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CHAPTER 29.

 UNIFORM STANDARDS CODE FOR MANUFACTURED HOUSING

**SECTION 40‑29‑5.** Applicability of professional licensing statutes.

 Unless otherwise provided for in this chapter, Article 1, Chapter 1 of Title 40 applies to the regulation of manufactured home manufacturers, manufactured home retail dealers, manufactured home sales persons, and manufactured home contractors, installers, and repairers. If there is a conflict between this chapter and Article 1, Chapter 1 of Title 40, the provisions of this chapter control.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑10.** Manufactured Housing Board; membership, duties and responsibilities.

 (A) There is created the South Carolina Manufactured Housing Board. It is composed of ten members who must be residents of South Carolina appointed by the Governor in accordance with Section 40‑1‑45 for terms of four years and until their successors are appointed and qualify. The board shall include a manufactured home retail dealer owner, a representative of the fire and casualty insurance industry, a full‑time employee of a fire department, a representative of the manufactured housing industry from a list of qualified candidates submitted to the Governor by the Manufactured Housing Institute of South Carolina, a representative of the banking and finance industry, a registered professional engineer, a licensed manufactured home contractor, installer, or repairer, one member from the general public who must not be associated with any of the other industries represented on the board other than as a minority stockholder, a member from the general public who currently resides in a manufactured home, and a manufactured home retail salesman. The State Fire Marshal shall serve on the board as a consultant and as an ex officio member without a vote. An individual, group, or association may nominate board members from the general public.

 (B) The board shall annually elect by majority vote a chairman and vice‑chairman from its membership. Not more than one individual associated with the manufactured housing industry may hold the position of chairman or vice‑chairman at the same time.

 (C) The board shall meet on a regular basis. The board shall provide notice to interested members of the public of its scheduled and special meetings. A member of the board may not participate in any proceeding before the board involving his licensed business.

 (D) The board shall:

 (1) invoke fines or adjust surety bonding or other approved security requirements for cause in accordance with this chapter;

 (2) receive and resolve complaints from buyers of manufactured homes;

 (3) adopt regulations relating to the construction, repair, modification, installation, tie down, and sale of all manufactured homes, which regulations must be uniform throughout the State and enforced by inspectors for the board;

 (4) adopt by regulation the standards contained in the Construction and Safety Standards Act;

 (5) adopt by regulation the manufactured home procedural and enforcement regulations of 24 C.F.R. 3282, as amended, promulgated by the Department of Housing and Urban Development pursuant to the Construction and Safety Standards Act;

 (6) enter into cooperative agreements with federal agencies relating to manufactured housing and accept and use federal grants, matching funds, or other financial assistance to further the purposes of this chapter;

 (7) adopt regulations for conducting hearings and the presentation of views, consistent with the regulations promulgated by the Department of Housing and Urban Development, 24 C.F.R. 3282.151 through 3282.156, as amended;

 (8) provide for examinations for licensure under the classifications sought by the applicant and establish and collect fees;

 (9) prescribe the form of license which must have the seal of the office printed on the license; and

 (10) adopt a schedule of fees in regulation.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑20.** Definitions.

 Unless clearly indicated otherwise, as used in this chapter:

 (1) "Authorized official" means a person acting on behalf of a manufactured home retail dealer.

 (2) "Board" means the South Carolina Manufactured Housing Board.

 (3) "Construction and Safety Standards Act" means the Federal Manufactured Housing Construction and Safety Standards Act of 1974, as amended.

 (4) "Consumer" means a person who in good faith purchases a manufactured home or mobile home for purposes other than resale.

 (5) "Defect" includes a defect in the performance, construction, components, or material of a manufactured home that renders the home or any part of it not fit for the ordinary use for which it was intended.

 (6) "Established place of business" means the office, building, or display area where the exercise of the ordinary and regular functions of the business are conducted for the purpose of carrying on the business of the owner and where books, records, files, inventory, and equipment necessary to properly conduct the business are maintained.

 (7) "Imminent safety hazard" means a hazard that presents an imminent and unreasonable risk of death or severe personal injury.

 (8) "Install/installed" means the operations performed at the occupancy site which render a manufactured home fit for habitation. These operations include, but are not limited to, positioning, blocking, leveling, supporting, tying down, connecting utility systems, and assembling multiple or expandable units.

 (9) "Manufactured home" means a structure, transportable in one or more sections which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length or when erected on site is three hundred twenty 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.

 (10) "Manufactured home apprentice retail salesperson" means an employee who works under the direct supervision of a retail dealer and who is authorized to offer for sale a manufactured home subject to the restrictions in this chapter.

 (11) "Manufactured home contractor" means a person or entity, other than an employee of a licensed manufactured home retail dealer or a person licensed by the board or licensed by the South Carolina Contractor's Licensing Board to perform a particular function, who for valuable consideration engages in the installation, modification, alteration, or repair to the structural, mechanical, or electrical systems of a manufactured home.

 (12) "Manufactured home installer" means a person or entity, other than an employee of a licensed manufactured home retail dealer or a person licensed by the board or licensed by the South Carolina Contractor's Licensing Board to perform a particular function, who for valuable consideration installs manufactured housing.

 (13) "Manufactured home manufacturer" means a person, resident, or nonresident, who designs, constructs, or produces manufactured homes.

 (14) "Manufactured home repairer" means a person or entity, other than an employee of a licensed manufactured home retail dealer or a person licensed by the board or licensed by the South Carolina Contractor's Licensing Board to perform a particular function, who for valuable consideration modifies, alters, or repairs the structural, mechanical, or electrical systems of a manufactured home.

 (15) "Manufactured home retail dealer" means a person engaged in the business of buying, selling, offering for sale, or dealing in manufactured homes or offering for display manufactured homes for sale in South Carolina. A person who buys, sells, or deals in three or more manufactured homes in any twelve‑month period or who offers or displays for sale three or more manufactured homes in a twelve‑month period is considered a manufactured home retail dealer. "Selling" and "sale" include lease‑purchase transactions.

 (16) "Manufactured home retail salesman" means a person who is an employee or otherwise acts as an agent or representative of a manufactured home retail dealer and holds himself out as promoting, offering for sale, or selling the manufactured home retail dealer's goods or services.

 (17) "New manufactured home" means a home that has not been previously titled and is still in the possession of the original retail dealer. If the home is later shipped to another retail dealer and sold to a consumer within two years of the date of manufacture, the home is still considered new and must continue to meet all state warranty requirements. However, if a home is shipped from the original retail dealer to another retail dealer and then sold to a consumer more than two years after the date of manufacture, the home must be sold as used for warranty purposes, and prior written notice of the "used" status of the manufactured home and how this status affects warranty requirements must be provided to the consumer.

 (18) "Person" means an individual, natural person, firm, partnership, association, corporation, legal representative, or other recognized legal entity.

 (19) "Secretary" means the Secretary of Housing and Urban Development (HUD).

 (20) "Standard" means the appropriate standards adopted by the State of South Carolina and established by the Department of Housing and Urban Development pursuant to the Federal Manufactured Housing Construction and Safety Standards.

 (21) "State Administrative Agency" or "SAA" means the agency of the State which has been approved to carry out the state plan and to enforce the National Manufactured Housing Construction and Safety Standards Act within South Carolina.

HISTORY: 2001 Act No. 61, Section 1; 2004 Act No. 197, Section 1; 2005 Act No. 175, Section 1; 2008 Act No. 272, Section 2.

**SECTION 40‑29‑30.** License requirement; administrative penalty; appeal.

 (A) No person may engage in the business of selling, wholesale or retail, as a manufactured home retail dealer, manufactured home retail salesman, or manufactured home manufacturer in this State without being licensed by the board. No manufactured home contractor may install, modify, alter, or repair the structural, mechanical, or electrical systems of a manufactured home without holding a license issued or recognized by the board. No manufactured home installer may install manufactured housing without being licensed by the board. No manufactured home repairer may modify, alter, or repair the structural, mechanical, or electrical systems of a manufactured home without holding a license issued or recognized by the board. The license must authorize the holder to engage in the business permitted by the license. All license applications must be accompanied by the required fee and corporate surety bond or other security in the form as prescribed by the board.

 (B) A person engaging in or offering to engage in any activity for which a license is required by this chapter without having first obtained the requisite license is subject to an administrative penalty. The person must be issued a citation directing him to appear before an agent of the board appointed to act as the administrative hearing officer. An administrative penalty not to exceed five hundred dollars for each violation may be imposed. The person to whom a citation has been issued may forfeit appearance by payment of the imposed administrative penalty. Upon appearance, if it is determined that an administrative penalty must be imposed, the person cited may appeal the decision to the board. The request for appeal must be served in writing within fifteen days after the ruling.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑40.** Operations and activities provided by Department of Labor, Licensing and Regulation.

 The Department of Labor, Licensing and Regulation shall provide all administrative, fiscal, investigative, inspectional, clerical, secretarial, and license renewal operations and activities of the board in accordance with Section 40‑1‑50.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑50.** Investigation of complaints and violations.

 The Department of Labor, Licensing and Regulation shall investigate complaints and violations of this chapter as provided for in Section 40‑1‑80.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑60.** Hearings before administrative hearing officer and board; penalties.

 (A) A licensee who violates a provision of this chapter or regulation pertaining to warranty requirements, deposits, or recision of contracts shall appear upon citation by the board before an agent of the board appointed to act as administrative hearing officer for a hearing. Upon the finding of a violation, the hearing officer:

 (1) may for a first offense, impose a fine of not more than five hundred dollars or suspend the license for not more than thirty days, or both;

 (2) may for a second offense, impose a fine of not more than one thousand dollars or suspend the license for not more than sixty days, or both;

 (3) may for a third offense, impose a fine of not more than two thousand dollars or suspend the license for not more than ninety days, or both;

 (4) shall for a fourth or subsequent offense, present the violation to the board for disciplinary action pursuant to this chapter.

 (B) The licensee must be given at least thirty days' notice of the time and place of the hearing and of the charges. A person aggrieved by a ruling of the administrative hearing officer may appeal to the board within fifteen days after the ruling. The request for appeal must be in writing. The board shall state in writing its findings and determinations in its decision in the matter on appeal.

 Appeals from the decision of the board may be made to an administrative law judge pursuant to the Administrative Procedures Act.

 (C) A licensee who violates any provision of this chapter or regulations promulgated by its authority or accumulates three or more warranty or contract violations which have not been corrected within the prescribed time upon citation of the board shall appear before the board for a hearing. The licensee must be given at least thirty days' notice of the time and place of the hearing and of the charges. A person aggrieved by a ruling of the board may appeal to an administrative law judge pursuant to the Administrative Procedures Act. Upon the finding of such a violation, the board may:

 (1) impose a fine of not more than two thousand five hundred dollars or suspend or revoke the license or any combination thereof;

 (2) order an increase in surety bonding or other approved security requirements.

 (D) The board may conduct hearings and presentations of views consistent with regulations adopted by the United States Department of Housing and Urban Development and adopt regulations necessary to carry out this function.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑70.** Equitable remedies.

 In addition to other remedies provided for in this chapter or Chapter 1, the board in accordance with Section 40‑1‑100 may issue a cease and desist order or may petition an administrative law judge for a temporary restraining order or other equitable relief to enjoin a violation of this chapter.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑80.** Suspension, revocation, restriction, or denial of license.

 (A) The board may suspend for a determinate period, revoke, or restrict a license issued to a licensee or authorized official under the provisions of this chapter for:

 (1) false, misleading, or deceptive advertising;

 (2) knowingly contracting or performing a service beyond the scope of the license;

 (3) misrepresentation or omission of a material fact by the applicant in obtaining a license;

 (4) misrepresentation or omission of a material fact in a manufactured home transaction;

 (5) failure to comply with the warranty requirements of this chapter or regulations of the board pursuant to those requirements;

 (6) failure by a manufacturer or dealer to transfer good and sufficient title to the purchaser of a manufactured home;

 (7) failing to have an established place of business;

 (8) wilfully defrauding a retail buyer, to the buyer's damage through misrepresentation or misappropriation of funds belonging to the buyer;

 (9) employment of fraudulent devices, methods, or practices in connection with compliance with the requirements of this chapter;

 (10) having used unfair methods of competition or deceptive acts or practices;

 (11) knowingly advertising or selling a used manufactured home as a new manufactured home;

 (12) failing to obtain a license before doing business in this State;

 (13) having knowingly failed or refused to account for or to pay funds or other valuables belonging to others which have come into the licensee's possession arising out of the sale of manufactured homes;

 (14) failing to appear before the board upon due notice or to follow directives of the board;

 (15) failing to comply with adopted state or federal standards in the manufacture, sale, installation, repair, modification, or delivery of manufactured housing;

 (16) employing unlicensed retail salesmen or persons barred from participating in a business licensed by the board or knowingly contracting with an unlicensed manufactured home contractor, installer, or repairer;

 (17) knowingly purchasing a manufactured home from an unlicensed manufacturer or knowingly selling or offering a manufactured home to an unlicensed manufactured home dealer;

 (18) conviction of a felony within the prior seven years or other crime of moral turpitude.

 (B) Any licensee whose license has been suspended or revoked, or any person who has applied for a license but whose application has been denied, is barred from participating in any manner in a business licensed by the board until that person has obtained a license or the person's license has been restored.

 (C) No business licensed by the board may permit or allow a person identified in subsection (B) to participate in any manner in the business licensed by the board.

 (D) Violations of this section are subject to the sanctions provided for in Section 40‑29‑60(C).

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑90.** Jurisdiction of the board.

 The board has jurisdiction over the actions of licensees and former licensees as provided for in Section 40‑1‑115.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑95.** Financial responsibility requirements.

 (A) The board shall consider the financial responsibility of an applicant as determined by this section and regulations promulgated by the board.

 (B) A retail dealer applicant who fails to possess cash or cash equivalency in an amount equal to or greater than one hundred fifty thousand dollars or a credit score of less than seven hundred must appear before the board.

 (C) Should the board license an applicant who is unable to meet the financial responsibility guidelines of this section or the regulations of the board, then the board may modify or restrict the activities of the licensee.

HISTORY: 2013 Act No. 97, Section 1, eff June 20, 2013.

**SECTION 40‑29‑100.** Sanctions and disciplinary action by the board.

 In addition to the sanctions the board may impose against a person pursuant to Section 40‑29‑110, the board may take disciplinary action as provided for in Section 40‑1‑120.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑110.** Grounds for denial of license.

 As provided for in Section 40‑1‑130, the board may deny licensure to an applicant based on the same grounds for which the board may take disciplinary action against a licensee.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑120.** Prior criminal record of license applicant.

 A license may be denied based on a person's prior criminal record as provided for in Section 40‑1‑140.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑130.** Investigation; voluntary surrender of license.

 A licensee under investigation for a violation of this chapter or a regulation promulgated under this chapter may voluntarily surrender the license in accordance with Section 40‑1‑150.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑140.** Appeal.

 A person aggrieved by a final action of the board may seek review of the decision in accordance with Section 40‑1‑160.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑150.** Costs of investigation and prosecution.

 A person found in violation of this chapter or regulations promulgated under this chapter may be required by the board to pay costs associated with the investigation and prosecution of the case in accordance with Section 40‑1‑170.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑160.** Collection and enforcement of fines.

 All costs and fines imposed pursuant to this chapter must be paid in accordance with and are subject to the collection and enforcement provisions of Section 40‑1‑180.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑170.** Confidentiality of investigations, privilege, Freedom of Information Act.

 Investigations conducted under the provisions of this chapter are confidential and all communications are privileged as provided for in Section 40‑1‑190. However, upon completion of the investigation, the findings of the board are subject to disclosure in accordance with the Freedom of Information Act.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑180.** Violations threatening health or safety; criminal penalties.

 A person who knowingly violates the provisions of this chapter or regulations promulgated thereunder and thereby threatens or injures the health or safety of a consumer is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than two years, or both.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑190.** Term and expiration; requirements for licensure; real estate broker and lien‑holder exceptions; denial; display; experience requirement for retail sales license; reciprocity.

 (A) A person who violates any of the following provisions relating to manufactured homes or regulations promulgated by the board is liable for a civil penalty not to exceed one thousand dollars for each violation. Each violation constitutes a separate violation with respect to each manufactured home, except that the maximum penalty may not exceed one million dollars for a related series of violations occurring within one year from the date of the first violation. No person may:

 (1) manufacture for sale, lease, sell, offer for sale or lease, or introduce or deliver, or import into the State a manufactured home which is manufactured on or after the effective date of the Construction and Safety Standards Act which does not comply with the standard;

 (2) fail or refuse to permit access to or copying records, or fail to make reports or provide information or fail or refuse to permit entry or inspection as required by Sections 40‑29‑320 and 40‑29‑330;

 (3) fail to furnish notification of a defect as required by 42 U.S.C. 5414;

 (4) fail to issue a certification required by 42 U.S.C. 5415 or issue a certification to the effect that a manufactured home conforms to all applicable construction and safety standards if the person in the exercise of due care has reason to know that the certification is false or misleading in a material respect;

 (5) fail to establish and maintain records, make reports, and provide information as the board reasonably may require to enable it to determine whether there is compliance with the Construction and Safety Standards Act; or fail to permit, upon request of a person duly authorized by the board, inspection of appropriate books, papers, records, and documents relative to determining whether a manufacturer, distributor, or dealer has acted or is acting in compliance with this chapter or with the Construction and Safety Standards Act;

 (6) issue a certification pursuant to 42 U.S.C. 5403(a) if the person in the exercise of due care has reason to know that the certification is false or misleading in a material respect;

 (7) fail to properly and prominently display the energy efficiency label required by Section 40‑29‑360.

 (B) Subsection (A)(1) does not apply to:

 (1) the sale or the offer for sale of a manufactured home after its first purchase in good faith for purposes other than resale.

 (2) a person who establishes that he did not have reason to know in the exercise of due care that a manufactured home is not in conformity with the Construction and Safety Standards Act or a person who, before the first purchase, holds a certificate by the manufacturer or importer of a manufactured home to the effect that the manufactured home conforms to all applicable construction and safety standards, unless the person knows that the manufactured home does not so conform.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑200.** License expiration; applicant requirements for license.

 (A) All licenses expire June thirtieth of each even‑numbered year following the date of issue, unless sooner revoked or suspended.

 (B) An applicant for licensure shall:

 (1) demonstrate financial responsibility as required by Section 40‑29‑95;

 (2) for a retail dealer, provide a financial statement reviewed by a licensed certified public accountant;

 (3) not have engaged illegally in the licensed classification;

 (4) demonstrate familiarity with the regulations adopted by the board concerning the classification for which application is made;

 (5) if a corporation, have complied with the laws of South Carolina regarding qualification for doing business in this State or have been incorporated in South Carolina and have and maintain a registered agent and a registered office in this State;

 (6) submit proof of registration with the Department of Revenue and submit a current tax identification number;

 (7) where applicable, pass an examination administered by the board or its designated test provider in the license classification for which application is made;

 (8) where applicable, complete training as prescribed by the board.

 (C) A manufactured housing license is not required for a licensed real estate salesman or licensed real estate broker who negotiates or attempts to negotiate for any legal entity the listing, sale, purchase, exchange, lease, or other disposition of a used manufactured or mobile home in conjunction with the listing, sale, purchase, exchange, lease, or other disposition of real estate upon which the used manufactured or mobile home is located.

 (D) The holder of a lien on a manufactured home who sells, exchanges, or transfers by lease‑purchase a repossessed manufactured home subject to the lien is not subject to the provisions of this chapter if the sale, exchange, or transfer is through a licensed manufactured home retail dealer. A sale by a lienholder conducted through the foreclosure process of Section 29‑3‑610, et seq. may not be subject to the provisions of this chapter.

 (E) A license must be issued in only one person's name who may be the individual owner, stockholder, copartner, manufactured home retail salesman or other representative of a manufactured home manufacturer, manufactured home retail dealer, or other entity required to be licensed. It is the duty of a manufactured home retail dealer and manufactured home manufacturer to conspicuously display the licenses in the established place of business. Manufactured home retail salesmen and manufactured home contractors, installers, and repairers are required to carry their licenses on their persons at all times when they are doing business in this State, and they must be shown upon request.

 (F) The board may deny a license to an applicant who submits an application meeting the requirements of this chapter if the applicant has been convicted in a court of competent jurisdiction of a violent crime as defined in Section 16‑1‑60, a felony directly related to any aspect of the business of manufactured housing, or a felony, an essential element of which is dishonesty, reasonably related to any aspect of the business of manufactured housing.

 (G) No person may be issued a license as a manufactured home retail dealer unless the person can show proof satisfactory to the board of two years' experience in the manufactured home industry or other relevant experience acceptable to the board.

 (H) Notwithstanding any other provision of law, the board may not grant reciprocity or issue a license to an applicant:

 (1) whose license in another state is currently restricted in any way, including probationary or other conditions, or was surrendered in lieu of disciplinary action or was revoked;

 (2) who has disciplinary action pending against him in another state; or

 (3) who is currently under sentence, including probation or parole, for a violation of Section 16‑1‑60, a felony directly related to any aspect of the business of manufactured housing, or a felony, an essential element of which is dishonesty, reasonably related to any aspect of the business of manufactured housing.

 (I)(1) An applicant may be granted an apprentice salesperson license for up to one hundred twenty days. An apprentice salesperson license may not be issued to an applicant if the applicant has ever been:

 (a) denied any type of license issued pursuant to this chapter;

 (b) subject to suspension or revocation of a license issued pursuant to this chapter; or

 (c) subject to any disciplinary action taken in accordance with this chapter.

 (2) An applicant is subject to all of the requirements of this chapter and regulations promulgated pursuant to this chapter, except that an applicant is not required to complete the training, testing, and bond requirements established for a regular retail salesperson license.

HISTORY: 2001 Act No. 61, Section 1; 2013 Act No. 97, Section 3, eff June 20, 2013.

**SECTION 40‑29‑210.** Examination; fees; training.

 (A) As a condition of licensure, an applicant shall submit to an examination which must be conducted by the board or its designated test provider. The applicant must receive a passing grade on the examination, in accordance with a cut‑score determination established by the department. An applicant who fails an examination may reapply.

 (B) The department or test provider is authorized to collect and retain reasonable examination fees, to be promulgated in regulation. An applicant for an examination to be conducted by a test provider shall pay the fee directly to the test provider.

 (C) No license may be issued to a manufactured home dealer unless the board is satisfied that the authorized official, stockholder, copartner, or manufactured home salesman authorized to sell by authority of the dealer license has passed the appropriate examination.

 (D) No manufactured home retail dealer or salesperson, contractor, installer, or repairer may be issued a license until the person or representative of the entity successfully completes any training prescribed by the board.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑220.** Obtaining license after lapse or more than six months of inactivity.

 If a license lapses or is inactive for more than six months, in order to be relicensed, the applicant must meet all requirements for a new license. The applicant may be exempt from any required training if evidence of prior training can be provided.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑230.** Surety bond; claims; release.

 (A) At the time of making application, all applicants for a manufactured housing license shall furnish a corporate surety bond or other security in the form prescribed by the board for the license term in the following amounts:

 (1) for a manufactured home manufacturer, seventy‑five thousand dollars for each location;

 (2) for a manufactured home retail dealer, thirty thousand dollars for each location;

 (3) for a manufactured home retail salesman, fifteen thousand dollars;

 (4) for a manufactured home contractor, installer, or repairer, five thousand dollars.

 (B)(1) The surety bond or other approved security must be made payable to the board and claims may be initiated only through the complaint process provided by the board. Claims are limited to the reasons stated in this section and are for actual damages and do not include attorney's fees or punitive damages incurred by the consumer as a result of the complaint.

 (2) At the beginning of each subsequent license renewal period, a continuation certificate or proof of surety bond coverage or other approved security through the license renewal period must be delivered to the board with the application and fee.

 (3) The board, upon a finding of a violation by a licensee or that an applicant is unable to meet the financial responsibility guidelines, may further require the licensee to increase the amount of a surety bond or other approved security. An increase must be proportioned to the seriousness of the offense, the repeat nature of the licensee's violations, or related to the financial condition of an applicant. The total amount may not exceed an additional seventy‑five thousand dollars for manufacturers, fifty thousand dollars for dealers, twenty thousand dollars for salespersons, and ten thousand dollars for manufactured home contractors, installers, and repairers. The board, after one year, may reduce an increased surety bond or other approved security when satisfied that violations have been cured by appropriate corrective action and that the licensee is otherwise in good standing. The bonds cannot be reduced below amounts provided in this section.

 (4) The surety bond or other approved security may not be released by the board until all claims and complaints against the licensee have been finally resolved or until three years after the licensee has ceased doing business in South Carolina, whichever period is later.

 (5) All liability on a surety bond or other approved security is applicable to the surety bond or other security in effect as of the date of the occurrence which gave rise to the liability. In the event that the total claims against a surety bond or other form of approved security exceed the coverage amount of the surety bond or other approved security, the proceeds of the surety bond or other approved security may be distributed pro rata to the claimants.

 (6) The board may file claims against a licensee's surety bond or other approved security and indemnify a consumer for losses to the limit of the surety bond or other approved security for damages resulting from the licensee's violation of this chapter or regulations promulgated by its authority or from fraud, misrepresentation, making of false promises, or the refusal, failure, or inability to transfer good and sufficient legal title.

HISTORY: 2001 Act No. 61, Section 1; 2013 Act No. 97, Section 4, eff June 20, 2013.

**SECTION 40‑29‑240.** Claims for repair work not performed by manufacturer, dealer or installer; release of bond of licensee not conducting business.

 (A) If repair work is required on the consumer's home and the manufacturer, dealer, or manufactured home contractor, installer, or repairer is unavailable to perform the repairs or has not performed within the guidelines issued by the board, the board, through its staff, shall direct the consumer to obtain at least three bids for performance of the work. The board shall select a bidder to perform the repair work. Payment from the surety bond or other approved security must be authorized by the board only after an affidavit releasing the manufacturer or dealer from further obligation for repair or replacement of the items for which work was conducted, is signed and delivered to the board office by the consumer.

 (B) If reimbursement to a consumer for repairs, parts, or other work is requested in a complaint, the department, with the approval of the board, shall determine the reasonable value of the repairs, parts, or work. The consumer may not be reimbursed from the surety bond or other approved security in an amount more than the reasonable value of the repairs, parts, or work.

 (C) If a licensee does not conduct business after issuance of his license and the posting of the applicable surety bond or other approved security, the board, upon receipt of satisfactory evidence that no business was conducted and upon surrender of the license, may release the licensee's surety bond or other approved security.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑250.** Acts warranting consumer indemnity from security bond.

 Each surety bond or other approved security issued for a manufactured home manufacturer, a manufactured home retail dealer, or a salesperson must be indemnity for a loss sustained by a consumer as a result of:

 (1) a violation of a provision of this chapter or a regulation of the board;

 (2) a violation of the written warranty or failure to fulfill warranty obligations as outlined in this chapter;

 (3) fraud in the execution or performance of a contract;

 (4) a misrepresentation in reference to the sale of a manufactured home;

 (5) refusal, failure, or inability to transfer good and sufficient legal title to the consumer;

 (6) a misappropriation of funds belonging to the consumer;

 (7) an alteration to deceive the consumer as to the manufacture or construction of the product;

 (8) a false and fraudulent representation or deceitful practice in selling, financing, or representing a product or service.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑260.** Warranty requirements.

 (A) A manufactured home manufacturer warrants the following on each new manufactured home sold in the State for one year from the date of completion of installation of the manufactured home for the consumer:

 (1) all structural elements, plumbing systems, heating, cooling, and fuel burning systems, electrical systems, and any other components included are manufactured and installed free from defect in material and workmanship;

 (2) the manufactured home complies with this chapter and regulations promulgated under this chapter;

 (3) all appliances and equipment installed in the manufactured home must be free from defects in material and workmanship for one year, unless a valid warranty from the manufacturer or dealer of the appliances and equipment is furnished warranting against defects in materials and workmanship to the consumer for at least one year from date of delivery;

 (4) appropriate corrective action must be taken within a reasonable period of time after the warranty violation has been communicated to the manufactured home manufacturer by the department or by the consumer;

 (5) the warranty may not be voided as long as the installation of the manufactured home conforms to the standards adopted in this chapter;

 (6) repair work performed under the one‑year warranty is warranted for at least ninety days or until the end of the original one‑year warranty, whichever is later.

 (B) A manufactured home retail dealer warrants the following on each new manufactured home sold in the State for one year from the date of completion of installation of the manufactured home for the consumer:

 (1) all changes, additions, or alterations made to the manufactured home by the manufactured home retail dealer are free from defects in materials and workmanship and do not bring the manufactured home out of compliance with the standards and that all appliances and equipment installed by the manufactured home retail dealer are free from defects in materials and workmanship unless a valid written warranty from the manufacturer or dealer of the appliances and equipment is furnished to the consumer warranting against a defect in materials or workmanship for a period of time customary in the industry for a warranty for the particular appliance or equipment;

 (2) appropriate corrective action must be taken within a reasonable time after the warranty violation has been communicated to the manufactured home retail dealer by the department or by the consumer;

 (3) repair work on changes, additions, or alterations authorized by the manufactured home manufacturer must be warranted for at least ninety days or until the end of the original one‑year warranty, whichever is later;

 (4) installation performed by the dealer of the manufactured home must be performed in compliance with applicable federal or state law regulations or standards for the installation of manufactured homes and during the course of installation and transportation of the manufactured home by the manufactured home retail dealer, defects do not occur;

 (5) alterations or modifications made by a manufactured home retail dealer without authorization of the manufactured home manufacturer relieve the manufactured home manufacturer of warranty responsibility as to the items altered or modified and any damage resulting from the alteration or modification.

 (C) For twelve months after completion of the work a manufactured home contractor warrants:

 (1) all installations are performed in accordance with applicable state or federal law, regulations, or standards for the installation of manufactured homes;

 (2) all modifications, alterations, or repairs are performed in compliance with applicable state or federal law, regulations, or standards;

 (3) his performance will not cause defects in the home.

 (D) For twelve months after completion of the work a manufactured home installer warrants that:

 (1) all installations are performed in compliance with applicable state or federal law, regulations, or standards for the installation of manufactured homes;

 (2) his performance will not cause defects in the home.

 (E) For at least ninety days after completion of the work a manufactured home repairer warrants that:

 (1) all modifications, alterations, and repairs are performed in compliance with applicable state or federal law, regulations, or standards for the modification or repair of manufactured homes;

 (2) his performance will not cause defects in the home.

 (F) Appropriate corrective action must be taken within a reasonable period of time after the warranty violation has been communicated to the manufactured home manufacturer, retail dealer, contractor, installer, or repairer by the department or by the consumer.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑270.** Remedy of defects, imminent safety hazards.

 A defect must be remedied within thirty days of receipt of the written notification of the warranty claim, unless additional time is granted by the board. Defects which constitute an imminent safety hazard to life and health must be remedied within five working days of receipt of the written notification of the warranty claim. An imminent safety hazard to life and health includes, but is not limited to:

 (1) inadequate heating in freezing weather;

 (2) failure of sanitary facilities;

 (3) electrical shock;

 (4) leaking gas; or

 (5) major structural failure.

 The board may suspend this five‑day time period in the event of widespread defects or damage resulting from adverse weather conditions or other natural catastrophes.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑280.** Moving exception to new home warranty, notice requirement.

 If the new manufactured home is moved from the initial installation site during the term of the warranty period, the new home warranty does not apply to a defect or damage caused by the move. Conspicuous notice of this section must be given to the customer at the time of the sale.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑290.** Board authority regarding Construction and Safety Standards Act.

 The board may carry out the responsibilities of the Construction and Safety Standards Act as the state administrative agency for South Carolina.

HISTORY: 2001 Act No. 61, Section 1; 2004 Act No. 171, Section 1; 2005 Act No. 175, Section 2; 2008 Act No. 272, Section 3.

**SECTION 40‑29‑300.** Board oversight of consumer complaints; board inspection of manufacturers for compliance with federal regulations; life safety and fire prevention.

 The board shall oversee the handling of manufactured home consumer complaints that may be due to electrical, mechanical, or structural defects or nonconformances to the Construction and Safety Standards Act standards and regulations. As part of this responsibility, the manufactured home manufacturers must be inspected and monitored for compliance with federal manufactured home standards and regulations. In conducting its responsibilities under this section, the board shall recognize the need for life safety requirements as a part of its general oversight function and shall receive advice in the life safety area from the State Fire Marshal to ensure that fire prevention is a part of the overall program under the terms of this chapter.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑310.** Board entry for purpose of inspection.

 The board, by its authorized representatives, may enter, at reasonable times, a factory, warehouse, or establishment in which manufactured homes are manufactured, stored, or held for sale for the purpose of ascertaining whether the requirements of the Construction and Safety Standards Act and the regulations of the board have been and are being met.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑320.** Record keeping requirement; board inspection of records; standard form for purchase agreements.

 Each manufacturer, distributor, and dealer of manufactured homes shall establish and maintain records, make reports, and provide information as the SAA administrator or the secretary may require to determine whether the manufacturer, distributor, or dealer has acted or is acting in compliance with this chapter or the Construction and Safety Standards Act and upon request of a person appointed by the administrator or the secretary shall permit the person to inspect appropriate books, papers, records, and documents relevant to determining whether the manufacturer, distributor, or dealer has acted or is acting in compliance with this chapter. Purchase agreements used by retail dealers for the sale of new or used manufactured homes must be standard and in a form prescribed by the board.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑325.** Dealer license number required in certain advertisements.

 Licensed manufactured housing retail dealers shall include their dealer license number on any print, Internet, or email advertisement by the retail dealer for the sale of a manufactured home located in South Carolina.

HISTORY: 2013 Act No. 97, Section 2, eff June 20, 2013.

**SECTION 40‑29‑330.** Policy and purpose to protect against hazards and provide safety.

 Manufactured homes, and their integral parts, because of the manner of their construction, assembly, and use and that of their systems, components and appliances, including, but not limited to, heating, plumbing, and electrical systems, like other finished products having concealed vital parts, may present hazards to the life and safety of persons and to the safety of property unless properly manufactured. In the sale of manufactured homes, there is also the possibility of defects not readily ascertainable when inspected by purchasers. It is the policy and purpose of this State to provide protection to the public against those possible hazards and for that purpose to forbid the manufacture and sale of new manufactured homes which are not constructed so as to provide safety and protection to their owners and users and further to require that the business practices of the industry are fair and orderly.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑340.** Manufactured homes to meet certain criteria and be certified.

 No person may sell or offer for sale a manufactured home manufactured after June 15, 1976, unless its components, systems, and appliances meet the criteria of compliance with the Construction and Safety Standards Act and have been properly certified by the Department of Housing and Urban Development. For the sale of a previously owned manufactured home, the buyer and seller shall sign a form certifying both persons have determined at least two functioning smoke detectors are in the home.

HISTORY: 2001 Act No. 61, Section 1; 2010 Act No. 272, Section 1, eff upon approval (became law without the Governor's signature on June 28, 2010).

**SECTION 40‑29‑350.** Effect of HUD label on manufactured home unit; installation fees, requirements and standards.

 A manufactured home unit bearing a label issued by the Department of Housing and Urban Development is acceptable as meeting the requirements of this chapter throughout the State. Municipalities and counties may establish a fee for inspection of installation not to exceed one hundred dollars. Installation must be in accordance with the manufacturer's installation manual or the regulations established by this chapter. No installation regulation or standard may be enforced except those adopted by the board in conformity with the Construction and Safety Standards Act or adopted by a local authority to comply with the provisions of federal law for flood plain management.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑360.** Energy efficient labeling.

 (A) The State Energy Office must produce energy efficiency labels and notices and provide these labels and notices to manufactured housing manufacturers upon request. The notices must state: "Notice. An energy efficient home will reduce the overall cost of home ownership. South Carolina law encourages citizens to purchase energy efficient manufactured homes by providing a tax incentive for the purchase of such a home. This home qualifies for an energy efficiency sales tax incentive. Buyers of energy efficient manufactured homes can save money not only on taxes, but should also have lower monthly utility bills than less efficient homes."

 (B) Energy efficiency labels must be permanently affixed to the electrical panel and the notices must be affixed to the inside of the window closest to the front door. Energy efficiency labels and notices must be affixed by the manufacturer only on new homes and only at the place and time of production or manufacture. By affixing an energy efficiency label and notice, the manufacturer certifies that the manufactured home meets or exceeds the energy requirements provided for in Section 12‑36‑2110(B). Only the consumer may remove the notice.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑370.** Electrical inspection.

 In municipalities and counties where electrical inspections are provided, proof of inspection of electrical service from the meter base to the main panel of the home must be obtained by the homeowner and submitted to the supplier of electricity before an electrical connection may occur.

HISTORY: 2001 Act No. 61, Section 1.

**SECTION 40‑29‑380.** Severability.

 If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this chapter is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this chapter, the General Assembly hereby declaring that it would have passed this chapter, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

HISTORY: 2001 Act No. 61, Section 1.