

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 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: S3/20/07 S3/23/07

A Bill

HOUSE BILL 2705

5 By: Representative Saunders
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE ARKANSAS MANUFACTURED HOMES
10 STANDARDS ACT TO COMPLY WITH FEDERAL GUIDELINES;
11 AND FOR OTHER PURPOSES.
12

Subtitle

13 AN ACT TO AMEND THE ARKANSAS
14 MANUFACTURED HOMES STANDARDS ACT TO
15 COMPLY WITH FEDERAL GUIDELINES.
16
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code § 20-25-102 is amended to read as follows:
22 20-25-102. Definitions.

23 As used in this chapter:

24 (1) "Authorized representative" means any person or employee
25 approved, certified, or hired by the Director of the Arkansas Manufactured
26 Home Commission to perform inspection services;

27 (2) "Code" means standards adopted by the Arkansas Manufactured
28 Home Commission;

29 ~~(3) "Commission" means the Arkansas Manufactured Home~~
30 ~~Commission;~~

31 (3) "Defect" means any defect in the performance, construction,
32 components, or material of a manufactured home that renders the manufactured
33 home or any part of the manufactured home unfit for the ordinary use for
34 which the manufactured home was intended;

35 (4) "Director" means the Director of the Arkansas Manufactured
36 Home Commission;



1 (5) "Federal standards" means the National Manufactured Housing
2 Construction and Safety Standards Act of 1974, 42 U.S.C. §§ 5401 et seq., and
3 applicable regulations promulgated by the United States Department of Housing
4 and Urban Development when and as adopted by the commission;

5 (6) "Installation" means work done to stabilize, support, or
6 anchor a manufactured home or to join sections of a multisection manufactured
7 home when any such work is governed by regulations adopted by the commission;

8 ~~(5)~~(7) "Installer" means a person, firm, or corporation not
9 otherwise certified who is engaged in the business of installing manufactured
10 homes for himself or herself or on behalf of any other person not certified
11 under this chapter;

12 ~~(6)~~(8) "Label" means a label issued by the Department of Housing
13 and Urban Development or its contract agency to be affixed onto the exterior
14 of the manufactured home to assure compliance with the federal standards;

15 ~~(7)~~(9) "Manufacturer" means any person, firm, or corporation who
16 manufactures manufactured or modular homes;

17 ~~(8)~~(10)(A) "Manufactured home" means a structure, transportable
18 in one (1) or more sections, which in the traveling mode is eight (8) body
19 feet or more in width or forty (40) body feet or more in length or, when
20 erected on site, is three hundred twenty square feet (320 sq. ft.) or more
21 and which is built on a permanent chassis and designed to be used as a
22 dwelling with or without a permanent foundation when connected to the
23 required utilities.

24 (B) "Manufactured home" includes the plumbing, heating,
25 air conditioning, and electrical systems contained therein.

26 (C) "Manufactured home" shall include any structure which
27 meets all the requirements of this subdivision ~~(8)~~(10) except the size
28 requirements and with respect to which the manufacturer voluntarily files a
29 certification required by the Secretary of the Department of Housing and
30 Urban Development and complies with the federal standards;

31 ~~(9)~~(11) "Modular home" means a factory-built structure:

32 (A) Produced in accordance with state or local
33 construction codes and standards; and

34 (B) Designed to be used as a dwelling unit with a
35 foundation when connected to the required utilities;

36 ~~(10)~~(12) "Person" means an individual, partnership, corporation,

1 or other legal entity; and

2 ~~(11)~~(13) "Retailer" means any person in the business of
3 accepting on consignment, buying for resale, selling, or exchanging
4 manufactured or modular homes or offering them to the public for sale,
5 exchange, or lease-purchase, whether for himself or herself or on behalf of
6 any other person not certified as a retailer under this chapter.

7
8 SECTION 2. Arkansas Code §§ 20-25-105 – 20-25-109 are amended to read
9 as follows:

10 20-25-105. Arkansas Manufactured Home Commission - Creation - Members.

11 (a)(1) There is created the Arkansas Manufactured Home Commission
12 consisting of ten (10) members. Members shall be appointed by the Governor,
13 to be confirmed by the Senate, and appointments shall be made in such a
14 manner as to result in at least one (1) member residing in each congressional
15 district as the congressional districts now and hereafter exist. The members
16 shall be representative of the following interests:

17 (A) Four (4) members shall be active in the manufactured
18 home industry;

19 (B) Five (5) members shall be from the public at large;
20 and

21 (C) One (1) member shall be sixty (60) years of age or
22 older and represent the elderly. He or she shall not be actively engaged in
23 or retired from the manufactured home industry ~~of manufactured homes~~.

24 (2) Appointments of those active in the manufactured home
25 industry shall be made by the Governor from a list of three (3) names
26 submitted to him or her by the ~~trade association~~ Arkansas Manufactured
27 Housing Association for each appointment.

28 (3) Each member shall be appointed for a five-year term, except
29 that a person appointed to fill a vacancy shall serve only the unexpired
30 portion of the term. Each member's term shall extend until his or her
31 successor is appointed and qualified.

32 (4) The members shall not receive compensation for their
33 services as members but may receive expense reimbursement in accordance with
34 § 25-16-901 et seq.

35 (5) Membership on the commission shall not constitute holding a
36 public office, and no member shall be disqualified from holding any public

1 office or employment by reason of membership on the commission, nor shall the
2 member forfeit the office or employment by reason of his appointment
3 hereunder, notwithstanding any law to the contrary.

4 (b) A chair and vice chair shall be elected by the commission to serve
5 two (2) years.

6
7 20-25-106. Arkansas Manufactured Home Commission - Powers and duties.

8 (a)(1) The Arkansas Manufactured Home Commission by regulation shall
9 set uniform, reasonable standards for the proper:

10 (A)(i) Initial installation of new manufactured homes,
11 ~~including, but not limited to, foundation, supports, anchoring, and~~
12 ~~underpinning of manufactured homes~~ installed in this state.

13 (ii) The installation standards under subdivision
14 (a)(1)(A)(i) of this section shall equal or exceed installation standards
15 promulgated under the federal standards; and

16 (B) Secondary installation of used manufactured homes
17 installed in this state.

18 (2) The commission by *regulation* shall set the requirements for
19 and require:

20 (A) licensing Licensing and certification of manufacturers
21 of manufactured homes or modular homes in this state and manufacturers of
22 manufactured homes or modular homes in other states selling them in this
23 state;

24 ~~(3)(B) The commission by regulation shall set the~~
25 ~~requirements and require licensing~~ Licensing and certification of any
26 retailer, salesperson, and others engaged in the ~~sale, installation,~~
27 ~~anchoring, and servicing~~ of manufactured homes or modular homes for sale in
28 this state; and

29 (C) Licensing, training, and certification of any
30 installer engaged in the installation of manufactured homes in this state.

31 (b) The commission shall require bonding or other reasonable methods
32 to assure that manufacturers, retailers, installers, and others licensed or
33 certified under this chapter will be financially responsible to fully comply
34 with the code.

35 (c)(1) The commission shall by *regulation* establish procedures for the
36 investigation and timely resolution of:

1 (A) Construction or installation defects in manufactured
2 homes that are reported to the commission during the one-year period
3 beginning on the date of installation of the home, including:

4 (i) Violations of the federal standards; and
5 (ii) Violations of the rules governing the
6 installation of manufactured homes promulgated by the commission; and

7 (B) ~~disputes~~ Disputes among manufacturers, retailers, and
8 installers of manufactured homes regarding responsibility for the correction
9 or repair of construction or installation defects in manufactured homes that
10 are reported to the commission during the one-year period beginning on the
11 date of installation of the home.

12 (2) The commission shall by regulation establish procedures for
13 the timely inspection and certification of a percentage of the initial
14 installations of new manufactured homes installed in the state on a sample
15 basis to assure compliance with installation standards adopted by the
16 commission and to comply with requirements set forth by the United States
17 Department of Housing and Urban Development.

18 ~~(2)~~(3) The investigations, required corrections, and remedial
19 actions shall be handled in accordance with the code or the *regulations*
20 promulgated under the code.

21 (d)(1) The commission or subcommittee of the commission shall convene
22 hearings and issue orders in cases of violations of this chapter or of the
23 code or the regulations promulgated by the commission.

24 (2) The commission or subcommittee of the commission shall
25 convene hearings, and the commission shall issue orders on ~~an appeal~~ appeals
26 ~~involving differences among manufactured home~~ of determinations of
27 responsibility for the correction of defects by manufacturers, retailers, and
28 the Director of the Arkansas Manufactured Home Commission and his or her
29 staff.

30 (e) The commission shall delegate its authority, except the authority
31 to adopt standards, rules, and regulations, to the director.

32 (f) The commission shall have the power to suspend, revoke, or refuse
33 to renew the license or certification under this chapter of any person who is
34 found to have been guilty of:

35 (1) Fraud, misrepresentation, or deception in obtaining a
36 license or certification;

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

4 (3) Selling or delivering, directly or indirectly, a
5 manufactured or modular home to a retailer not certified by the state
6 pursuant to this chapter; or

7 (4) Violating any provision of this chapter or rules or
8 regulations promulgated under this chapter.

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

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

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

23 (h) Regarding any violation of this chapter or the Arkansas
24 Manufactured Home Recovery Act, § 20-29-101 et seq., the commission shall
25 have the power to issue subpoenas and bring before the commission as a
26 witness any person in the state and may require the witness to bring with him
27 or her any book, writing, or other thing under his or her control which he or
28 she is bound by law to produce in evidence.

29 (i) The commission shall have the power to file suit in the Pulaski
30 County Circuit Court to obtain a judgment for the amount of any penalty not
31 paid within thirty (30) days of service of the order assessing the monetary
32 penalty unless a court enters a stay pursuant to this section.

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

35 (k) The commission may require manufacturers, distributors, and
36 retailers in this state to make reports as it deems necessary. The reports

1 shall be filed with the director.

2 (1) No license or certification shall be transferred or assigned to
3 any other person.

4 (m)(1)(A) The commission shall have the authority to file suit in the
5 Pulaski County Circuit Court to enjoin any manufacturer, retailer, or
6 installer from doing business in this state without having first secured the
7 required license or certification, or both.

8 (B) The commission shall have the authority to collect
9 from the manufacturer, retailer, or installer all fees and assessments which
10 the commission would have collected had the manufacturer, retailer, or
11 installer secured the required license or certification, or both.

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

16 (n) The commission shall adopt regulations, issue orders, and
17 otherwise act as necessary to:

18 (1) Comply with the National Manufactured Housing Construction
19 and Safety Standards Act of 1974, 42 U.S.C. § 5401 et seq., including
20 adopting and enforcing rules reasonably required to implement the
21 notification and correction procedures provided by 42 U.S.C. § 5414; and

22 (2) Provide for the effective enforcement of all the
23 Manufactured Home Construction and Safety Standards, 24 C.F.R. Part 3280, in
24 order to have the state plan authorized by the National Manufactured Housing
25 Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401 et seq.
26 approved by the United States Secretary of Housing and Urban Development.

27

28 20-25-107. Administration by Director of the Arkansas Manufactured Home
29 Commission.

30 (a) The Director of the Arkansas Manufactured Home Commission shall be
31 appointed by the Arkansas Manufactured Home Commission.

32 (b) The director shall administer the code for manufactured homes and
33 the regulations promulgated by the commission.

34 (c)(1) The director shall establish an inspection system sufficient to
35 ensure compliance with the code by providing for inspections by members of
36 his or her own inspection staff or by authorized representatives certified by

1 the commission.

2 (2) The director and his or her staff shall have the right to
3 enter and inspect all factories, warehouses, or establishments in which
4 manufactured or modular homes are manufactured.

5 (d) With the approval of the commission, the director shall:

6 (1) Establish reasonable fees for certification, including
7 licensing of manufactured or modular home salespersons and setting up,
8 installing, and anchoring manufactured homes; and

9 (2) Establish monitoring inspection fees in accordance with the
10 guidelines established by the United States Secretary of Housing and Urban
11 Development and provide for participation in the fee distribution system set
12 out in 24 C.F.R. 3282.307.

13 (e) Within the limits of appropriation, the director may appoint such
14 employees as he or she may deem necessary for the administration of this
15 chapter.

16
17 20-25-108. Compliance with code required.

18 (a) No retailer shall sell or offer for sale within this state any new
19 manufactured home unless the manufactured home complies with the code.

20 (b) No person shall manufacture in this state or manufacture out of
21 this state and ship into this state for sale any new manufactured home unless
22 the manufactured home complies with the code.

23
24 20-25-109. Label of compliance.

25 (a) No retailer shall sell or offer for sale to anyone within this
26 state any manufactured home manufactured after June 15, 1976, unless the
27 manufactured home bears a United States Department of Housing and Urban
28 Development label issued by the department or its contract agent.

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

31 (c) The Director of the Arkansas Manufactured Home Commission, acting
32 as in-plant primary inspection agency on contract with the department, shall
33 issue labels to any manufacturer when he or she is sure, by inspection of the
34 plant, that the manufacturer is complying with the federal Standard Code For
35 Manufactured Homes.

36 (d)(1) All manufactured homes bearing a department label issued by the

1 department pursuant to this chapter shall be deemed to comply with the
2 requirements of all ordinances or regulations enacted by any local government
3 which are applicable to the construction of such housing.

4 (2) The determination by the department of the scope of the
5 approval is final.

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

9
10 SECTION 3. Arkansas Code § 20-25-111 is amended to read as follows:
11 20-25-111. Reports.

12 All manufacturers, distributors, ~~and~~ retailers, and installers in this
13 state shall make and maintain such reports and information deemed necessary
14 and shall provide the United States Secretary ~~of the Department~~ of Housing
15 and Urban Development such reports and information as the secretary may
16 require pursuant to Title VI of Pub. L. No. 93-383.

17
18 SECTION 4. Arkansas Code § 20-25-113 is amended to read as follows:
19 20-25-113. Purchase agreement and consumer disclosure.

20 (a)(1) All manufactured home retailers shall be required to provide a
21 written purchase agreement to the purchaser of each new manufactured home
22 sold in the State of Arkansas.

23 ~~(b)~~(2) Each written purchase agreement issued by a manufactured
24 home retailer upon the purchase of a new manufactured home shall include, but
25 not be limited to:

26 ~~(1)~~(A) The make, model, and gross purchase price of the
27 new manufactured home;

28 ~~(2)~~(B) Options or material upgrades which influence the
29 purchase price of the new manufactured home;

30 ~~(3)~~(C) Transportation and delivery arrangements, if
31 applicable; and

32 ~~(4)~~(D) Installation, set-up, and anchoring arrangements,
33 if applicable.

34 ~~(e)~~(3) A knowing violation of subsection (a) of this section
35 shall constitute an unfair or deceptive act or practice as defined by the
36 Deceptive Trade Practices Act, § 4-88-101 et seq., and shall be subject to

1 all remedies, penalties, and authority granted to the Attorney General under
2 the Deceptive Trade Practices Act, § 4-88-101 et seq. This section shall not
3 create a private right of action, but this section shall not preclude any new
4 manufactured home purchaser from availing himself or herself of other legal
5 or administrative remedies provided by other laws.

6 (b)(1) All manufactured home retailers shall be required to provide a
7 consumer disclosure to the purchaser of each manufactured home sold in the
8 State of Arkansas.

9 (2) Each consumer disclosure issued by a manufactured home
10 retailer before the completion of purchase of a manufactured home shall
11 include the following information, as applicable:

12 (A) A statement that the manufactured home will be
13 required to comply with state requirements for installation;

14 (B) Notice that the manufactured home may also be required
15 to comply with additional state and local requirements not addressed in the
16 state requirements for installation, such as zoning and connection to
17 required utilities;

18 (C) That additional information regarding the construction
19 and installation standards is available from the retailer, the Arkansas
20 Manufactured Home Commission, or the United States Department of Housing and
21 Urban Development;

22 (D) That inspection for compliance with applicable
23 federal, state, and local requirements may involve additional costs to the
24 purchaser; and

25 (E) A recommendation that any manufactured home installed
26 after its original purchase and installation should be inspected upon
27 reinstallation.

28
29 /s/ Saunders
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