

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

As Engrossed: H3/15/01

A Bill

HOUSE BILL 2226

5 By: Representative Hunt
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE ARKANSAS MANUFACTURED HOMES
10 STANDARDS ACT; AND FOR OTHER PURPOSES.

Subtitle

13 AN ACT TO AMEND THE ARKANSAS
14 MANUFACTURED HOMES STANDARDS ACT.
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16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code 20-25-102 is amended to read as follows:
20 20-25-102. Definitions.

21 As used in this chapter, unless the context otherwise requires:

22 (1) "Authorized representative" means any person or employee approved
23 or hired by the director to perform inspection services;

24 (2) "Code" means standards adopted by the Arkansas Manufactured Home
25 Commission;

26 (3) "Commission" means the Arkansas Manufactured Home Commission;

27 ~~(4) "Dealer" means any person in the business of accepting on~~
28 ~~consignment, buying for resale, selling, or exchanging manufactured homes or~~
29 ~~offering them to the public for sale, exchange, or lease purchase, whether~~
30 ~~for himself or on behalf of any other person not certified as a dealer under~~
31 ~~this chapter;~~

32 ~~(5)~~(4) "Director" means the Director of the Arkansas Manufactured Home
33 Commission;

34 (5) "Installer" means a person, firm, or corporation not otherwise
35 certified, engaged in the business of installing manufactured homes for
36 himself or herself or on behalf of any other person not certified under this

1 chapter;

2 (6) "Label" means a label issued by the United States Department of
3 Housing and Urban Development or its contract agency to be affixed on the
4 exterior of the manufactured home to assure compliance with the federal
5 standards;

6 (7) "Manufacturer" means any person who manufactures manufactured
7 homes;

8 (8) "Manufactured home" means a structure, transportable in one (1) or
9 more sections, which, in the traveling mode, is eight (8) body feet or more
10 in width, or forty (40) body feet or more in length, or, when erected on
11 site, is three hundred twenty (320) or more square feet, and which is built
12 on a permanent chassis and designed to be used as a dwelling with or without
13 a permanent foundation when connected to the required utilities, and includes
14 the plumbing, heating, air conditioning, and electrical systems contained
15 therein. This term shall include any structure which meets all the
16 requirements of this subdivision (8) except the size requirements and with
17 respect to which the manufacturer voluntarily files a certification required
18 by the Secretary of the Department of Housing and Urban Development and
19 complies with the federal standards; ~~and~~

20 (9) "Person" means an individual, partnership, corporation, or other
21 legal entity; and

22 (10) "Retailer" means any person in the business of accepting on
23 consignment, buying for resale, selling, or exchanging manufactured homes or
24 offering them to the public for sale, exchange, or lease-purchase, whether
25 for himself or herself or on behalf of any other person not certified as a
26 dealer under this chapter.

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28 SECTION 2. Arkansas Code 20-25-104 is amended to read as follows:
29 20-25-104. Penalties.

30 (a) It shall be deemed a violation of this chapter:

31 (1) For any manufacturer or ~~dealer~~ retailer of manufactured
32 homes to fail to correct a code violation within a reasonable time, not to
33 exceed ninety (90) days, of being ordered to do so in writing by an
34 authorized representative of the Director of the Arkansas Manufactured Home
35 Commission if the manufacturer or ~~dealer~~ retailer manufactured or sold the
36 manufactured home after March 14, 1977; or

1 (2) For any person to interfere with, obstruct, or hinder any
2 authorized representative of the director in performance of his duty. In
3 seeking to determine whether a manufacturer or ~~dealer~~ retailer has violated
4 the provisions of this chapter, the director shall have full authority to
5 convene hearings and issue orders pursuant to the provisions of the Arkansas
6 Administrative Procedure Act, § 25-15-201 et seq., which is incorporated by
7 reference.

8 (b) Any individual or director, officer, or agent of a corporation who
9 knowingly and willfully violates the provisions of this chapter in a manner
10 which threatens the health or safety of any purchaser shall be deemed guilty
11 of a misdemeanor. Upon conviction, the person shall be fined not more than
12 one thousand dollars (\$1,000) or imprisoned for not more than one (1) year,
13 or both for each violation.

14 (c)(1) Whoever violates any provision of section 610 of Title VI of
15 *Public Law 93-383 or any regulation or final order issued pursuant to it*
16 shall be liable to the State of Arkansas for a civil penalty of not to exceed
17 one thousand dollars (\$1,000) for each violation. Each violation of a
18 provision of section 610 or any regulation or order issued pursuant to it
19 shall constitute a separate violation with respect to each manufactured home
20 or with respect to each failure or refusal to allow or perform an act
21 required thereby, except that the maximum civil penalty may not exceed one
22 million dollars (\$1,000,000) for any related series of violations occurring
23 within one (1) year from the date of the first violation.

24 (2) Any individual or a director, officer, or agent of a
25 corporation who knowingly and willfully violates section 610 of Title VI of
26 *Public Law 93-383 in a manner which threatens the health or safety of any*
27 purchaser shall be fined not more than one thousand dollars (\$1,000) or
28 imprisoned not more than one (1) year, or both.

29 (d)(1) If a ~~mobile home dealer~~ manufactured home retailer or
30 manufacturer violates any of the provisions of this chapter or any rules or
31 regulations governing the manufactured home program, the ~~dealer~~ retailer or
32 manufacturer may be enjoined from selling any manufactured home until the
33 ~~dealer~~ retailer or manufacturer meets all the requirements of this chapter
34 and rules and regulations promulgated pursuant to it.

35 (2) If any ~~mobile~~ manufactured home installer violates any
36 provision of this chapter or any rule or regulation relating to the

1 Manufactured Home Standards, the installer shall be enjoined from installing
2 ~~mobile~~ manufactured homes until the violations are corrected.

3 (3) Whenever practicable, the director shall give notice to any
4 person against whom an action for injunctive relief is contemplated and shall
5 afford the person an opportunity to present his or her views, but the failure
6 to give notice and afford an opportunity shall not preclude the granting of
7 appropriate relief.

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9 SECTION 3. Arkansas Code 20-25-106 is amended to read as follows:

10 20-25-106. Arkansas Manufactured Home Commission - Powers and duties.

11 (a)(1) The Arkansas Manufactured Home Commission shall by regulation
12 set uniform reasonable standards for the proper installation of manufactured
13 homes, including, but not limited to, foundation, supports, anchoring, and
14 underpinning of manufactured homes installed in this state.

15 (2) The commission shall by regulation set requirements for and
16 require licensing and certification of manufacturers of manufactured homes in
17 this state and manufacturers of manufactured homes in other states selling
18 them in this state.

19 (3) The commission by regulation shall set the requirements and
20 require licensing and certification of any ~~dealer~~ retailer, manufactured home
21 salesman, and others engaged in the sale, installation, anchoring, and
22 servicing of manufactured homes for sale in this state.

23 (b) The commission shall require bonding or other reasonable methods
24 to assure that manufacturers, ~~dealers~~ retailers, and others licensed or
25 certified under this chapter will be financially responsible to fully comply
26 with the code.

27 (c)(1) The commission shall by regulation establish procedures for the
28 investigation and timely resolution of disputes between manufacturers,
29 retailers, and installers of manufactured homes regarding responsibility for
30 the correction or repair of construction or installation defects in
31 manufactured homes that are reported during the one-year period beginning on
32 the date of installation of the home.

33 (2) The investigations, required corrections and remedial
34 actions shall be handled in accordance with the code or the regulations
35 promulgated under the code.

36 ~~(e)~~(d)(1) The commission or subcommittee of the commission shall

1 convene hearings and issue orders in cases of violations of this chapter or
2 of the code.

3 (2) The commission or subcommittee of the commission shall
4 convene hearings and the commission shall issue orders on an appeal involving
5 differences between manufactured home manufacturers, ~~dealers~~ retailers, and
6 the Director of the Arkansas Manufactured Home Commission and his staff.

7 ~~(d)~~(e) The commission shall delegate its authority, except the
8 authority to adopt standards, rules, and regulations, to the director.

9 ~~(e)~~(f) The commission shall have the power to suspend, revoke, or
10 refuse to renew the license or certification under this chapter of any person
11 who is found to have been guilty of:

12 (1) Fraud, misrepresentation, or deception in obtaining a
13 license or certification;

14 (2) Accepting a manufactured home, directly or indirectly, from
15 a manufacturer not certified by the state pursuant to this chapter;

16 (3) Selling or delivering, directly or indirectly, a
17 manufactured home to a ~~dealer~~ retailer not certified by the state pursuant to
18 this chapter; or

19 (4) Violating any provision of this chapter or rules or
20 regulations promulgated thereunder;

21 ~~(f)~~(g)(1) In lieu of suspension, revocation, or refusal to renew a
22 license certification, the commission shall have the authority to impose a
23 monetary penalty and may suspend, refuse to renew, or revoke the license or
24 certification until the penalty is paid to the commission. The penalty shall
25 be imposed only if the commission formally finds that the public welfare
26 would not be impaired by the imposition of a monetary penalty rather than
27 suspension, refusal to renew, or revocation and that payment of same should
28 achieve the desired disciplinary purpose.

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

32 (3) The commission shall not impose a civil penalty upon any
33 person whose license or certification is suspended, revoked, or not renewed
34 under this section.

35 ~~(g)~~(h) Regarding any violation of this chapter or § 20-29-101 et seq.,
36 the commission shall have the power to issue subpoenas and bring before the

1 commission as a witness any person in the state and may require the witness
2 to bring with him any book, writing, or other thing under his control which
3 he is bound by law to produce in evidence.

4 ~~(h)~~(i) The commission shall have the power to file suit in the Circuit
5 Court of Pulaski County to obtain a judgment for the amount of any penalty
6 not paid within thirty (30) days of service of the order assessing the
7 monetary penalty, unless a court enters a stay pursuant to the provisions of
8 this section.

9 ~~(i)~~(j) All hearings and appeals therefrom under this section shall be
10 pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

11 ~~(j)~~(k) The commission may require manufacturers, distributors, and
12 ~~dealers~~ retailers in this state to make reports as it deems necessary. The
13 reports shall be filed with the director.

14 ~~(k)~~(l) No license or certification shall be transferred or assigned to
15 any other person.

16 (m)(1)(A) The commission shall have the authority to file suit in the
17 Circuit Court of Pulaski County to enjoin any manufacturer, retailer, or
18 installer from doing business in this state without having first secured the
19 required license or certification, or both; and

20 (B) The commission shall have the authority to collect
21 from the manufacturer, retailer, or installer all fees and assessments which
22 the commission would have collected had the manufacturer, retailer, or
23 installer secured the required license or certification, or both.

24 (2) The commission shall have the authority to impose a monetary
25 penalty not to exceed one thousand dollars (\$1,000) per violation by an
26 unlicensed manufacturer, retailer, or installer of any provision of this
27 chapter or the regulations promulgated under this chapter.

28
29 SECTION 4. Arkansas Code 20-25-108 is amended to read as follows:

30 20-25-108. Compliance with code required.

31 (a) No ~~dealer~~ retailer shall sell or offer for sale within this state
32 any manufactured home unless the manufactured home complies with the code.

33 (b) No person shall manufacture in this state or manufacture out of
34 this state and ship into this state for sale any manufactured home unless the
35 manufactured home complies with the code.

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1 SECTION 5. Arkansas Code 20-25-109 is amended to read as follows:
2 20-25-109. Label of compliance.

3 (a) No ~~dealer~~ retailer shall sell or offer for sale to anyone within
4 this state any manufactured home manufactured after June 15, 1976, unless the
5 manufactured home bears a United States Department of Housing and Urban
6 Development Label issued by the department or its contract agent.

7 (b) All manufacturers of manufactured homes in this state shall cause
8 to be affixed a department label on all manufactured homes.

9 (c) The Director of the Arkansas Manufactured Home Commission, acting
10 as In-plant Primary Inspection Agency on contract with the department, shall
11 issue labels to any manufacturer when he is sure, by inspection of the plant,
12 that the manufacturer is complying with the Federal Standard Code For
13 Manufactured Homes.

14 (d)(1) All manufactured homes bearing a department label issued by the
15 department pursuant to this chapter shall be deemed to comply with the
16 requirements of all ordinances or regulations enacted by any local government
17 which are applicable to the ~~manufacture~~ construction of such housing.

18 (2) The determination by the department of the scope of the
19 approval is final.

20 (e) No person shall alter or cause to be altered any manufactured home
21 to which a label has been affixed if the alteration or conversion causes the
22 manufactured home to be in violation of the code.

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24 SECTION 6. Arkansas Code 20-25-111 is amended to read as follows:
25 20-25-111. Reports.

26 All manufacturers, distributors, and ~~dealers~~ retailers in this state
27 shall make such reports and provide the Secretary of the Department of
28 Housing and Urban Development such reports and information as the secretary
29 *may require pursuant to ~~section 614 of Title VI of Public Law 93-383.~~*

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31 SECTION 7. Arkansas Code 20-25-113 is amended to read as follows:
32 20-25-113. Purchase agreement.

33 (a) All manufactured home ~~dealers~~ retailers, as defined by § 20-25-
34 102(4) shall be required to provide a written purchase agreement to the
35 purchaser of each new manufactured home sold in the State of Arkansas.

36 (b) Each written purchase agreement issued by a manufactured home

1 ~~dealer~~ retailer upon the purchase of a new manufactured home shall include,
2 but not be limited to:

3 (1) The make, model, and gross purchase price of the new
4 manufactured home;

5 (2) Options or material upgrades which influence the purchase
6 price of the home;

7 (3) Transportation and delivery arrangements, if applicable; and

8 (4) Installation, set-up and anchoring arrangements, if
9 applicable.

10 (c) A knowing violation of subsection (a) of this section shall
11 constitute an unfair or deceptive act or practice as defined by the Deceptive
12 Trade Practices Act, § 4-88-101 et seq., and shall be subject to all
13 remedies, penalties, and authority granted to the Attorney General under the
14 Deceptive Trade Practices Act, § 4-88-101 et seq. The provisions of this
15 section shall not create a private right of action, but the provisions of
16 this section shall not preclude any new manufactured home purchaser from
17 availing himself of other legal or administrative remedies provided by other
18 laws.

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20 /s/ Hunt
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