CHAPTER 327B

MANUFACTURED HOME SALES

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327B.01 DEFINITIONS.

Subdivision 1. **Terms.** As used in sections 327B.01 to 327B.12 the terms defined in this section have the meanings given them.

Subd. 2. **Affiliate.** "Affiliate" of another person means any person directly or indirectly controlling, controlled by, or under common control with the other person.

Subd. 2a. **Borrower.** "Borrower" means a person or persons applying for or obtaining a manufactured home loan.

Subd. 3. **Broker.** "Broker" means any person who:

(a) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly lists, sells, exchanges, buys or rents, manages, or offers or attempts to negotiate a sale, option, exchange, purchase or rental of an interest in a manufactured home or advertises or holds out as engaged in such activities;

(b) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly negotiates or offers or attempts to negotiate a loan, secured or to be secured by a security interest in or other encumbrance on a manufactured home; or

(c) engages in the business of charging an advance fee or contracting for collection of a fee in connection with any contract to undertake to promote the sale of a manufactured home through its listing in a publication issued primarily for the purpose of promoting the sale of manufactured homes or real estate.

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

Subd. 4a. **Churning.** "Churning" means knowingly or intentionally making, providing, or arranging for a manufactured home loan when the new manufactured home loan does not provide a reasonable, tangible net benefit to the borrower considering all of the circumstances, including the terms of both the new and refinanced loans, the cost of the new loan, and the borrower's circumstances.

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.

Subd. 6. **Controlling shareholder.** "Controlling shareholder" means a shareholder whose legal, equitable and beneficial holdings, and whose family's such holdings, in a dealership amount to more than ten percent of the outstanding shares.

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.

Subd. 8. **Express warranty.** "Express warranty" means a warranty as defined by section 336.2-313.

Subd. 9. **Implied warranty of fitness for particular purpose.** "Implied warranty of fitness for particular purpose" means a warranty as defined by section 336.2-315.

Subd. 10. **Implied warranty of merchantability.** "Implied warranty of merchantability" means a warranty as defined by section 336.2-314.

Subd. 10a. **Individual.** "Individual" means a human being.

Subd. 11. **In park sale.** "In park sale" has the meaning specified in section 327C.015, subdivision 5.

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.

Subd. 12. **Manufacturer.** "Manufacturer" means any person who manufactures, assembles or produces manufactured homes.

Subd. 13. **Manufactured home.** "Manufactured home" means a structure, not affixed to or part of real estate, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 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 in it.

Subd. 13a. **Manufactured home lender.** "Manufactured home lender" means a person who makes a manufactured home loan to a borrower, including a person who provides table funding. A manufactured home lender includes an affiliate, subsidiary, or any person acting as an agent of the lender. This definition does not apply to a manufactured home loan originated by a federal or state chartered bank, savings bank, credit union, or a licensed sales finance company as defined under section 53C.01, subdivision 12.

Subd. 13b. **Manufactured home loan.** "Manufactured home loan" means a loan made to a person or persons for the purchase, refinancing, improvement, or repair of a manufactured home.

Subd. 14. **Manufactured home park.** "Manufactured home park" has the meaning specified in section 327C.015, subdivision 8.

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.

Subd. 14b. **Negative amortization.** "Negative amortization" occurs when the borrower's compliance with any repayment option offered pursuant to the terms of the manufactured home loan is insufficient to satisfy the interest accruing on the loan, resulting in an increase in the loan balance. Negative amortization does not occur when a manufactured home loan is originated, subsidized, or guaranteed by or through a state, Tribal, or local government, or nonprofit organization, and bears one or more of the following nonstandard payment terms that substantially benefit the borrower:

(1) payments vary with income;

(2) payments of principal and interest are deferred until the maturity date of the loan or the sale of the residence;

(3) principal or interest is forgivable under specified conditions; or

(4) where no interest or an annual interest rate of two percent or less is charged in connection with the loan, and excludes existing loan modifications and payment extensions mutually agreed upon by the secured party and debtor.

Subd. 15. **Net listing agreement.** "Net listing agreement" means any agreement by any dealer to sell, offer for sale, solicit, broker or advertise the sale of a manufactured home on behalf of any person which provides for the dealer to receive any consideration from any person other than a commission based on a single percentage of the price at which the home is actually sold.

Subd. 16. **New manufactured home.** "New manufactured home" means a manufactured home which is purchased for the first time other than for purposes of resale.

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.

Subd. 18. **Sale.** "Sale" means:

(a) the passing of title from one person to another for consideration; or

(b) any agreement to sell under which possession is delivered to the buyer but title is retained in the seller; or

(c) any agreement in the form of a bailment or lease of goods if the bailee or lessee agrees to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the goods involved and it is agreed that the bailee or lessee will become, or for no other than a nominal consideration has the option to become, the owner of the goods upon full compliance with the bailee's or lessee's obligations under the agreement; or

(d) any legally binding executory agreement to make a sale.

Subd. 19. **Salesperson.** "Salesperson" means a person who acts on behalf of a dealer in performing any act which sections 327B.01 to 327B.12 authorize or require to be performed by a dealer.

Subd. 20. **Trust account.** "Trust account" means a demand deposit, share draft or checking account maintained for the purpose of segregating trust funds from other funds.

Subd. 21. **Trust funds.** "Trust funds" means funds received by a broker in a fiduciary capacity as a part of a manufactured home sale transaction, pending the consummation or termination of a transaction, and includes all down payments, earnest money deposits, rents for clients, tax and insurance escrow payments, damage deposits, and any funds received on behalf of any person.

History: *1982 c 526 art 1 s 1; 1983 c 142 s 1,2; 1983 c 216 art 1 s 52,53; 1986 c 444; 2007 c 140 art 4 s 42-50; 2008 c 273 s 6-10; 2022 c 55 art 2 s 3*

327B.02 WARRANTIES.

Subdivision 1. **Implied warranties.** Every sale of a new manufactured home in this state is made with an implied warranty that the manufactured home conforms in all material aspects to applicable federal or state laws and regulations establishing standards of safety or quality, and with implied warranties of merchantability and fitness for particular purpose as permanent housing in the climate of this state.

Subd. 2. **Express warranties permitted.** This section does not prohibit a manufacturer or dealer from making express warranties with respect to a manufactured home, but a manufacturer or dealer may not limit, modify or disclaim the warranties implied by subdivision 1.

Subd. 3. **Limitations void.** Any attempt to exclude, limit or modify any rights or remedies created by the warranties implied by this section is void.

History: *1982 c 526 art 1 s 2*

327B.03 WARRANTIES; DURATION, HONORING.

Subdivision 1. **Duration.** The warranties implied by section 327B.02 shall run for a period of one year from the date of delivery of the manufactured home to the consumer customer.

Subd. 2. **Notice and cooperation by buyer.** To invoke either a warranty implied by section 327B.02 or an express warranty made by the manufacturer the buyer must notify the dealer and the manufacturer within a reasonable time after discovering the breach and not later than 90 days after the expiration of the warranty. To invoke an express warranty made by the dealer, the buyer must notify the dealer within a reasonable time after discovering the breach and not later than 90 days after the expiration of the warranty. After giving the notice the buyer must allow reasonable opportunity for the service or repair.

Subd. 3. **Responsibility to honor.** The manufacturer and dealer, jointly and severally, shall service or repair a manufactured home at its site within a reasonable time after receiving written notice of breach of either a warranty implied by section 327B.02 or an express warranty made by the manufacturer. The dealer shall service or repair a manufactured home at its site within a reasonable time after receiving written notice of breach of an express warranty made by the dealer.

History: *1982 c 526 art 1 s 3*

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.

Subd. 2. **Subagency licenses.** Any dealer who has a place of business at more than one location shall designate one location as its principal place of business, one name as its principal name, and all other established places of business as subagencies. A subagency license shall be required for each subagency. Subagency license renewal must coincide with the principal license date. No dealer shall do business as a dealer under any other name than the name on its license.

Subd. 3. **License application; manufacturer and dealer.** Application for a license and its renewal shall be made to the commissioner, shall be in writing, and duly verified by oath. The applicant shall submit any information required by the commissioner, upon forms provided by the commissioner for that purpose, including:

(a) proof of identity;

(b) the name under which the applicant will be licensed and do business in this state;

(c) the applicant's type and place of business;

(d) the name, home and business address of the applicant's directors, officers, limited and general partners, controlling shareholders and affiliates;

(e) whether the applicant, or any of its directors, officers, limited or general partners, controlling shareholders or affiliates, has been convicted of a crime within the previous ten years that 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

(f) the applicant's qualifications and business history, including whether the applicant, or any of its directors, officers, limited or general partners, controlling shareholders or affiliates has ever been adjudged bankrupt or insolvent, or has any unsatisfied court judgments outstanding against it or them.

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 each 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 aggregate coverage for the agency and each subagency location. In the event of a policy cancellation, the insurer shall send written notice to the commissioner at the same time that a cancellation request is received from or a notice is sent to the insured;

(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. The applicant does not have to satisfy the two-year prior experience requirement if:

(1) the applicant sells or brokers used manufactured homes as permitted under section 327B.01, subdivision 7; or

(2) the applicant:

(i) has met all other licensing requirements;

(ii) is the owner of a manufactured home park; and

(iii) is selling new manufactured homes installed in the manufactured home park that the applicant owns.

Subd. 5. **Exemption for real estate brokers and salespeople.** Any person licensed as a real estate broker or salesperson under chapter 82 who brokers the sale of used manufactured homes is not required to obtain a license or a bond as required by this section, but is subject to all other provisions of sections 327B.01 to 327B.12. Any real estate broker or salesperson who violates a provision of sections 327B.06 to 327B.09 in selling or offering for sale a used manufactured home shall be deemed to have violated a provision of chapter 82.

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. **Licenses; renewal.** In addition to the requirements of this section, each application for a license or license renewal must be accompanied by all applicable fees required by section 326B.092. 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. If the license is granted, the commissioner shall license the applicant as a dealer or manufacturer for the remainder of the licensure period. Upon application by the licensee, the commissioner shall renew the license for a two-year period, if:

(1) the renewal application satisfies the requirements of subdivisions 3 and 4;

(2) the renewal applicant has made all listings, registrations, notices and reports required by the commissioner during the preceding licensure period; and

(3) 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. 7a. **Fees.** (a) Fees for licenses issued pursuant to this section shall be for two years and the following fees apply:

(1) manufacturer's license and dealer's license, $180;

(2) dealer's subagency license, $80; and

(3) limited dealer's license, $100.

(b) All initial limited dealer licenses shall be effective for more than one calendar year and shall expire on December 31 of the year after the year in which the application is made.

(c) For the purposes of calculating fees under section 326B.092, any license issued under this section is a business license, except that a subagency license is a master license.

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 during each year of the two-year licensure period. 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 20 homes per license period 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 the license fee established by subdivision 7a; 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 subdivision 4, paragraph (e). The holding of a limited dealer's license does not satisfy the requirement contained in 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 the renewal fees established by section 326B.092. "Sales documents" mean only the notice of compliance form under section 327.32, subdivision 1a, 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: *1982 c 526 art 1 s 4; 1983 c 142 s 3; 1983 c 216 art 1 s 54; 1986 c 444; 1995 c 202 art 2 s 28; 1997 c 202 art 2 s 44; 1998 c 280 s 1; 2000 c 352 s 1; 2007 c 135 art 8 s 5; 2007 c 140 art 4 s 51-56; 2008 c 337 s 61; 2009 c 78 art 5 s 31-33; 2010 c 347 art 3 s 68-71; 2010 c 384 s 92; 2013 c 85 art 2 s 36; 1Sp2025 c 6 art 5 s 46; 2026 c 88 art 1 s 185*

327B.041 MANUFACTURED HOME INSTALLERS.

(a) Manufactured home installers are subject to all of the fees in section 326B.092 and the requirements of sections 326B.802 to 326B.885, except for the following:

(1) manufactured home installers are not subject to the continuing education requirements of sections 326B.0981, 326B.099, and 326B.821, but are subject to the continuing education requirements established in rules adopted under section 327B.10;

(2) the examination requirement of section 326B.83, subdivision 3, for manufactured home installers shall be satisfied by successful completion of a written examination administered and developed specifically for the examination of manufactured home installers. The examination must be administered and developed by the commissioner. The commissioner and the state building official shall seek advice on the grading, monitoring, and updating of examinations from the Manufactured and Modular Home Association of Minnesota;

(3) a local government unit may not place a surcharge on a license fee, and may not charge a separate fee to installers;

(4) a dealer or distributor who does not install or repair manufactured homes is exempt from licensure under sections 326B.802 to 326B.885;

(5) the exemption under section 326B.805, subdivision 6, clause (5), does not apply; and

(6) manufactured home installers are not subject to the contractor recovery fund in section 326B.89.

(b) The commissioner may waive all or part of the requirements for licensure as a manufactured home installer for any individual who holds an unexpired license or certificate issued by any other state or other United States jurisdiction if the licensing requirements of that jurisdiction meet or exceed the corresponding licensing requirements of the department and the individual complies with section 326B.092, subdivisions 1 and 3 to 7.

History: *1993 c 9 s 4; 1997 c 206 s 11; 2007 c 140 art 8 s 9,30; art 13 s 4; 2009 c 86 art 1 s 60; 2010 c 347 art 3 s 72; 1Sp2011 c 4 art 3 s 58; 1Sp2019 c 1 art 6 s 5; 1Sp2025 c 6 art 5 s 47*

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:

(1) 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;

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

(3) 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;

(4) has sold or brokered the sale of a home containing a material violation of sections 327.31 to 327.35 that the dealer knew of or could have known of with the exercise of reasonable diligence;

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

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

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

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

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

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

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

(12) 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;

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

(14) is insolvent or bankrupt;

(15) holds an impaired or canceled bond;

(16) 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;

(17) 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;

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

(19) 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: *1982 c 526 art 1 s 5; 1983 c 142 s 4,6; 1983 c 216 art 1 s 55; 1983 c 247 s 133; 1986 c 444; 2007 c 140 art 4 s 58; 1Sp2025 c 6 art 5 s 48*

327B.06 DEALER'S RECORDS.

Subdivision 1. **Retention.** A dealer shall retain for five years copies of all listings, deposit receipts, credit applications, contracts, disclosure forms, canceled checks, trust account records and other documents reasonably related to carrying on the business of a dealer. The retention period shall run from the date of the closing of the transaction or from the date of the listing if the transaction is not consummated.

Subd. 2. **Examination of records.** The commissioner may make examinations within or without this state of each dealer's records at such reasonable time and in such scope as is necessary to enforce the provisions of sections 327B.01 to 327B.12.

History: *1982 c 526 art 1 s 6; 2008 c 337 s 62*

327B.07 RESPONSIBILITY OF DEALERS.

Subdivision 1. **Liability.** Each dealer is responsible for the activities of any person employed by or acting on behalf of that dealer when the activities occur in connection with the sale or attempted sale of a manufactured home. Each corporation licensed as a dealer is responsible for the activities of any person employed by or acting on behalf of the corporation when such activities occur in connection with the sale or attempted sale of a manufactured home.

Subd. 2. **Salespeople.** Every dealer shall report in writing to the commissioner the full name, date of birth, business and home address of every salesperson employed by the dealer. Within ten days of hiring, firing or otherwise changing the employment status of a salesperson, the dealer shall notify the commissioner in writing. No salesperson shall work for more than one dealer during the same time period.

History: *1982 c 526 art 1 s 7; 1983 c 142 s 7*

327B.08 DUTIES.

Subdivision 1. **Disclosure required.** Prior to the consummation of the sale of any manufactured home where a dealer acts as a broker, the dealer shall disclose in writing to all parties to the transaction all charges, payments, commissions and other fees paid or payable in connection with the transaction. Any commission charged by the dealer shall be expressed both as a dollar amount and as a percentage of the sales price. If the home being sold is located in a manufactured home park, prior to the buyer's signing of the purchase agreement the dealer shall disclose in writing to the buyer the state law concerning the in park sale of manufactured homes. This subdivision does not require any dealer to disclose any consideration received (1) for having acted as an insurance agent, as defined in section 60A.02, subdivision 7, in connection with the transaction, or (2) in return for the dealer having agreed to any contingent liability in connection with the financing of the sale. The commissioner may prescribe a form to be used to comply with this subdivision and may require all dealers to use that form.

Subd. 2. **Presence of parties at closing.** A dealer shall not prohibit, prevent or restrain any party to the brokered sale of a manufactured home from being present at the closing. If a dealer at a closing purports to have authority to act for one of the parties who is not present, the dealer shall exhibit the document granting that authority and shall give a copy of that document to the other parties.

Subd. 3. **Trust account required.** Each dealer who acts as a broker shall maintain a trust account. A trust account shall not be an interest bearing account except by agreement of the parties and subject to rules of the commissioner.

Subd. 4. **Segregation of funds.** A dealer shall deposit all trust funds received in a trust account. A dealer shall not commingle personal funds or other funds with the funds in a trust account, except that a dealer may deposit and maintain a sum from personal funds not to exceed $100 in a trust account, which sum shall be specifically identified and used to pay service charges relating to the trust account.

Subd. 5. **Trust information required.** At the time of application for a license or renewal of license, each dealer who acts or intends to act as a broker shall tell the commissioner the name of the financial institutions and the trust account identification numbers used to comply with the provisions of this section. A dealer shall immediately report to the commissioner any change of trust account status including changes in financial institutions, account identification numbers, or additional accounts in the same or another financial institution. No dealer may close an existing trust account without giving ten days' written notice to the commissioner.

Subd. 6. **Duty of agency.** (a) A person acting as a broker shall be considered to have created an agency relationship with the borrower in all cases and shall comply with the following duties:

(1) brokers shall reasonably act:

(i) in the borrower's best interest;

(ii) in the utmost good faith toward borrowers; and

(iii) so as not to compromise a borrower's right or interest in favor of another's right or interest, including a right or interest of the broker. A broker shall not accept, give, or charge any undisclosed compensation or realize any undisclosed remuneration, either through direct or indirect means, that inures to the benefit of the broker on an expenditure made for the borrower;

(2) brokers shall carry out all lawful instructions given by borrowers;

(3) brokers shall disclose to borrowers all material facts of which the broker has knowledge which might reasonably affect the borrower's rights, interests, or ability to receive the borrower's intended benefit from the manufactured home loan, but not facts which are reasonably susceptible to the knowledge of the borrower;

(4) brokers shall use reasonable care in performing duties; and

(5) brokers shall account to a borrower for all the borrower's money and property received as an agent.

(b) The duty of agency does not attach to a broker who is:

(1) a dealer or retailer;

(2) a limited dealer or retailer;

(3) licensed as a sales finance company as defined under section 53C.01, subdivision 12;

(4) employed by:

(i) a manufactured home lender;

(ii) a dealer or retailer;

(iii) a limited dealer or retailer; or

(iv) a licensed sales finance company as defined under section 53C.01, subdivision 12;

(5) a person who has an exclusive contract to act as a broker for:

(i) a manufactured home lender;

(ii) a dealer or retailer;

(iii) a limited dealer or retailer; or

(iv) a licensed sales finance company as defined under section 53C.01, subdivision 12.

(c) Nothing in this section prohibits a broker who is bound by the duty of agency from contracting for or collecting a reasonable fee for services rendered and which had been disclosed to the borrower in advance of the provision of such services.

(d) Nothing in this section requires a broker who is bound by the duty of agency to obtain a loan containing terms or conditions not available to the broker in the broker's usual course of business, or to obtain a loan for the borrower from a manufactured home loan lender with whom the broker does not have a business relationship.

History: *1982 c 526 art 1 s 8; 1986 c 444; 2008 c 273 s 11*

327B.09 PROHIBITIONS.

Subdivision 1. **License required.** No person shall engage in the business, either exclusively or in addition to any other occupation of manufacturing, selling, offering to sell, soliciting or advertising the sale of manufactured homes, or act as a broker without being licensed as a manufacturer or a dealer as provided in section 327B.04. Any person who manufactures, sells, offers to sell, solicits or advertises the sale of manufactured homes, or acts as a broker in violation of this subdivision shall nevertheless be subject to the duties, prohibitions and penalties imposed by sections 327B.01 to 327B.12. This chapter does not prohibit either an individual from reselling, without a license, a manufactured home which is or has been the individual's residence or any bank, savings bank, savings association, or credit union, chartered by either this state or the federal government, from reselling, without a license, a repossessed manufactured home.

Subd. 2. **Advertising.** No person shall advertise as a manufactured home dealer, or as a lister, broker or agent for the sale of manufactured homes, without being licensed as a dealer as provided in section 327B.04.

Subd. 3. **Display of license.** No person shall act as a dealer or manufacturer unless the certificate authorizing that activity is prominently displayed on the business premises covered by the license. Before moving to a new location from the established place of business occupied when the license is granted, the licensee must first secure the commissioner's written permission. To obtain that permission, the licensee must prove that the proposed new premises conform to the requirements of section 327B.04, subdivision 4.

Subd. 4. **Net listing prohibited.** No dealer shall use or offer to use a net listing agreement.

Subd. 5. **Broker or dealer arrangement of financing.** A dealer who is acting as a broker for the sale of a manufactured home and who can arrange financing for the sale may charge a separate fee for that service, if:

(a) the listing agreement does not require that the seller or buyer use the dealer's services to arrange financing;

(b) in arranging the financing, the dealer will pay a fee or will guarantee all or part of the buyer's performance to a third person; and

(c) the listing agreement clearly and conspicuously discloses the amount of the fee, the fact that the fee is in addition to the dealer's commission and the fact that the seller and buyer are not required to use the dealer's services to arrange financing.

Subd. 6. **Standards of conduct.** (a) No manufactured home lender shall:

(1) charge a fee for a product or service where the product or service is not actually provided, or misrepresent the amount charged by or paid to a third party for a product or service;

(2) make or cause to be made, directly or indirectly, any false, deceptive, or misleading statement or representation in connection with a manufactured home loan transaction, including, without limitation, a false, deceptive, or misleading statement or representation regarding the borrower's ability to qualify for any manufactured home loan product;

(3) issue any document indicating conditional qualification or conditional approval for a manufactured home loan, unless the document also clearly indicates that final qualification or approval is not guaranteed, and may be subject to additional review;

(4) make or assist in making any manufactured home loan without verifying the reasonable ability of the borrower to repay the loan, taking into consideration taxes and insurance in connection with the manufactured home;

(5) make, provide, or arrange for a manufactured home loan for a higher interest rate or on less favorable terms than the rate or terms for which the borrower qualifies based on criteria typically used by that lender to evaluate rate and term offerings;

(6) make, provide, or arrange for a manufactured home loan all or a portion of the proceeds of which are used to fully or partially pay off a "special loan" unless the borrower has obtained a written certification from an authorized independent loan counselor that the borrower has received counseling on the advisability of the loan transaction. For the purposes of this section, "special loan" means a loan for the purchase, refinance, improvement, or repair of the manufactured home originated, subsidized, or guaranteed by or through a state, Tribal, or local government, or nonprofit organization, that bears one or more of the following nonstandard payment terms, which substantially benefit the borrower:

(i) payments vary with income;

(ii) payments of principal or interest are not required or can be deferred under specified conditions;

(iii) principal or interest is forgivable under specified conditions; or

(iv) where no interest or an annual interest rate of two percent or less is charged in connection with the loan. For the purposes of this section, "authorized independent loan counselor" means a nonprofit, third-party individual or organization providing home buyer education programs, foreclosure prevention services, loan counseling, or credit counseling certified by the United States Department of Housing and Urban Development, the Minnesota Home Ownership Center, the Minnesota Mortgage Foreclosure Prevention Association, AARP, or NeighborWorks America;

(7) engage in churning; or

(8) make, provide, or arrange for a manufactured home loan if the borrower's compliance with any repayment option offered under the terms of the loan will result in negative amortization during any six-month period. This excludes existing loan extensions and modifications.

(b) This subdivision does not apply to a state or federally chartered bank, savings bank, or credit union, an institution chartered by Congress under the Farm Credit Act, or to a person making, providing, or arranging a manufactured home loan originated or purchased by a state agency or a Tribal or local unit of government.

History: *1982 c 526 art 1 s 9; 1983 c 142 s 9; 1983 c 216 art 1 s 56; 1986 c 444; 1995 c 202 art 2 s 29; 2008 c 273 s 12*

327B.095 INTEREST, POINTS, FINANCE CHARGES, FEES, AND OTHER CHARGES.

Subdivision 1. **Financed interest, points, finance charges, fees, and other charges.** (a) A manufactured home lender making or modifying a manufactured home loan to a borrower located in this state must not include in the principal amount of any loan, all or any portion of any lender fee in an aggregate amount exceeding:

(1) five percent of the loan amount for loans over $60,000;

(2) six percent of the loan amount for loans less than $60,000, but greater than or equal to $40,000; or

(3) eight percent of the loan amount for loans of less than $40,000.

(b) "Lender fee" means interest, origination points, finance charges, fees, and other charges payable in connection with the manufactured home loan:

(1) by the borrower to any manufactured home lender or broker or to any assignee of any manufactured home lender or broker; or

(2) by the lender to a broker.

(c) Lender fee does not include discount points, provided there is a concomitant benefit to the borrower, recording fees, taxes, passthroughs, or other amounts that are paid by any person to any government entity, filing office, or other third party that is not a manufactured home lender or broker or to any assignee of any manufactured home lender or broker. Lender fee also does not include any amount that is set aside to pay taxes or insurance on any property securing the manufactured home loan.

(d) "Loan amount" means:

(1) for a line of credit, the maximum principal amount of the line of credit; and

(2) for any other manufactured home loan, the principal amount of the loan, excluding all interest, points, finance charges, fees, and other charges.

(e) A manufactured home lender or broker shall not charge, receive, or collect any excess financed interest, points, finance charges, fees, or other charges described in this subdivision, or any interest, points, finance charges, fees, or other charges with respect to this excess.

Subd. 2. **Prepayment penalties.** No manufactured home loan may contain a provision requiring or permitting the imposition of a penalty, fee, premium, or other charge in the event the manufactured home

loan is prepaid in whole or in part unless the penalty, fee, premium, or other charge constitutes consideration for an equal or greater benefit to the borrower.

Subd. 3. **Exemption.** This section does not apply to a manufactured home loan originated by a federal or state chartered bank, savings bank, credit union, or a licensed sales finance company as defined under section 53C.01, subdivision 12.

History: *2008 c 273 s 13*

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: *1982 c 526 art 1 s 10; 2007 c 140 art 4 s 59*

327B.11 RECOURSE TO THE BOND.

Subdivision 1. **Consumer claimants.** Any consumer customer sustaining injuries within the terms of a surety bond issued pursuant to section 327B.04 may proceed against the principal and surety without making the state a party to the proceedings. Provided, however, that the aggregate liability of the surety to all persons for all losses or damages shall in no event exceed the amount of the bond.

Subd. 2. **Payment of claims; notice to commissioner.** Before paying any claim against a surety bond, the surety company must first notify the commissioner in writing of the amount of the claim, the basis of the claim and the surety company's intention to pay the claim. Unless the commissioner objects in writing within ten days of receiving the notice, the surety company may proceed upon its intention. The commissioner's failure to object is not evidence of the validity of the claim or of the propriety of paying the claim. The commissioner shall object only with reasonable grounds to believe that paying the claim will reduce the obligation of the bond to an amount less than the total amount of other outstanding and valid claims against the bond.

Subd. 3. **Application for a referee.** Within 15 days of objecting to the payment of a claim, the commissioner shall apply to the district court for an order:

(a) directing the surety company to pay the full obligation of the bond into court; and

(b) appointing a referee to hear claims against the bond and to propose to the court the proper distribution of the bond proceeds.

The surety company and the principals on the bond shall be parties to the proceedings.

History: *1982 c 526 art 1 s 11; 1986 c 444*

327B.12 ADDITIONAL REMEDIES AND ENFORCEMENT.

Subdivision 1. **Private remedies.** (a) Any person injured or threatened with injury by a dealer or manufacturer's violation of sections 327B.01 to 327B.12 may bring a private action in any court of competent jurisdiction.

(b) A borrower injured by a violation of the standards, duties, prohibitions, or requirements of sections 327B.08, subdivision 6; 327B.09, subdivision 6; or 327B.095, shall have a private right of action and the court shall award actual, incidental, and consequential damages.

Subd. 2. **Fraud remedies.** In addition to the remedies provided in sections 327B.01 to 327B.12, any violation of section 327B.08 or 327B.09 is a violation of section 325F.69, subdivision 1 and the provisions of section 8.31 shall apply. A private right of action by the borrower under this chapter is in the public interest.

History: *1982 c 526 art 1 s 12; 2008 c 273 s 14; 2014 c 275 art 1 s 105*