

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

A Bill

Act 1263 of 2001
HOUSE BILL 2227

5 By: Representative Hunt
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE ARKANSAS MANUFACTURED HOME
10 RECOVERY ACT; AND FOR OTHER PURPOSES.

Subtitle

12 AN ACT TO AMEND THE ARKANSAS
13 MANUFACTURED HOME RECOVERY ACT.
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16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code 20-29-104 is amended to read as follows:
20 20-29-104. Assessments.

21 (a) The Arkansas Manufactured Home Commission shall ~~by regulation~~
22 ~~establish~~ collect assessment fees ~~for~~ from manufacturers of manufactured
23 homes in this state, manufacturers of manufactured homes in other states
24 selling manufactured homes in this state, and installers and ~~dealers~~
25 retailers.

26 (b) The commission shall collect the following assessment fees at the
27 time of submission of initial certification or licensure applications-;

28
29 (A) Installer \$2,500 per location

30
31 (B) Retailer 5,000 per location

32
33 (C) Manufacturer 10,000 per location
34

35 ~~(b)(c)~~(1) If the balance of the Manufactured Housing Recovery Fund
36 falls below two hundred fifty thousand dollars (\$250,000), then the

1 commission shall ~~determine and~~ may collect such an annual assessment as ~~may~~
2 ~~be necessary to restore the fund from each manufacturer of manufactured homes~~
3 in this state, manufacturer of manufactured homes in other states selling
4 manufactured homes in this state, and installers and retailers and the annual
5 assessment shall continue until such time as the fund is restored to a
6 minimum level of two hundred fifty thousand dollars (\$250,000).

7 (2) The annual assessments collected shall ~~be~~ not exceed the
8 following:

9
10 (A) Installer \$500 per location

11
12 (B) ~~Dealer~~ Retailer 1,000 per location

13
14 (C) Manufacturer 3,000 per location

15 (3) The assessments shall be collected within thirty (30) days
16 notice to all certified manufacturers and ~~dealers~~ retailers and licensed
17 installers.

18 ~~(e)~~ (d) (1) Any participant may receive a refund of its initial
19 assessment after a two-year waiting period after it ceases operation of its
20 business in this state if there are no claims pending against the
21 participant, provided:

22 (A) The participant shall notify the commission by
23 certified mail within forty-five (45) days after the two-year waiting period
24 and request that the refund or the assessment fee shall be forfeited; and

25 (B) The two-year waiting period shall begin on the
26 participant's next certification or licensing anniversary date after the
27 participant ceases operation of its business in this state.

28 (2) If the participant fails to satisfy the provisions found in
29 subdivisions (c)(1)(A) and (B) of this section, the assessment fee shall
30 remain in the fund.

31 (3) No interest will accrue to the benefit of the participant.

32
33 SECTION 2. Arkansas Code 20-29-105 is amended to read as follows:
34 20-29-105. Complaints - Amount of damages.

35 (a) All consumer, licensee, installer, ~~dealer~~ retailer, or
36 manufacturer complaints shall be filed with the Arkansas Manufactured Home

1 Commission. The commission shall determine, by hearing or whatever procedure
2 it establishes, if any standard adopted by the commission has been violated
3 and, if so, the actual cost of repairs to the manufactured home, if any,
4 suffered by the aggrieved party or parties.

5 (b) The amount of damages awarded by the commission shall be limited
6 to the actual cost of repairs to the manufactured home and shall not include
7 attorney's fees. On appeal to the circuit court from an award of the
8 commission, the jurisdiction of the circuit court shall be limited to the
9 actual cost of repairs to the manufactured home. The circuit court shall not
10 have jurisdiction to award punitive or exemplary damages for claims covered
11 by the provisions of this chapter, attorney's fees, or court costs.

12 (c) The question of what constitutes a continuing series of violations
13 shall be a matter solely within the discretion and judgment of the
14 commission.

15 (d)(1) The commission shall by regulation establish procedures for the
16 investigation and timely resolution of claims against the fund involving
17 participating manufacturers, retailers and installers of manufactured homes
18 regarding responsibility for the correction or repair of construction or
19 installation defects in manufactured homes that are reported during the one-
20 year period beginning on the date of installation of the home.

21 (2) The investigations, required corrections and remedial
22 actions shall be handled in accordance with the code, and regulations
23 promulgated pursuant to the code.

24 (3) The commission shall by regulation establish requirements
25 for eligibility of claims against the fund.

26

27 SECTION 3. Arkansas Code 20-29-106 is amended to read as follows:

28 20-29-106. Payment of damages - Award from Manufactured Housing
29 Recovery Fund where damages not paid.

30 (a) Upon a finding by the Arkansas Manufactured Home Commission that a
31 standard has been violated, the commission shall direct the respondent
32 licensee, ~~dealer~~ retailer, installer, or manufacturer to ~~pay the awarded~~
33 ~~amount to the complainant~~ correct the violation within a reasonable time, not
34 to exceed ninety (90) days following the written decision of the commission.

35 (b) If the ~~amount is not paid~~ violation is not corrected within ~~thirty~~
36 ~~(30)~~ ninety (90) days following the written decision of the commission and if

1 no appeal of the decision has been filed in the circuit court, the commission
2 shall, upon request, pay from the Manufactured Housing Recovery Fund the
3 ~~amount of the award to the complainant~~ actual cost of repairs to the
4 manufactured home if:

5 (1) The amount is not in excess of ten thousand dollars
6 (\$10,000) for any one (1) violation of the respondent licensee, installer,
7 ~~dealer~~ retailer, or manufacturer;

8 (2) The fund balance is sufficient to pay the award;

9 (3) The complainant has assigned all rights and claims that he
10 has against the respondent to the commission; and

11 (4) The complainant agrees to subrogate the commission to all
12 rights of the complainant to the extent of the payment.

13 (c) Nothing herein shall obligate the fund for any amount in excess of
14 twelve thousand five hundred dollars (\$12,500) per installer, twenty-five
15 thousand dollars (\$25,000) per ~~dealership~~ retailer, or seventy-five thousand
16 dollars (\$75,000) per manufacturer with respect to the actions of any one (1)
17 licensee, installer, ~~dealer~~ retailer, or manufacturer.

18
19 SECTION 4. Arkansas Code 20-29-108 is amended to read as follows:
20 20-29-108. Suspension of license pending reimbursement or appeal.

21 (a)(1) The Arkansas Manufactured Home Commission shall suspend the
22 license or certificate of each licensee, installer, ~~dealership~~ retailer, or
23 ~~factory~~ manufacturer until such time as the licensee, installer, ~~dealership~~
24 retailer, or ~~factory~~ manufacturer reimburses award amounts paid on its behalf
25 to the Manufactured Housing Recovery Fund plus interest at a rate to be
26 determined by the commission, but the interest is not to exceed ten percent
27 (10%) per annum.

28 (2) The commission may permanently suspend the license or
29 certificate of the respondent upon failure to pay an order of the commission
30 or court.

31 (b) The commission may move the circuit court to suspend the license
32 or certificate of the respondent during pendency of an appeal from a
33 commission order.

34
35 SECTION 5. Arkansas Code 20-29-109 is repealed:

36 ~~20-29-109. Suspension, revocation, or nonrenewal of license generally~~

1 ~~—Monetary penalty.~~

2 ~~(a) The Arkansas Manufactured Home Commission shall have the power to~~
3 ~~suspend, revoke, or refuse to renew the license or certification under this~~
4 ~~chapter of any person who is found to have been guilty of:~~

5 ~~(1) Fraud, misrepresentation, or deception in obtaining a~~
6 ~~license or certification;~~

7 ~~(2) Accepting a manufactured home, directly or indirectly, from~~
8 ~~a manufacturer not certified by this state pursuant to this chapter;~~

9 ~~(3) Selling or delivering, directly or indirectly, a~~
10 ~~manufactured home to a dealer not certified by this state pursuant to this~~
11 ~~chapter; or~~

12 ~~(4) Violating any provision of this chapter or rules or~~
13 ~~regulations promulgated under this chapter.~~

14 ~~(b)(1) In lieu of suspension, revocation, or refusal to renew a~~
15 ~~license certification, the commission shall have the authority to impose a~~
16 ~~monetary penalty and may suspend, refuse to renew, or revoke the license or~~
17 ~~certification until the penalty is paid to the commission. The penalty shall~~
18 ~~be imposed only if the commission formally finds that the public welfare~~
19 ~~would not be impaired by the imposition of a monetary penalty rather than~~
20 ~~suspension, refusal to renew, or a revocation and if payment of the penalty~~
21 ~~should achieve the desired disciplinary purpose.~~

22 ~~(2) No monetary penalty imposed by the commission shall exceed~~
23 ~~one thousand dollars (\$1,000) per violation. Each separate transaction shall~~
24 ~~constitute a separate violation.~~

25 ~~(3) The commission shall not impose a civil penalty upon any~~
26 ~~person whose license or certification is suspended, revoked, or not renewed~~
27 ~~under subsection (a) of this section.~~

28
29 SECTION 6. Arkansas Code 20-29-111 is amended to read as follows:

30 20-29-111. Use of funds exceeding \$400,000.

31 On January 1 of any year, if the Manufactured Housing Recovery Fund
32 established in this chapter exceeds four hundred thousand dollars (\$400,000),
33 the Arkansas Manufactured Home Commission may ~~utilize~~ approve the use of up
34 to ~~twenty five percent (25%)~~ five percent (5%) of the fund balance above that
35 amount for ~~public relations projects,~~ training, and education programs,
36 including, but not limited to, workshops, ~~brochures~~ instruction manuals,

1 audio and video equipment and tapes, and slide presentations.

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APPROVED: 4/3/2001