~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 5, 2013

**S. 310**

Introduced by Senators Alexander and Ford

S. Printed 3/5/13--S. [SEC 3/6/13 12:15 PM]

Read the first time January 29, 2013.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (S. 310) to amend the Code of Laws of South Carolina, 1976, by adding Section 40‑29‑95 so as to provide the Manufactured Housing Board shall adopt certain financial responsibility, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by deleting all after the enacting words and inserting:

/ SECTION 1. Chapter 29, Title 40 of the 1976 Code is amended by adding:

“Section 40‑29‑95. (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 has a net worth of less than one hundred fifty thousand dollars or a credit score of less than six hundred fifty 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.”

SECTION 2. Chapter 29, Title 40 of the 1976 Code is amended by adding:

“Section 40‑29‑325. 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.”

SECTION 3. Section 40‑29‑200 of the 1976 Code is amended to read:

“Section 40‑29‑200. (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 ~~regulations of the board~~ Section 40‑29‑95;

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

(~~2~~3) not have engaged illegally in the licensed classification;

(~~3~~4) demonstrate familiarity with the regulations adopted by the board concerning the classification for which application is made;

(~~4~~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;

(~~5~~6) submit proof of registration with the Department of Revenue and submit a current tax identification number;

(~~6~~7) where applicable, pass an examination administered by the board or its designated test provider in the license classification for which application is made;

(~~7~~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.

(~~D~~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.

(~~E~~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 felony within the prior seven years or an offense involving moral turpitude.

(~~F~~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.

(~~G~~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 felony, crime of moral turpitude, or other criminal violation related to any aspect of the business of manufactured housing.

(~~H~~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.”

SECTION 4. Section 40‑29‑230(B)(3) of the 1976 Code is amended to read:

“(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 ~~or~~, the repeat nature of the licensee’s violations, ~~but the~~ 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.”

SECTION 5. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

THOMAS C. ALEXANDER for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

Minimal (Some additional costs expected but can be absorbed)

**EXPLANATION OF IMPACT:**

The Department of Labor, Licensing and Regulation estimates this bill will have a minimal fiscal impact on the agency’s other funds. All costs can be absorbed.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40‑29‑95 SO AS TO PROVIDE THE MANUFACTURED HOUSING BOARD SHALL ADOPT CERTAIN FINANCIAL RESPONSIBILITY GUIDELINES FOR ITS LICENSEES; BY ADDING SECTION 40‑29‑225 SO AS TO PROVIDE CONTINUING EDUCATION REQUIREMENTS FOR RENEWAL OF LICENSURE AS A MANUFACTURED HOME RETAIL DEALER, RETAIL SALESMAN, INSTALLER, CONTRACTOR, OR REPAIRER; BY ADDING SECTION 40‑29‑325 SO AS TO PROVIDE A DEALER SHALL INCLUDE HIS LICENSE NUMBER IN ADVERTISING, TO PROVIDE AN EXCEPTION, AND TO PROVIDE PENALTIES FOR A VIOLATION; BY ADDING SECTION 40‑29‑500 SO AS TO PROVIDE FAILURE TO OBTAIN AN APPROPRIATE BUILDING PERMIT BEFORE INSTALLING A MANUFACTURED HOME CONSTITUTES A VIOLATION; TO AMEND SECTION 40‑29‑80, RELATING TO BASES FOR SUSPENDING, REVOKING, RESTRICTING, OR DENYING A LICENSE BY THE BOARD, SO AS TO INCLUDE THE AIDING OR ABETTING AN UNLICENSED ENTITY TO EVADE THE PROVISIONS OF THE CHAPTER OR TO ALLOW USE OF A LICENSE BY AN UNLICENSED ENTITY; TO AMEND SECTION 40‑29‑200, RELATING TO APPLICATIONS FOR LICENSURE AND RENEWAL, SO AS TO PROVIDE AN APPLICANT FOR LICENSURE AS A RETAIL DEALER SHALL GIVE THE BOARD A FINANCIAL STATEMENT REVIEWED BY A CERTIFIED PUBLIC ACCOUNTANT, TO PROVIDE THE HOLDER OF A LIEN ON A MANUFACTURED HOME IS NOT SUBJECT TO THE PROVISIONS OF THIS CHAPTER FOR THE SALE, EXCHANGE, OR TRANSFER BY LEASE‑PURCHASE A REPOSSESSED MANUFACTURED HOME MADE THROUGH A LICENSED MANUFACTURED HOME RETAILER, AND TO PROVIDE A PERSON LICENSED BY ANOTHER BOARD OR COMMISSION IN THIS STATE MAY NOT INSTALL A MANUFACTURED HOME BUT MAY REPAIR, INSPECT, OR IMPROVE A MANUFACTURED HOME CONSISTENT WITH THE REQUIREMENTS OF HIS LICENSE; AND TO AMEND SECTION 40‑29‑230, RELATING TO VIOLATIONS OF SURETY BOND, CLAIM, AND RELEASE REQUIREMENTS FOR APPLICANTS FOR LICENSURE BY THE BOARD, SO AS TO INCLUDE THE INABILITY OF AN APPLICANT TO SATISFY REQUISITE FINANCIAL RESPONSIBILITY GUIDELINES AS A BASIS FOR INCREASING THE AMOUNT OF THE REQUIRED SURETY BOND OR OTHER APPROVED SECURITY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 29, Title 40 of the 1976 Code is amended by adding:

“Section 40‑29‑95. (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 has a net worth of less than one hundred and fifty thousand dollars or a credit score of less than six hundred and fifty 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.”

SECTION 2. Chapter 29, Title 40 of the 1976 Code is amended by adding:

“Section 40‑29‑225. (A) A person licensed under this chapter as a manufactured home retail dealer, retail salesman, installer, contractor, or repairer must complete a minimum of six hours of continuing education classes before applying to renew his license. A person holding more than one type of license may not be required to complete more than six hours of continuing education collectively for the multiple licenses during each renewal cycle.

(B) The requirements for continuing education are:

(1) a continuing education course must be reviewed and approved or disapproved by a vote of the Manufactured Housing Board at one of its periodic meetings;

(2) approval of a course must be valid for two years, after which the course must be resubmitted to the board for approval or disapproval;

(3) a continuing education course must be at least one hour in length, and must concern South Carolina and federal laws, regulations, court cases, business practices, technical, or engineering requirements that affect manufactured homes;

(4) a course participant must take a written or electronic test at the end of the course, and must pass the test with a correct score of at least seventy percent;

(5) at least two hours of the continuing education requirement must concern laws, regulations, or court cases specifically affecting manufactured housing in South Carolina;

(6) an application for approval of a continuing education course must contain an outline of the course, description of the background of the course instructor, and a copy of the test to be taken by course participants; and

(7) a course provider must be responsible for grading a continuing education course test required under this section and shall maintain records of course attendees and test results for four years after the date of the course.

(C) The license of a person who fails to comply with the continuing education requirements of this section shall lapse. The board may, for good cause shown, grant extensions of time to licensees to comply with these requirements. A licensee obtains an extension and subsequently offers to the board evidence considered acceptable by the board demonstrating that he has satisfactorily completed the required continuing education courses and must be considered in compliance with this section.”

SECTION 3. Chapter 29, Title 40 of the 1976 Code is amended by adding:

“Section 40‑29‑325. Any print, Internet, or email advertisement for the sale of a manufactured home located in South Carolina shall contain the license number of a dealer. This section does not apply to a person exempt from the provisions of Section 40‑29‑30. A violation of this section must be subject to the penalties contained in Section 40‑29‑30(B).”

SECTION 4. Chapter 29, Title 40 of the 1976 Code is amended by adding:

“Section 40‑29‑500. Failure to ensure the proper permit as required by local or state government is obtained before installation of a manufactured home is a violation of this chapter.”

SECTION 5. Section 40‑29‑80(A) of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

“( ) aiding or abetting an unlicensed entity to evade the provisions of this chapter or allowing his license to be used by an unlicensed entity.”

SECTION 6. Section 40‑29‑200 of the 1976 Code is amended to read:

“Section 40‑29‑200. (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 ~~regulations of the board~~ Section 40‑29‑95;

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

(~~2~~3) not have engaged illegally in the licensed classification;

(~~3~~4) demonstrate familiarity with the regulations adopted by the board concerning the classification for which application is made;

(~~4~~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;

(~~5~~6) submit proof of registration with the Department of Revenue and submit a current tax identification number;

(~~6~~7) where applicable, pass an examination administered by the board or its designated test provider in the license classification for which application is made;

(~~7~~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 person licensed by other boards or commissions of the State may repair, inspect, or improve a manufactured home but may not install a manufactured home. Work performed on a manufactured home by such licensees is restricted to the specific discipline and conditions of the license held. Action for complaints lodged against these licensees must be investigated and taken by the board or commission that issued the license.

(~~D~~F) 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.

(~~E~~G) 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 felony within the prior seven years or an offense involving moral turpitude.

(~~F~~H) 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.

(~~G~~I) 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 felony, crime of moral turpitude, or other criminal violation related to any aspect of the business of manufactured housing.

(~~H~~J)(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.”

SECTION 7. Section 40‑29‑230(B)(3) of the 1976 Code is amended to read:

“(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 ~~or~~, the repeat nature of the licensee’s violations, ~~but the~~ 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.”

SECTION 8. This act takes effect upon approval by the Governor.

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