this modification was not available to the Clarks.

The Creditors again moved to dismiss. The district court granted the Creditors' motion and dismissed all of the Clarks' claims with prejudice, in part because the complaint failed to allege that any violation of the TDCA resulted in damages. The Clarks filed a notice of appeal, challenging only the district court's dismissal of their § 392.304(a)(19) claim.

The appeals court found that none of the Creditors' alleged statements affirmatively represented that the Clarks qualified or would qualify for the loan modification program.

Furthermore, the Clarks failed to allege a cause of action because, communications in connection with the renegotiation of a loan do not concern the collection of a debt but, instead, relate to its modification and thus they do not state a claim under Section 392.304(a)(19).

Affirmed.

CASE LAW

Bankruptcy – Discharge injunction



CASE NAME: *In re Eppolito*

DATE: 01/23/2018

CITATION: *United States District Court, E.D. California. Slip Copy. 2018 WL 500347*

Narsiza Eppolito filed chapter 7 on July 5, 2012. CitiMortgage, Inc. represented the Debtor's largest creditor by virtue of two notes totaling \$352,464.00 that secured a mortgage on the Debtor's home. There were no assets available for distribution to creditors and the case was closed on October 11, 2012. The Court granted the Debtor a discharge, i.e. a release from personal liability on debts owed that existed prior to the bankruptcy filing date.

Four years after the bankruptcy case was closed, the Debtor and Citi engaged in loan modification discussions. Citi advised the Debtor of a proposed loan modification that would have reduced the Debtor's monthly mortgage and escrow payment, with a corresponding reduction in the interest rate. The proposed loan modification agreement would take a portion of the substantial arrearage and recapitalize it together with the unpaid principal balance (the debt that was discharged) to a new total unpaid principal amount of \$391,772.14. The modification agreement required the Debtor to execute a subordinate mortgage and subordinate note in the principal amount of \$102,551.13 in favor of HUD. The amount of \$102,551.13 represented 30% of the unpaid principal balance of the discharged loan.

The Debtor filed a Motion to Reopen her closed bankruptcy case to hold Citi in contempt for violating the discharge injunction, arguing that the proposed loan modification agreement was a veiled attempt to have the Debtor reaffirm a discharged debt.

According to the Court, while the primary loan documents contained limiting language concerning the Debtor's personal liability on the modified loan, the subordinate note and subordinate mortgage in favor of HUD did not. On the contrary, a HUD "partial claim defers the repayment of mortgage principal through an interest-free subordinate mortgage that is not due until the first mortgage is paid off." Simply delaying the Debtor's obligation to repay the deferred amount for thirty years is not the same as releasing the Debtor from any and all obligation to pay that debt. If Citi intended to release the Debtor from any and all personal liability on the modified loan and was not attempting to reaffirm a discharged debt, it could have easily included such language in the subordinate loan documents. Citi failed to do so even after the Debtor voiced such objections and concerns.

Citi's sole remedy to collect on the note was to foreclose on the property. Citi may not demand any payment or remuneration from the Debtor as to the note. Nonetheless, "a debtor may voluntarily pay any debt that has been discharged." The key language here is "voluntarily," and defining that word was at issue in this case. To the extent the \$102,551.13 subordinate note represented a portion of the discharged debt, and as Citi had actual knowledge of the Debtor's bankruptcy case and discharge, Citi was in contempt of the discharge injunction for requiring a reaffirmation of a discharged debt and for attempting to offset the same as part of a post-discharge loan modification.

Debtor's Motion granted.

INTRODUCED LEGISLATION

**Georgia
Servicing**



2017 GA H 780. Introduced 1/30/2018.

If enacted, this bill will amend Ga. Code Ann. § 7-1-1000(32), relating to definitions relative to mortgage lenders and mortgage brokers, by revising the definition of “service a mortgage loan.”

The definition currently provides that 'Service a mortgage loan' means the collection or remittance for another or the right to collect or remit for another of payments of principal, interest, trust items such as insurance and taxes, and any other payments pursuant to a mortgage loan.

The amended definition would delete the two instances of “for another,” so that the term would mean the collection or remittance or the right to collect or remit payments of principal, interest, trust items such as insurance and taxes, and any other payments pursuant to a mortgage loan.

INSTALLATION

ADOPTED RULE

**Maine
Inspections – Wind and roof load zones**



Effective 2/5/2018, this rule amends 02-385-890, -900 Me. Code R.

The changes to Ch. 890 are mandated by the United States Department of Housing and Urban Development, HUD. The major change is that the manufactured housing inspectors will do a preoccupancy inspection in 30% of new manufactured homes installed in Maine instead of in 20%.

Ch. 900 changes modify wind and roof load zones and remove these zones by county. Other changes in this chapter regulate crawlspace ventilation and modify the definitions to be easier to use and more accurate.

PROPOSED RULE

**West Virginia
Exemptions**



This rule amends W. Va. Code R. § 28-4-7, Exemption of Manufactured Housing Construction and Safety Standards Board Licensees For the Initial Installation of a HUD-Code Manufactured Home, to provide that West Virginia Manufactured Housing Construction and Safety Standards Board licensees are exempt from compliance with the Contractor Licensing Board's written contract requirements for the initial installation of a HUD-Code manufactured home.

Formerly, this section was entitled, Enforcement, and provided that the enforcement of the provisions of this rule shall be vested with the West Virginia Contractor Licensing Board and the Division of Labor. Provided however, that persons licensed by the West Virginia Manufactured Housing Construction and Safety Standards Board land regulated under the provisions of W. Va. Code § §21-9-1 et seq. and its applicable legislative rule [42 CSR 19], shall be required to adhere to the written contract requirements of that Board.

LENDING

REGULATOR BULLETIN

**Michigan
Regulatory Loan fees**



Department of Insurance and Financial Services. Bulletin 2018-01-CF. Issued 2/7/2018.

CPI-Adjusted Regulatory Loan Act Loan Processing Fee.

The Director has performed the required CPI review for the two-year period ending December 31, 2017. The adjusted loan processing fee for the next two-year period, beginning January 1, 2018 and ending December 31, 2019, remains at \$300.00.

LICENSING

ADOPTED RULE

Indiana

Dealers



Effective 1/13/2018, this rule amends 75 Ind. Admin. Code 6-1-2; 6-1-3; 6-1-4; 6-1-5; 6-1-6; 6-1-7; 6-1-8; 6-2-1; 6-2-2; 6-2-3; 6-2-4; 6-2-5; 6-2-7; 6-2-8; 6-2-10; 6-3-1; 6-3-2; 6-3-3; 6-3-4; 6-3-6; 6-3-7; and 6-3-8 and adds 75 Ind. Admin. Code 6-1-5.5; 6-2-1.5; 6-2-2.2; 6-2-3.1; 6-2-7.5; 6-3-9; 6-3-10; 6-3-11; 6-3-12; 6-3-13, concerning dealers, to add definitions and parameters for the dealer designee license plate; clarify requirements for the initial license application and for license renewal for all license types; add established place of business requirements for manufacturers, converter manufacturers, distributors, transfer dealers, automobile auctions, and automotive mobility dealers; clarify requirements for consignment sales; define the terms classic, collector, and antique motor vehicle; amend established place of business requirements for all license types; clarify restrictions on dealer license plates including manufacturer and transfer license plates; clarify rules regarding interim license plates; add rules for dealer promotional license plates; and amend the formula used to calculate license plate restrictions for manufacturers. The rule adds 75 Ind. Admin. Code 6-4 to allow the division to accept alternate identification for record requests. The rule repeals 75 Ind. Admin. Code 6-1-10; 6-1-11; 6-2-6; 6-2-9; 6-2-11; and 6-3-5.

The rule adds 75 Ind. Admin. Code 6-2-1.5, Initial license application, to provide that, in addition to the

requirements in IC 9-32, a person applying to be licensed as dealer must submit with the application a copy of a valid photographic identification card issued by a government agency to each individual listed on the application as an owner, partner, or officer, including the person signing the application, if different.

The name and address of the dealer as stated on all documents submitted with the application must match the name and address of the dealer as stated on the application. An exemption for this requirement may be given at the secretary of state's discretion so long as there are no concerns regarding the qualifications and eligibility of the applicant to receive the license or the ability of the applicant to conduct properly the business for which the application is submitted.

The rule adds 75 Ind. Admin. Code 6-2-2.2, Dealer license renewal, to provide that application for renewal of a dealer license must be on a form prescribed by the secretary and be accompanied by the following:

- (1) The applicable fee.
- (2) Proof of current bond as required by IC 9-32-11-2(e).
- (3) Proof of current liability insurance or current membership in a risk retention group under IC 9-32-11-14.
- (4) Proof that the dealer is in good standing with the bureau of motor vehicles, department of state revenue, or the state police department if requested by the secretary.

75 Ind. Admin. Code 6-2-5, Transfer dealer license requirements, has been amended to provide that the location and established place of business at which a transfer dealer is licensed or applying to be licensed must meet the following requirements:

- (1) Is located in Indiana and has an Indiana address that is not:
 - (A) an Indiana post office box address;

(B) a location that functions like a mailbox box facility; or
 (C) a location that only provides ministerial services by a contract employee.

(2) Is accessible by the public.

(3) Has a conspicuous permanent sign identifying the transfer dealer by the name in which the transfer dealer is licensed or applying to be licensed.

(4) Contains an office that meets the following requirements:

(A) Is at least one hundred (100) square feet in size.

(B) Is equipped with office furniture such as a desk, chairs, and filing cabinets.

(C) Is served with utilities including:

(i) electricity;

(ii) lighting;

(iii) heat;

(iv) operational plumbing; and

(v) a business telephone.

(D) Is reflective of functional use and operation of the license.

An exemption for the requirements in clauses (A) through (C) may be given at the secretary's discretion so long as there are no concerns regarding the qualifications and eligibility of the applicant to receive the license or the ability of the applicant to conduct properly the business for which the application is submitted.

(5) Has customer parking.

(6) Has adequate space to accommodate the display of vehicles of the kind and type that the transfer dealer is licensed to sell. An exemption for this requirement may be given at the secretary's discretion so long as there are no concerns regarding the qualifications and eligibility of the applicant to receive the license or the ability of the applicant to conduct properly the business for which the application is submitted.

(7) Is not at a retail complex location such as a strip office mall or garage, unless the location and established place of business meet the following requirements:

(A) A separate exterior entrance is maintained.

(B) A separate address is maintained.

(C) The business location is not part of or attached to a residential dwelling.

(D) Local zoning requirements are met.

(E) A distinct impression of separate businesses is given to the general public.

(F) Vehicles within the transfer dealer's inventory that are located in the transfer dealer's display space must be clearly marked with the name in which the transfer dealer is licensed.

(8) No other dealer is licensed at or operating from the same address or established place of business at which the transfer dealer is licensed or applying to be licensed.

(b) The transfer dealer must provide photographs of the transfer dealer's established place of business with the initial application for a transfer dealer license. These photographs must include, at a minimum, the:

(1) interior and exterior of the established place of business;

(2) advertising sign required by this section; and

(3) office.

Printed photographs must not be less than three (3) inches by five (5) inches in size. The photographs must be updated if the transfer dealer moves or if its physical facilities are substantially altered or modified. Digital photographs must be unaltered and verifiable.

(c) A person applying to be licensed as a transfer dealer shall submit with the initial application for a transfer dealer license a statement delineating the type and extent of the person's business.

MISSOURI

ADOPTED RULES

Effective 3/30/2018



In the August 2017 issue of the McGlinchey Stafford Manufactured Housing Law Update, we reported on several proposed rules in Missouri affecting manufactured housing.

Those rules have now been adopted, most with changes from the versions originally proposed, in response to comments from representatives of the industry.

The rules affect manufacturer, dealer and installer licensing and compliance, as well as installation standards and inspections. In addition, many of the amendments are to replace references to the director of the Public Service Commission with references to the manager of the Public Service Commission's Manufactured Housing and Modular Units Program.

In light of the many changes to the proposed rules, we are presenting the amendments to the portions of the relevant rules, as adopted. [Existing text is bracketed.]

Mo. Code Regs. Ann. tit. 4, § 240-120.031 has been adopted as proposed without changes and 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, Mo. Rev. Stat; and

(F) Consumer complaint handling and remedial actions up to and including the dispute resolution process of section 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 those rules not specifically delegated.

Mo. Code Regs. Ann. tit. 4, § 240-120.060, Inspections.

(1) The books, records, inventory, and premises of manufacturers and dealers of new manufactured homes, from time-to-time during normal business hours, 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.

(2) 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 (5) years.

Mo. Code Regs. Ann. tit. 4, § 240-120.065, Manufactured Home Dealer Setup Responsibilities.

(1) Manufactured Home Dealer Setup.

(A) A dealer who sells a new manufactured home shall arrange for the proper initial setup of the manufactured home unless the dealer obtains from the purchaser or the purchaser's authorized agent a written waiver of that service as described in Mo. Rev. Stat. § 700.100.3(6).

(B) As used in this rule, "proper initial setup" means installation and setup of the home in accordance with the installation manual provided by the manufacturer of the home and in complete compliance with 24 CFR section 3285 and with all of the provisions regarding setup in Mo. Rev. Stat. §§ 700.010 to 700.115.

(C) 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, under subsections (2)(B) or (2)(C) of this rule, of set up deficiencies.

(D) The manager, in consultation with the commission staff director, after attempting to contact the entity involved and documenting consideration of potential mitigating factors, including, but not limited to, the number of similar non-compliance issues, circumstances beyond the entity's control, and the entity's responsiveness to commission requirements, may assess a two hundred dollar (\$200) inspection fee to dealers that fail to hire commission licensed installers to set up a home. The manager will track fees assessed or waived under this provision, along with any documented consideration of mitigating factors, and compile a quarterly report summarizing such information for review by the commission.

(2) Manufactured Home Inspections.

(A) 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 (5) 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 (5) 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.

1. The manager, in consultation with the commission staff director, after attempting to contact the entity involved and documenting consideration of potential mitigating factors, including, but not limited to, the number of similar non-compliance issues, circumstances beyond the entity's control, and the entity's responsiveness to commission requirements, may assess a fifty dollar (\$50) per home inspection fee to dealers who fail to submit the property locator within five (5) business days from the due date. The manager will track fees assessed or waived under this provision, along with any documented consideration of mitigating factors, and compile a quarterly report summarizing such information for review by the commission.

2. 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 (2) property locator home inspection fees against the dealer within the previous twelve (12) months of the due date of the property locator at issue.

(B) The manager will have a period of no more than one (1) year from the delivery date of the home to the consumer to conduct the initial inspection of the home setup.

(C) Within two (2) years of the delivery date of the home to the consumer, if no initial inspection was performed pursuant to subsection (2)(B) of this rule, the manager may conduct an inspection of the home for code

violations upon the receipt of a formal written complaint by the consumer.

(D) 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 (10) 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 transmitted to the manufacturer, installer, or dealer, or each responsible entity, within ten (10) days from the date of the inspection.

(E) Should an initial inspection identify no code violations, or any re-inspection verify that 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 (20) 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.

(F) 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.

(3) Manufacturers shall mail or deliver to the manager by the tenth day of each month a report that identifies, by make, model, and serial number, the new manufactured homes to which certification labels have been affixed since the previous report. Such report shall also include the certification label number for each such manufactured home.

Mo. Code Regs. Ann. tit. 4, § 240-120.070, Manufacturers and Dealers Reports.

The proposed rule would have amended subsection (2): Manufacturers shall mail or deliver to the manager by the tenth day of each month a report which identifies the new manufactured homes by make, model, and serial number to which certification labels have been affixed since the previous report and the certification label number for each such manufactured home.

The adopted rule deletes this subsection.

Mo. Code Regs. Ann. tit. 4, § 240-120.085, Re-Inspection and Re-inspection Fee.

(1) Re-inspections subsequent to routine inspections of new manufactured homes.

(A) 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.

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

(C) The manager, in consultation with the commission staff director, after attempting to contact the entity involved and documenting consideration of potential mitigating factors, including, but not limited to, the number of similar non-compliance issues, circumstances beyond the entity's control, and the entity's responsiveness to commission requirements, may assess re-inspection fee(s) of two hundred dollars (\$200) 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. The manager will track fees assessed or waived under this provision, along with any documented consideration of mitigating factors, and compile a quarterly report summarizing such information for review by the commission.

(2) Re-inspections subsequent to a consumer complaint.

(A) 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 (60) days of the initial inspection.

(B) The manager, in consultation with the commission staff director, after attempting to contact the entity involved and documenting consideration of potential mitigating factors, including, but not limited to, the number of similar non-compliance issues, circumstances beyond the entity's control, and the entity's responsiveness to commission requirements, may 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 (60) days of receipt of a consumer complaint. The fee shall 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 (60) days of the initial inspection. The manager will track fees assessed or waived under this provision, along with any documented consideration of mitigating factors, and compile a quarterly report summarizing such information for review by the commission.

(3) The re-inspection shall address all violations listed in the initial inspection report. A copy of the re-inspection report shall be forwarded to the manufacturer, installer, or dealer, or each responsible entity, and the consumer, if applicable, within ten (10) days from the date of the re-inspection, for corrective action as well as an invoice for the re-inspection fee, if applicable.

(4) The assessed fee shall be paid to the commission within twenty (20) working days from the date the re-inspection is completed. Each manufacturer, installer, and dealer shall submit, along with the fee, a written plan of action to be taken by each to correct any

remaining violations identified and, unless otherwise approved by the manager, corrections shall be completed within thirty (30) days of the re-inspection.

(5) The fee for all inspections requested by third parties is four hundred dollars (\$400), except the fee for third party inspection requests for the purpose of serial number verification is two hundred dollars (\$200). Requests for inspections by third parties must be submitted in writing to the manufactured housing and modular units program along with the associated inspection fee. Licensed manufacturers or dealers are not considered third parties.

(6) If the manufacturer, installer, or dealer has not paid the re-inspection fee within thirty (30) days of the prescribed date, the manager may file a complaint and the commission may suspend the manufacturer, installer, or dealer certificate or registration.

(7) The following situations constitute grounds for the denial, revocation, or placing on probation of a manufacturer, installer, or dealer certificate of registration:

(A) Failure to pay a re-inspection fee by the prescribed due date for two (2) consecutive months; or

(B) Failure to pay a re-inspection fee by the prescribed due date for any four (4) of the preceding twelve (12) months.

(8) The following situations shall constitute grounds for the denial, revocation, or placing on probation of a manufacturer, installer, or dealer certificate of registration:

(A) Failure to pay a re-inspection fee by the prescribed due date for two (2) consecutive months; or

(B) Failure to pay a re-inspection fee by the prescribed due date for any four (4) of the preceding twelve (12) months.

(9) 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.

Mo. Code Regs. Ann. tit. 4, § 240-120.090, Inspection and Approval of Alterations.

(1) 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.

(2) Manager approval of alterations shall be requested by a written application executed on a commission approved form available on the commission's website at www.psc.mo.gov, or from 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:

[(A) The name and address of the manufacturer of the new manufactured home to which the alteration has been made;]

(B) The make, model, and serial number of the new manufactured home to which the alteration has been made;

[(C) A description of the alteration; and]

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

(3) Within fifteen (15) 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.

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(4) Written approval of an alteration or a written rejection or an application for the approval shall be issued by the manager within fifteen (15) 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.

Mo. Code Regs. Ann. tit. 4, § 240-120.100 Code.

(1) The federal standards as incorporated by reference in 24 CFR sections 3280, 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 this state.

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

Mo. Code Regs. Ann. tit. 4, § 240-120.110, Complaints and Review of Manager Action(s).

(1) Any person aggrieved by a violation of this chapter or Chapter 700, Mo. Rev. Stat., as it relates to new manufactured homes 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.

(2) Any person aggrieved by the manager's decisions, directives, and interpretations of 24 CFR 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 shall be denominated as the respondent.

Mo. Code Regs. Ann. tit. 4, § 240-120.120, Criteria for Good Moral Character for Registration of Manufactured Home Dealers.

(1) The manager will file a request for review of the moral character of an applicant for registration as a manufactured home dealer if –

[(A) The applicant, within the ten (10) 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 (5) 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.

(2) For the purposes of this rule, the applicants who must show good moral character include all partners of the dealership if the dealership is a partnership; all officers of the dealership if the dealership is a corporation; or all owners of the dealership if the dealership is neither a partnership nor a corporation.]

(3) If the commission finds an applicant lacks good moral character as outlined in subsection (1)(A) or (1)(B) of this rule, the commission may deny the application for registration.

Mo. Code Regs. Ann. tit. 4, § 240-120.130, Monthly Report Requirement for Registered Manufactured Home Dealers.

(1) Each person registered as a manufactured home dealer shall file a monthly sales report with the manufactured housing and modular unit program no later than the tenth of the month following the month when the sales were made.

(2) Manufactured home dealers may only use the commission's form for monthly sales reports. This form may be obtained from the Missouri Public Service Commission, PO Box 360, Jefferson City, MO 65102, or at the website <http://psc.mo.gov>.

(3) A report must be filed for each month or part of a month for which the person is a registered manufactured home dealer. If no sales are made in a given month, the dealer must file the usual form no later than the tenth of the following month stating no sales were made.

(4) The report must be signed by an officer of the dealership if the dealership is a corporation; by a partner of the dealership if the dealership is a partnership; or by an owner of the dealership if the dealership is neither corporation nor a partnership.

(5) The manager may reject monthly sales reports that are incomplete and require dealer's to submit corrected reports.

(6) The manager, in consultation with the commission staff director, after attempting to contact the entity and documenting consideration of potential mitigating factors, including, but not limited to, the number of similar non-compliance issues, circumstances beyond the entity's control, and the entity's responsiveness to commission requirements, may assess a late submission fee of fifty dollars (\$50) against a manufactured home dealer for each monthly sales report filed sixty (60) days after the due date. The manager will track fees assessed or waived under this provision, along with any documented consideration, and compile a quarterly report summarizing such information for review by the commission.

(7) The commission may suspend the dealer's registration for any report not submitted within sixty (60) days of the due date.

(8) Failure to submit a completed monthly report within ninety (90) 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.

(9) The commission may suspend the dealer's registration for any report not submitted within sixty (60) days of the due date.

(10) Failure to submit a completed monthly report within ninety (90) 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.

Mo. Code Regs. Ann. tit. 4, § 240-120.140, New Manufactured Home Manufacturer's Inspection Fee.

[(1) The commission establishes an inspection fee to be assessed on all new manufactured homes delivered or sold to dealers in the state of Missouri which shall be paid by the manufacturer of each home. Said inspection fee shall be thirty dollars (\$30) for each home each manufacturer delivers or sells to a dealer in the state of Missouri.]

(2) Manufacturers of new manufactured homes shall remit to the manager on a monthly basis an amount that equals the number of new manufactured homes delivered or sold to dealers in the state of Missouri, multiplied by thirty dollars (\$30). Each manufacturer shall submit said fee with any monthly delivery reports, or other filing, or documentation as may be required by the commission. Said fee shall be received no later than the twentieth day following the month in which new manufactured homes were delivered or sold to dealers in the state of Missouri.

(3) The commission may suspend the manufacturer's certificate of registration for failure to pay the inspection fee within thirty (30) days of the prescribed due date.

(4) The following situations constitute grounds for the denial, revocation, or placing on probation of a manufacturer's certificate of registration:

(A) Failure to pay the inspection fee by the prescribed due date for two (2) consecutive months; or

(B) Failure to pay the inspection fee by the prescribed due date for any four (4) of the preceding twelve (12) months.

(5) The manager shall submit to the commission any written request for a waiver of fees identified in this

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section, and the commission may grant such a waiver for good cause shown.

(6) The manager shall deliver copies of the commission's order establishing the new manufactured home manufacturer's inspection fee to all existing registered manufacturers. The manager shall also deliver a copy of the commission's order establishing the fee with each approved certificate of manufacturer registration.

Staff and the industry representatives testified at the hearing that Mo. Code Regs. Ann. tit. 4, § 240-121 was a potentially unnecessary chapter of regulations because it pertained to pre-owned manufactured homes, which cannot practically be brought up to code by the manufactured housing industry. Therefore, staff and the industry representative recommended that this chapter of rules be rescinded.

The commission agreed with staff and the industry representatives. However, because this chapter cannot be rescinded without going through the proper statutory and administrative processes, the commission will withdraw these proposed amendments and begin a new rulemaking to consider the rescission of this chapter of regulations.

Mo. Code Regs. Ann. tit. 4, § 240-124.020, Administration and Enforcement.

(1) 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:

(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.

Mo. Code Regs. Ann. tit. 4, § 240-124.040, Commission Approval of Manufactured Home Tie-Down Systems.

(1) 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 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.

(2) Applications for an approval shall be submitted to the manager and shall be executed by the owner or seller of the system on forms that shall be provided by the manager upon request. To be complete, the applications shall include:

[(A) The name and address of the applicant;

(B) The name and address of all places of business which will be authorized by the applicant to sell or offer for sale, or install or offer to install the system for which the approval is sought;]

(C) The name and address of the manufacturer of the system for which the approval is sought;

[(D) The name and address of the manufacturer of the system for which the approval is sought;

(E) A copy of the plans and specifications of the system for which the approval is sought.

1. 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.]

Mo. Code Regs. Ann. tit. 4, § 240-124.045, Anchoring Standards is withdrawn.

Staff commented that originally, amendments were proposed to remove definitions and change the title of the person responsible for the program. However, upon further review of the rules in conjunction with Executive Order 17-03, staff recommends that this rule be rescinded in its entirety because it simply restates federal requirements.

The commission agrees with staff. However, because this chapter cannot be rescinded without going through the proper statutory and administrative processes, the commission will withdraw this proposed amendment and begin a new rulemaking to consider the rescission of this rule.

Mo. Code Regs. Ann. tit. 4, § 240-124.060, Complaints, has been adopted as proposed without changes and provides:

(1) Any person aggrieved by a violation of this chapter or Chapter 700, Mo. Rev. Stat., as it relates to manufactured home tie-down systems and the manufacturer of those systems may file a formal or informal complaint under 4 CSR 240-2.070.

(2) Any person aggrieved by the manager's decisions, directives and interpretations of the standards, this chapter, or Chapter 700, Mo. Rev. Stat. as they relate to manufactured home tie-down systems may file a written formal or informal complaint under Mo. Code Regs. tit. 4, § 240-2.070.

In such a complaint, the manager shall be denominated as the respondent.

Mo. Code Regs. Ann. tit. 4, § 240-125.040, Manufactured Home Installer License.

(1) Requirements for an Installer License.

(A) To be licensed as a manufactured home installer, an applicant shall meet all of the requirements of Mo. Rev.

Stat. §§ 700.650 to 700.692, and submit to the manufactured housing and modular units program:

1. An application form and one hundred fifty dollar (\$150) application fee;
2. The certificate issued by the educational provider; and
3. Proof of liability and workman's compensation insurance coverage as required pursuant to Mo. Rev. Stat. § 700.659.

(B) The manager may waive the training and examination requirements for applicants who have obtained an installer license in another state, the District of Columbia, or territories of the United States pursuant to Mo. Rev. Stat. § 700.662, if all the documentation is submitted with the license application and the application fee is paid. The certification must be current, must meet or exceed the requirements in Mo. Rev. Stat. §§ 700.650 to 700.680, and must cover all or a portion of the same time frame as the Missouri renewal period.

(C) A manufactured home installer must attend certification classes every three (3) years or as otherwise required by the manager.

(2) Installer Responsibilities and Limits.

[(A) Work covered by an installer licensee shall include but not be limited to the following:

1. Installing manufactured home under-floor vapor retarder as required by the manufacturer's installation manual for proper ventilation and access;
2. Installing the support, tie-down, anchoring, and the structural connections and roof installation for manufactured homes;
3. Providing plumbing and electrical utility connections unless they are regulated by local jurisdictions;
4. Providing plumbing, electrical, and mechanical cross-over, appliance and fixture connections of and to the manufactured home, as permitted by these requirements;

5. Assuring that all appliance exhaust ducts are roughed in and terminations are complete when required;

6. Closing and securing all access panels and covers on or under the manufactured home;

7. Assuring all doors and windows are adjusted, secured in place, and operational;

8. Assuring all shipped loose flue vents and chimneys are installed, secured in place, and capped according to the manufacturer's installation manual; and

9. Where the installer also installs the skirting, complying with skirting requirements to ensure proper ventilation.]

(B) An installer licensee shall also be responsible for

1. Affixing the installation decal to each manufactured home;
2. Completing all reporting and application forms required by the program;
3. Leaving the manufacturer's installation manual at the installation site;
4. Assuring that all portions of the manufactured home installation are in compliance with the manufacturer's installation manual; and
5. Correcting all applicable nonconformances within thirty (30) days of receipt of a correction notice from the manager.

(3) Primary Installer Responsibilities in addition to (2)(A) and (B) above:

(A) Each primary installer shall be responsible for ensuring the site and foundation are correct before setting the home on the site or foundation. If the home is not correctly set on the site or foundation, the primary installer shall be responsible for making corrections to the site or foundation, pursuant to Mo. Rev. Stat. §§ 700.010(5) and (15), and Mo. Code Regs. Ann. tit. 4, §§ 240-125.010(12) and (13); and

(B) Primary installers who install new manufactured homes in Missouri from dealers, manufacturers, or other

entities located in other states shall submit a property locator form provided by the manufactured housing and modular units program prior to placing the manufactured home on the site. Failure to submit the property locator to the manufactured housing and modular units program prior to placing the manufactured home on the site may subject the installer to the fifty dollar (\$50) inspection fee as defined in Mo. Code Regs. Ann. tit. 4, § 240-120.065(4)(D).

Mo. Code Regs. Ann. tit. 4, § 240-125.050, Limited Use Installer License

(1) To be licensed as a manufactured home limited use installer, an applicant shall submit to the manufactured housing and modular units program a completed application, signed and dated by the applicant, together with the required one hundred fifty dollar (\$150) 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.

(2) A limited use installer license shall be valid for a period of one hundred eighty (180) days and may be renewed one (1) time.

(3) If needed, the commission may contact any person or entity to verify the experience of an applicant.

Mo. Code Regs. Ann. tit. 4, § 240-125.060, Licensing.

(1) Issuance and Possession of License.

[(A) A manufactured home installer license or a limited use installer license shall be issued to the person named on the application and shall not be transferable.]

(B) The licensee shall notify the manufactured housing and modular units program in writing within thirty (30) days of any address change.

(2) License Renewal.

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[(A) Licenses issued under this program shall expire on June 30 of each year.]

(B) Forty-five (45) days prior to license expiration the manufactured housing and modular units program shall mail each licensee a license renewal application.

(C) An application for renewal of a current license shall include evidence that the applicant has completed a minimum of eight (8) hours of commission-approved continuing education and shall be accompanied by the required renewal fee, which shall be the same amount as the application fee established in Mo. Code Regs. Ann. tit. 4, § 240-125.040. Each installer must attend an approved installer certification renewal class every three (3) years or as otherwise required by the manager or the act.

(D) A license renewal application must be submitted to the manufactured housing and modular units program prior to the expiration date of the license. Persons wishing to apply for a license after their license has expired must reapply for a new license and meet all requirements of a new applicant. The manufactured housing and modular units program shall not be responsible for notification if the licensee has changed addresses without notifying the manufactured housing and modular units program within thirty (30) days of the address change.

(3) License Suspension and Revocation.

(A) The manager may give the licensed installer twenty (20) days from the date of written notice before filing a formal complaint with the commission for failure to comply with any of the provisions under Chapter 700, Mo. Rev. Stat., the rules promulgated thereunder, or the act or the code(s) as adopted under this chapter.

(B) The commission may suspend an installer license for up to thirty (30) 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 (30) days, the manager may file,

with the commission, a complaint against the installer for failure to comply with a commission rule.

Mo. Code Regs. Ann. tit. 4, § 240-125.070, Installation Decals.

(1) Requirements for Installation Decals.

(A) An installation decal issued by the manufactured housing and modular units program shall be a permanent stick-on decal to be attached to the exterior of the home and shall also include a sign-off portion of the decal, which must be attached next to the data plate inside the home with the initials and license number of each installer involved with the initial setup and installation of the home.

(B) The primary installer who is responsible for the initial setup and installation of the manufactured home which includes site preparation and foundation and any portion of the blocking, leveling, or roof installation is responsible for affixing the installation decal and the sign-off portion of the decal to the manufactured home upon completion of blocking, leveling, or roof installation.

[(C) A decal shall be affixed to the manufactured home in a permanent manner in a visible location within two feet (2') of the Housing and Urban Development (HUD) label.]

(D) Decals may be purchased by licensed installers by submitting an application to the manufactured housing and modular units program, in duplicate together with the appropriate twenty-seven dollars (\$27) for each decal.

(E) Only licensed installers may be issued installation decals by the manufactured housing and modular units program and decals shall be affixed only by licensed installers upon completion of the blocking and leveling.

(F) The licensed installer purchasing decals from the manufactured housing and modular units program shall be responsible for decal security, use, and reporting.

(G) Decals assigned to licensed installers may only be transferred by the manufactured housing and modular units program.

(H) If an installer license is suspended, revoked, or expires, or the installer is no longer in business, all unused decals issued to that person shall be returned to the manufactured housing and modular units program. The decal fee may be refunded by the manufactured housing and modular units program, if a refund application is completed by the applicant as provided by the manufactured housing and modular units program.

(I) Primary installers who fail to attach the installation decal and/or the sign-off portion of the decal to the home immediately after the completion of the blocking and leveling of the home shall be subject to a two hundred dollar (\$200) inspection fee. The fee shall be paid and submitted to the manufactured housing and modular units program within ten (10) days after notification by the manager.

(2) The manager may deny any request for decals when:

[(A) An inspection reveals that a manufactured home or tie-down installation is not installed according to the manufacturer's installation manual or setup standards and no corrective action, or insufficient corrective action is taken by the installer as required by this program;

(B) An installer's license has expired, or has been suspended or revoked, or there is evidence of failure to comply with the requirements described in the program; and

(C) The applicant has failed to file the monthly installation decal report.]

(3) Monthly Installation Decal Report.

(A) A licensed installer who has purchased installation decals directly from the manufactured housing and modular units program shall submit a monthly report with the manufactured housing and modular units program no later than the tenth of the month following the month when the decals were placed.

(B) The report shall be filed on the Installation Decal Report Form provided by the manufactured housing and modular units program. The forms may be obtained from the Missouri Public Service Commission, PO Box 360, Jefferson City, MO 65102 or online at www.psc.mo.gov.

(C) A report shall be filed for each month or part of the month for which the installer is licensed. If no decals are placed or installed in a given month, the installer shall file the usual form no later than the tenth of the following month.

(D) The licensed installer or a representative of the licensed installer shall sign the report.

(E) The licensed installer shall maintain a copy of this report for his/her records.

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

(G) The manager, in consultation with the commission staff director, after attempting to contact the entity involved and documenting consideration of potential mitigating factors, including, but not limited to, the number of similar non-compliance issues, circumstances beyond the installer's control, and the installer's responsiveness to commission requirements, may assess a late submission fee of fifty dollars (\$50) per report for each report that is filed sixty (60) days after the due date. The manager will track fees assessed or waived under this provision, along with any documented consideration of mitigating factors, and compile a quarterly report summarizing such information for review by the commission.

(H) The commission may suspend the installer's license for any report not submitted within sixty (60) days of the due date.

(I) Failure to submit a completed monthly report within ninety (90) days of the due date or failure to pay any required fees could result in revocation of the installer's license.

(4) 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.

Mo. Code Regs. Ann. tit. 4, § 240-125.090, Dispute Resolution.

(1) After completion of an initial inspection of a manufactured home, a dispute resolution process may be initiated in order to resolve disputes between the manufacturer, the dealer, and the installer of the home. This process may be initiated at the request of the manager, or upon a manufacturer, dealer, or installer having submitted to the manager a written request within fourteen (14) days after receipt of the manager's initial inspection report.

(2) All dispute resolutions shall be conducted at the site of the manufactured home, unless determined by the manager to be unreasonable or impracticable to do so. Upon the decision to initiate the dispute resolution process or upon receipt of a written request to do so, the manager shall notify in writing all parties of the time and place of the dispute resolution. In attempting to schedule the dispute resolution, the manager shall make a good faith effort to consider the input of the parties. The homeowner shall have the right to attend the dispute resolution, to provide input at the request of the manager, and to be informed of the outcome.

(3) The manufacturer, dealer, and installer shall be required to attend the dispute resolution at the time and place determined by the manager. Any party who fails to attend the dispute resolution shall be deemed to have waived its right to provide input in the process.

(4) Each inspection item in dispute shall be discussed at the dispute resolution. All parties shall be given the opportunity to present their position in respect to disputed items. The parties shall also discuss with the manager a timeline for completion of any disputed items and work to reach an agreement thereon.

(5) Within ten (10) days of the dispute resolution, the manager shall send to the parties a final inspection report that identifies which party has been determined by the manager to be responsible for repairing the items originally in dispute. This final inspection report shall also include a date by which the required repairs shall be completed.

(6) Reasonable extensions to the required completion dates may be granted by the manager under circumstances including, but not limited to, impracticability due to weather or the ability of a party to obtain engineering or permit approvals.

(7) If the repairs are not completed by the original or duly-extended deadline, the manager, after consultation with the commission staff director, may file a formal complaint with the commission.

(8) 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.

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

(1) The following definitions apply to Chapter 120, Chapter 121, Chapter 123, Chapter 124, Chapter 125, and Chapter 126:

(A) Advisory committee is the committee created to assist the commission with the evaluation of all claims filed by consumers;

(B) Agent means a person who has received the power to act on behalf of another or entity;

(C) Anchor means any device designed to transfer wind loads imposed on a manufactured home to the ground;

(D) Anchoring equipment means straps, seals, cables, and tensioning devices, which are used to secure a manufactured home to anchors;

(E) Anchoring standards means the manufactured home tie-down systems standards adopted by the commission under section 700.076, RSMo;

(F) Anchoring system means a combination of ties, anchoring equipment, and anchors that will, when properly designed and installed, resist overturning and lateral movement of the manufactured home from wind forces;

(G) Approved insignia means a label or tag issued by authority of 42 U.S.C. § 5414 under the Federal Manufactured Home Procedural and Enforcement Regulations or an insignia issued by a state with which this state has entered into a reciprocity agreement under Mo. Rev. Stat. § 700.030;

(H) Authorized representative means any person, firm or corporation, or employee thereof, approved or hired by the commission to perform inspection services;

(I) Authorized testing agency means a commission approved testing agency who certified the tie-down system test;

(J) Certification label or label means the approved form of certification that, under 24 CFR 3282.362(c)(2)(i), is permanently affixed to each transportable section of each manufactured home manufactured for sale in the United States;

(K) Certified new manufactured home means a new manufactured home to which a certification label has been affixed;

(L) Claim form is the form developed and provided by the commission and which is used for reimbursement from the Manufactured Housing Recovery Fund;

(M) Classified soil means soil that has been evaluated through the use of a standard soil torque probe or other approved method to determine anchor-holding capacity;

(N) 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 3280 of the Manufactured Home Construction and Safety Standards, and 24 CFR 3282 of the Manufactured Home Procedural and Enforcement Regulations, and 24 CFR 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;

(O) Commission is the Missouri Public Service Commission;

(P) Consumer is any individual who has purchased from a Missouri registered manufacturer or dealer any "home" as that term is defined in this rule;

(Q) Continuing education means that installers will be required to attend certification classes every three (3) years, or as otherwise required by the commission;

(R) Dealer is any person, other than a manufacturer, who sells or offers for sale four (4) or more used manufactured homes or one (1) or more new manufactured homes or modular units in any consecutive twelve- (12-) month period or as otherwise defined in Mo. Rev. Stat. § 700.010;

(S) Detailed plan means a detailed set of plans and specifications of each modular unit and manufacturer supplied component produced by a manufacturer;

(T) Educational program means a manufactured housing installation training program approved by the manager;

(U) Educational provider is any person or legal entity authorized by the commission to provide manufactured housing installation training, instruction, and certification pursuant to a training program approved by the commission;

(V) HUD means the United States Department of Housing and Urban Development;

(W) HUD regulations means the rules promulgated by the secretary of HUD under Section 625 of 42 U.S.C. § 5424;

(X) 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;

(Y) 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;

(Z) 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;

(AA) 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;

(BB) Installer license is a manufactured housing installer license or license renewal issued by the manufactured housing and modular units program, issued for a one- (1) year period;

(CC) License renewal is the renewal of manufactured housing installer licenses due annually by July 1;

(DD) 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 (180) days and is limited to one (1) renewal;

(EE) 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;

(FF) Manufactured home as defined by Mo. Rev. Stat. § 700.010 means a structure, transportable in one (1) or

more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code. The term includes units which are in two (2) or more separately towable components designed to be joined into one (1) integral unit capable of being again separated into the components and also includes two (2) manufactured home units joined into a single residential or business unit which are kept on a separate chassis for repeated towing. Manufactured home shall not include a recreational vehicle;

(GG) 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;

(HH) Manufactured Housing Consumer Recovery Fund or Recovery Fund means the fund established for the purpose of paying unsatisfied claims as approved by the commission under the procedures established by this chapter, administered by the commission, and used solely as prescribed in this chapter and pursuant to Mo. Rev. Stat. § 700.041;

(II) 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;

(JJ) Manufacturer's installation manual shall be the installation manual and any changes or addendums as

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provided by the home manufacturer for the installation of manufactured home, modular unit, tie-down system, or any component part, including, but not limited to, the supporting, fastening, bolting of the floors, roof section(s), end walls, fastening down to foundation, electrical connections, water crossovers, and any other such operation that will be needed to properly set up a manufactured home or modular unit;

(KK) Manufacturing program is an organization capable of manufacturing modular units which is comprised of at least a quality control manual and detailed plans for each type of modular unit to be manufactured under a program approved in writing by the manager as conforming to the requirements of this chapter, the code, and Chapter 700, Mo. Rev. Stat. as it relates to modular units;

(LL) Modular unit means a factory fabricated transportable building section designed to be used by itself or to be incorporated with other sections at a building site into single modular structures to be used for residential, commercial, educational, or industrial purposes. For purposes of this chapter, modular unit only means a unit(s) making up a completed modular structure. Separate modular sections are not modular units until assembled into a single modular unit. A manufactured modular unit may be moved as more than one (1) unit, but shall not consist of panels, nor individual pieces to be assembled on the permanent foundation or be more than those necessary pieces needed to complete final setup. This definition shall not apply to structures under six hundred fifty (650) square feet used temporarily and exclusively for construction site office purposes;

(MM) Notice of completion is a notice issued by the manager to a manufacturer, installer, or dealer, or each responsible entity, that the inspectors have completed setup inspections. A notice of completion shall not preclude inspections conducted pursuant to a consumer complaint;

(NN) Person is an individual, partnership, corporation, or other legal entity;

(OO) Pre-owned manufactured home means a manufactured home that has been sold at retail or rented, leased, or occupied either as a dwelling or a place of business;

(PP) 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 signoff portion of the decal on the home;

(QQ) Purchase agreement or bill of sale means a writing reflecting the terms of transfer of property between a dealer and the purchaser;

(RR) Registration means the application submitted to the manufactured housing and modular units program and payment of the registration and renewal fee as established in Mo. Rev. Stat. § 700.09;

(SS) State administrative agency means an agency of a state which has been approved or conditionally approved to carry out a state plan for enforcement of the federal standards under Section 623 of the Act (42 U.S.C. § 5422);

(TT) State plan means the procedure by which a state administrative agency proposes to cooperate with the secretary of HUD in the administration and enforcement of the federal standards;

(UU) State plan application means the application of a state agency to be approved by the secretary of HUD as a state administrative agency;

(VV) Tie means straps, cable, or securing devices used to connect the manufactured home to the anchor;

(WW) Unclassified soil means soils that have not been evaluated to determine anchor-holding capacity; and

(XX) Unsatisfied claim is any claim for the actual cost of damages or repairs arising from a violation of Chapter 700, Mo. Rev. Stat., the commission's rules, or the standards in 24 CFR 3280 and 3282, and which a consumer has not been able to recover.

SALES

PROPOSED RULE

Mississippi Sales tax



This rule would amend 35-9 Miss. Code R. § 101 to provide that appliances sold and shipped by the manufacturer with the home and included in the overall price of the home from the manufacturer are also considered part of the manufactured home taxable at the reduced rate of 3%. Other furniture and freestanding appliances purchased and resold by the manufactured home dealer are taxable at the 7% rate of tax. The sales price of the additional freestanding furniture and appliances should be separately stated from the sales price of the manufactured home. Likewise, the 7% sales tax should also be separately stated from the 3% sales tax.

Amended § 103 provides that amounts included in the sale of a manufactured home for “set up charges” includes all exterior materials required to physically screen or shield such supports including skirting and basic entry steps required for exterior doors. Charges by an electrician, plumber or utility service provider to run the utilities to the home site are taxable at the 7% rate of tax.

Section 104 provides that other charges for general home site preparation such as, but not limited to the grading of the home site, providing fill dirt or other materials for the home foundation, installation of a septic tank system, or running utilities to the home site are not defined as set up charges.

New § 105 provides that the manufactured home dealer should pay 7% sales tax on the cost of materials for any carpentry work performed for the customer at the manufactured home site. This includes onsite construction of decks and other similar structures. The manufactured home dealer should pay 7% sales tax on purchases of concrete or asphalt for use in construction of driveways, patios or other similar structures. No sales tax should be charged to the customer for these construction services.

PROPOSED RULE

FTC

Home Insulation



83 Fed. Reg. 2934 (1/22/2018)

16 CFR 460.

The Federal Trade Commission (“Commission”) seeks comments on proposed amendments to its Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation (“R-value Rule” or “Rule”).

Written comments must be received on or before March 23, 2018.

For insulation marketed for use in residential structures, the Rule requires R-value disclosures, directs manufacturers to substantiate the claims made in these disclosures, and prohibits certain claims unless they are true and non-misleading. Specifically, the Rule requires insulation sellers to disclose the insulation product's R-value and related information based on uniform, industry-adopted test procedures. This information enables consumers to evaluate the performance and cost-effectiveness of competing products.

The Rule applies to home insulation manufacturers, professional installers, retailers who sell insulation for do-it-yourself installation, and new home sellers, including sellers of manufactured housing (“covered entities”).

The Rule requires covered entities to disclose R-value and related information (e.g., thickness, coverage area per package) on package labels and manufacturers' fact sheets. Covered entities must derive these disclosures from tests conducted according to one of four specified American Society of Testing and Materials (“ASTM”) test procedures that measure thermal performance under “steady-state” (i.e., static) conditions. Industry members must conduct tests for mass insulation products on the insulation material alone (excluding any airspace) at a mean temperature of 75 °F. The Rule requires testing for reflective insulation products according to either ASTM C 236 or ASTM C 976, which generate R-values for insulation systems (such as those that include one or more air spaces). The Rule's R-value tests account for factors that can affect insulation's thermal performance. For example, tests for polyurethane, polyisocyanurate, and extruded polystyrene insulation account for aging, and tests for loose-fill insulation products reflect the effect of settling.

The Rule also requires specific disclosures on manufacturer product labels and fact sheets, installer receipts, and new home seller contracts.

The Rule also requires manufacturers and other sellers to have a “reasonable basis” for any energy-saving claims they make on labels or in advertising. Although the Rule does not specify how they must substantiate such claims, the Commission explained when issuing the Rule that scientifically reliable measurements of fuel use in actual houses, or reliable computer models or methods of heat flow calculations, would meet the reasonable basis standard. Sellers other than manufacturers can rely on the manufacturer's claims unless they know, or should know, that the manufacturer lacks a reasonable basis for their claims.

TITLING AND PERFECTION

LEGISLATION

New Jersey

Electronic lien and titling



2016 NJ S 2968. Enacted 1/16/2018. Effective immediately.

This bill establishes electronic lien and titling system for New Jersey motor vehicles, including manufactured homes.

The bill provides that, within 60 days of the effective date of this act, the Chief Administrator of the New Jersey Motor Vehicle Commission shall complete a study to determine whether the commission has the resources and capability to establish and implement, within 12 months of the effective date of this act, an electronic lien and titling system to process and administer, in a cost-effective manner, the notification, recording, and release of security interests and title information by the lienholders of motor vehicles in lieu of a paper based system used for those purposes.

If the chief administrator determines that the commission has the resources and capability to establish and implement an electronic lien and titling system, the commission shall establish and implement an electronic lien and titling system within 12 months of the effective date of this act.

If the chief administrator determines that the commission does not have the resources and capability to establish and implement an electronic lien and titling system, the commission shall contract with a qualified bidder to establish and implement an electronic lien and titling system for the State.

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