

CHAPTER 327B

MANUFACTURED HOME SALES

327B.01 DEFINITIONS.
 327B.04 MANUFACTURERS AND DEALERS;
 LICENSES; BONDS.
 327B.042 NOTICE TO COMMISSIONER.

327B.05 DENIAL, SUSPENSION AND
 REVOCATION OF LICENSES.
 327B.10 RULEMAKING AUTHORITY.

327B.01 DEFINITIONS.

[For text of subs 1 to 3, see M.S.2006]

Subd. 4. **Commissioner.** “Commissioner” means the commissioner of labor and industry.

Subd. 5. **Consumer customer.** “Consumer customer” means any individual who, primarily for personal, household or family purposes, buys, sells, or seeks to buy or sell, a manufactured home from, to or through a dealer or manufacturer.

[For text of subd 6, see M.S.2006]

Subd. 7. **Dealer or retailer.** “Dealer” or “retailer” means any person who engages in the business, either exclusively or in addition to any other occupation, of selling or brokering manufactured homes, new or used, or who offers to sell, solicit, broker or advertise the sale of manufactured homes, new or used.

[For text of subs 8 to 10, see M.S.2006]

Subd. 10a. **Individual.** “Individual” means a human being.

[For text of subd 11, see M.S.2006]

Subd. 11a. **Licensee.** “Licensee” means a person who is licensed as a dealer, limited dealer, or manufacturer by the Department of Labor and Industry.

Subd. 11b. **Limited dealer or limited retailer.** “Limited dealer” or “limited retailer” means any person who is an owner of a manufactured home park authorized, as principal only, to engage in the sale, offering for sale, soliciting, or advertising the sale of used manufactured homes located in the owned manufactured home park, who is the title holder and engages in no more than ten sales annually.

[For text of subs 12 to 14, see M.S.2006]

Subd. 14a. **Manufacturing facility.** “Manufacturing facility” means the physical site where a manufacturer engages in the business of manufacture, assembly, or production of manufactured homes.

[For text of subs 15 and 16, see M.S.2006]

Subd. 16a. **Owner.** “Owner” means any person holding title to a manufactured home park or manufactured homes.

Subd. 17. **Person.** “Person” means any individual, limited liability company, corporation, firm, partnership, incorporated and unincorporated association, sole proprietorship, joint stock company, or any other legal or commercial entity.

[For text of subs 18 to 21, see M.S.2006]

History: 2007 c 140 art 4 s 42–50

327B.04 MANUFACTURERS AND DEALERS; LICENSES; BONDS.

Subdivision 1. **License, bond, and liability insurance required.** No person shall act as a dealer in manufactured homes, new or used, without a license, a surety bond, and liability

insurance as provided in this section. No person shall manufacture manufactured homes without a license for each manufacturing facility shipping into or located within Minnesota's boundaries, a surety bond, and liability insurance as provided in this section. The licensing and bonding requirements of this section do not apply to any bank, savings bank, savings association, or credit union, chartered by either this state or the federal government, which acts as a dealer only by repossessing manufactured homes and then offering the homes for resale.

[For text of subs 2 and 3, see M.S.2006]

Subd. 4. License prerequisites. No application shall be granted nor license issued until the applicant proves to the commissioner that:

(a) the applicant has a permanent, established place of business at each licensed location. An "established place of business" means a permanent enclosed building other than a residence, or a commercial office space, either owned by the applicant or leased by the applicant for a term of at least one year, located in an area where zoning regulations allow commercial activity, and where the books, records and files necessary to conduct the business are kept and maintained. The owner of a licensed manufactured home park who resides in or adjacent to the park may use the residence as the established place of business required by this subdivision, unless prohibited by local zoning ordinance.

If a license is granted, the licensee may use unimproved lots and premises for sale, storage, and display of manufactured homes, if the licensee first notifies the commissioner in writing;

(b) if the applicant desires to sell, solicit or advertise the sale of new manufactured homes, it has a bona fide contract or franchise in effect with a manufacturer or distributor of the new manufactured home it proposes to deal in;

(c) the applicant has secured: (1) a surety bond in the amount of \$20,000 for the agency and each subagency location that bears the applicant's name and the name under which the applicant will be licensed and do business in this state. Each bond is for the protection of consumer customers, and must be executed by the applicant as principal and issued by a surety company admitted to do business in this state. Each bond shall be exclusively for the purpose of reimbursing consumer customers and shall be conditioned upon the faithful compliance by the applicant with all of the laws and rules of this state pertaining to the applicant's business as a dealer or manufacturer, including sections 325D.44, 325F.67 and 325F.69, and upon the applicant's faithful performance of all its legal obligations to consumer customers; and (2) a certificate of liability insurance in the amount of \$1,000,000 that provides coverage for the agency and each subagency location;

(d) the applicant has established a trust account as required by section 327B.08, subdivision 3, unless the applicant states in writing its intention to limit its business to selling, offering for sale, soliciting or advertising the sale of new manufactured homes; and

(e) the applicant has provided evidence of having had at least two years' prior experience in the sale of manufactured homes, working for a licensed dealer.

[For text of subd 5, see M.S.2006]

Subd. 6. Certificate of license. For each license granted the commissioner shall issue a certificate which includes the name of the licensee, the name of the surety company and the amount of the surety bond, and the insurance underwriter and policy number, the names and addresses of any related principal or subagencies, and a license number.

Subd. 7. Fees; licenses; when granted. Each application for a license or license renewal must be accompanied by a fee in an amount established by the commissioner by rule pursuant to section 327B.10. The fees shall be set in an amount which over the fiscal biennium will produce revenues approximately equal to the expenses which the commissioner expects to incur during that fiscal biennium while administering and enforcing sections 327B.01 to 327B.12. The commissioner shall grant or deny a license application or a renewal application within 60 days of its filing. If the license is granted, the commissioner shall license the appli-

cant as a dealer or manufacturer for the remainder of the calendar year. Upon application by the licensee, the commissioner shall renew the license for a two year period, if:

- (a) the renewal application satisfies the requirements of subdivisions 3 and 4;
- (b) the renewal applicant has made all listings, registrations, notices and reports required by the commissioner during the preceding year; and
- (c) the renewal applicant has paid all fees owed pursuant to sections 327B.01 to 327B.12 and all taxes, arrearages, and penalties owed to the state.

Subd. 8. Limited dealer's license. The commissioner shall issue a limited dealer's license to an owner of a manufactured home park authorizing the licensee as principal only to engage in the sale, offering for sale, soliciting, or advertising the sale of used manufactured homes located in the owned manufactured home park. The licensee must be the title holder of the homes and may engage in no more than ten sales annually. An owner may, upon payment of the applicable fee and compliance with this subdivision, obtain a separate license for each owned manufactured home park and is entitled to sell up to ten homes per license provided that only one limited dealer license may be issued for each park. The license shall be issued after:

(1) receipt of an application on forms provided by the commissioner containing the following information:

- (i) the identity of the applicant;
- (ii) the name under which the applicant will be licensed and do business in this state;
- (iii) the name and address of the owned manufactured home park, including a copy of the park license, serving as the basis for the issuance of the license;
- (iv) the name, home, and business address of the applicant;
- (v) the name, address, and telephone number of one individual that is designated by the applicant to receive all communications and cooperate with all inspections and investigations of the commissioner pertaining to the sale of manufactured homes in the manufactured home park owned by the applicant;
- (vi) whether the applicant or its designated individual has been convicted of a crime within the previous ten years that is either related directly to the business for which the license is sought or involved fraud, misrepresentation or misuse of funds, or has suffered a judgment in a civil action involving fraud, misrepresentation, or conversion within the previous five years or has had any government license or permit suspended or revoked as a result of an action brought by a federal or state governmental agency in this or any other state within the last five years; and
- (vii) the applicant's qualifications and business history, including whether the applicant or its designated individual has ever been adjudged bankrupt or insolvent, or has any unsatisfied court judgments outstanding against it or them;

(2) payment of a \$100 annual fee; and

(3) provision of a surety bond in the amount of \$5,000. A separate surety bond must be provided for each limited license.

The applicant need not comply with section 327B.04, subdivision 4, paragraph (e). The holding of a limited dealer's license does not satisfy the requirement contained in section 327B.04, subdivision 4, paragraph (e), for the licensee or salespersons with respect to obtaining a dealer license. The commissioner may, upon application for a renewal of a license, require only a verification that copies of sales documents have been retained and payment of a \$100 renewal fee. "Sales documents" mean only the safety feature disclosure form defined in section 327C.07, subdivision 3a, title of the home, financing agreements, and purchase agreements.

The license holder shall, upon request of the commissioner, make available for inspection during business hours sales documents required to be retained under this subdivision.

Subd. 8a. Service. Service of a document on a limited dealer licensed under this section may be effected by mail to or by personal service on: (1) the licensee at the licensee's last

known address; or (2) the individual designated by the licensee at that individual's last known address.

History: 2007 c 135 art 8 s 5; 2007 c 140 art 4 s 51–56

327B.042 NOTICE TO COMMISSIONER.

Subdivision 1. **Notification.** A person licensed as a dealer, limited dealer, or manufacturer shall notify the commissioner of the occurrence of any of the events in subdivisions 2 to 5.

Subd. 2. **Change in application information.** A licensee shall notify the commissioner in writing within ten days of the change of any change in information contained in the most recent license application on file with the commissioner, which shall include any change in the information pertaining to the individual designated under section 327B.04, subdivision 8, clause (1), item (vi).

Subd. 3. **Civil judgment.** A licensee shall notify the commissioner in writing within ten days of any decision of a court regarding a proceeding in which the licensee was named as a defendant, and in which fraud, misrepresentation, or the conversion of funds was found to have been committed by the licensee.

Subd. 4. **Disciplinary action in another state.** A licensee shall notify the commissioner in writing within ten days of the condition, reprimand, censure, limitation, suspension, or revocation of any other professional or occupational license, registration, permit, or certificate held by the licensee in this or any other state, or any other United States jurisdiction.

Subd. 5. **Criminal offense.** A licensee shall notify the commissioner in writing within ten days if the licensee is found guilty of a felony, gross misdemeanor, misdemeanor, or any comparable offense related to manufactured home sales, improper business practices, fraud, misrepresentation, misuse of funds, or violation of the consumer laws in this or any other state, or any other United States jurisdiction.

History: 2007 c 140 art 4 s 57

327B.05 DENIAL, SUSPENSION AND REVOCATION OF LICENSES.

Subdivision 1. **Grounds.** In addition to the grounds in section 326B.082, subdivision 11, the commissioner may by order deny, suspend, limit, place conditions on, or revoke the application or license of any applicant or licensee or any of its directors, officers, limited or general partners, controlling shareholders, or affiliates for any of the following grounds:

(a) has violated any of the provisions of sections 327B.01 to 327B.12 or any rule or order issued by the commissioner or any prior law providing for the licensing of manufactured home dealers or manufacturers;

(b) has had a previous manufacturer or dealer license revoked in this or any other state;

(c) has engaged in acts or omissions which have been adjudicated or amount to a violation of any of the provisions of section 325D.44, 325F.67 or 325F.69;

(d) has sold or brokered the sale of a home containing a material violation of sections 327.31 to 327.35 about which the dealer knew or which should have been obvious to a reasonably prudent dealer;

(e) has failed to make or provide all listings, notices and reports required by the commissioner;

(f) has failed to pay a civil penalty assessed under subdivision 5 within ten days after the assessment becomes final;

(g) has failed to pay to the commissioner or other responsible government agency all taxes, fees and arrearages due;

(h) has failed to duly apply for license renewal;

(i) has violated any applicable manufactured home building or safety code;

(j) has failed or refused to honor any express or implied warranty as provided in section 327B.03;

(k) has failed to continuously occupy a permanent, established place of business licensed under section 327B.04;

(l) has, without first notifying the commissioner, sold a new and unused manufactured home other than the make of manufactured home described in a franchise or contract filed with the application for license or license renewal;

(m) has wrongfully failed to deliver a certificate of title to a person entitled to it;

(n) is insolvent or bankrupt;

(o) holds an impaired or canceled bond;

(p) has failed to notify the commissioner of bankruptcy proceedings within ten days after a petition in bankruptcy has been filed by or against the dealer or manufacturer;

(q) has, within the previous ten years, been convicted of a crime that either related directly to the business of the dealer or manufacturer or involved fraud, misrepresentation or misuse of funds;

(r) has suffered a judgment within the previous five years in a civil action involving fraud, misrepresentation or misuse of funds; or

(s) has failed to reasonably supervise any employee or agent of the dealer or manufacturer, resulting in injury or harm to the public.

The commissioner may establish rules pursuant to section 327B.10 further specifying, defining or establishing standards of conduct for manufactured home dealers and manufacturers.

Subd. 2. [Repealed, 2007 c 140 art 13 s 3]

Subd. 3. [Repealed, 2007 c 140 art 13 s 3]

Subd. 4. [Repealed, 2007 c 140 art 13 s 3]

Subd. 5. [Repealed, 2007 c 140 art 13 s 3]

Subd. 6. [Repealed, 2007 c 140 art 13 s 3]

History: 2007 c 140 art 4 s 58

327B.10 RULEMAKING AUTHORITY.

The commissioner may promulgate rules and issue orders reasonably necessary to implement and administer the provisions of sections 327B.01 to 327B.12. The commissioner shall adopt rules establishing and approving education programs for manufactured home installers. Each manufactured home installer must satisfactorily complete the continuing education requirements established by the commissioner in rule.

History: 2007 c 140 art 4 s 59