

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 313
94TH GENERAL ASSEMBLY

Reported from the Special Committee on Professional Registration and Licensing May 3, 2007 with recommendation that House Committee Substitute for Senate Committee Substitute for Senate Bill No. 313 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

1161L.07C

AN ACT

To repeal sections 214.275, 214.340, 333.011, 333.061, 333.121, 700.010, 700.045, 700.056, 700.065, 700.070, 700.090, 700.100, 700.115, 700.450, 700.455, 700.460, 700.465, 700.470, and 700.650, RSMo, and to enact in lieu thereof nineteen new sections relating to consumer protection, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 214.275, 214.340, 333.011, 333.061, 333.121, 700.010, 700.045, 2 700.056, 700.065, 700.070, 700.090, 700.100, 700.115, 700.450, 700.455, 700.460, 700.465, 3 700.470, and 700.650, RSMo, are repealed and nineteen new sections enacted in lieu thereof, to 4 be known as sections 214.275, 214.340, 333.011, 333.061, 333.121, 700.010, 700.041, 700.045, 5 700.056, 700.065, 700.090, 700.095, 700.096, 700.097, 700.098, 700.100, 700.115, 700.650, and 6 1, to read as follows:

214.275. 1. No endowed care or nonendowed care cemetery shall be operated in this 2 state unless the owner or operator thereof has a license issued by the division and complies with 3 all applicable state, county or municipal ordinances and regulations.

4 2. It shall not be unlawful for a person who does not have a license to care for or 5 maintain the cemetery premises, or to fulfill prior contractual obligations for the interment of 6 human remains in burial spaces.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

7 3. Applications for a license shall be in writing, submitted to the division on forms
8 prescribed by the division. The application shall contain such information as the division deems
9 necessary and be accompanied by the required fee.

10 4. Each license issued pursuant to sections 214.270 to 214.516 shall be renewed prior
11 to the license renewal date established by the division. The division shall issue a new license
12 upon receipt of a proper renewal application, **trust fund report as required by section 214.340,**
13 and the required renewal fee. The required renewal fee shall be fifty dollars, plus an assessment
14 for each interment, inurnment or other disposition of human remains at a cemetery for which a
15 charge is made, as the division shall by rule determine, not to exceed ten dollars per such
16 disposition in the case of an endowed care cemetery, and six dollars for such disposition in the
17 case of a nonendowed care cemetery. The division shall mail a renewal notice to the last known
18 address of the holder of the license prior to the renewal date. The holder of a license shall keep
19 the division advised of the holder's current address. The license issued to the owner or operator
20 of a cemetery which is not renewed within three months after the license renewal date shall be
21 suspended automatically, subject to the right of the holder to have the suspended license
22 reinstated within nine months of the date of suspension if the person pays the required
23 reinstatement fee. Any license suspended and not reinstated within nine months of the
24 suspension shall expire and be void and the holder of such license shall have no rights or
25 privileges provided to holders of valid licenses. Any person whose license has expired may,
26 upon demonstration of current qualifications and payment of required fees, be reregistered or
27 reauthorized under the person's original license number.

28 5. The division shall grant or deny each application for a license pursuant to this section
29 within ninety days after it is filed, and no prosecution of any person who has filed an application
30 for such license shall be initiated unless it is shown that such application was denied by the
31 division and the owner was notified thereof.

32 6. Upon the filing of a completed application, as defined by rule, the applicant may
33 operate the business until the application is acted upon by the division.

34 7. Within thirty days after the sale or transfer of ownership or control of a cemetery, the
35 transferor shall return his or her license to the division. A prospective purchaser or transferee
36 of a cemetery shall file an application for a license at least thirty days prior to the sale or transfer
37 of ownership or control of a cemetery and shall be in compliance with sections 214.270 to
38 214.516.

214.340. 1. Each operator of an endowed care cemetery shall maintain at an office in
2 the cemetery or, if the cemetery has no office in the cemetery, at an office within a reasonable
3 distance of the cemetery, the reports of the endowed care fund's operation for the preceding seven
4 years. Each report shall contain, at least, the following information:

- 5 (1) Name and address of the trustee of the endowed care fund and the depository, if
6 different from the trustee;
- 7 (2) Balance per previous year's report;
- 8 (3) Principal contributions received since previous report;
- 9 (4) Total earnings since previous report;
- 10 (5) Total distribution to the cemetery operator since the previous report;
- 11 (6) Current balance;
- 12 (7) A statement of all assets listing cash, real or personal property, stocks, bonds, and
13 other assets, showing cost, acquisition date and current market value of each asset;
- 14 (8) Total expenses, excluding distributions to cemetery operator, since previous report;
15 and
- 16 (9) A statement of the cemetery's total acreage and of its developed acreage.

17 **2. Each operator of an endowed care cemetery shall secure a guaranty bond in the**
18 **following amounts:**

19 **(a) A guaranty bond of fifty thousand dollars for cemeteries that performed less**
20 **than seventy-five interment, entombment, or inurnment services in the previous tax year;**

21 **(b) A guaranty bond in the amount of one hundred thousand dollars for cemeteries**
22 **that performed more than seventy-five but less than one hundred interment, entombment,**
23 **or inurnment services in the previous tax year; or**

24 **(c) A guaranty bond in the amount of two hundred fifty thousand dollars for**
25 **cemeteries that performed more than one hundred interment, entombment, or inurnment**
26 **services in the previous tax year.**

27

28 **An endowed care cemetery operator shall not be required to have a guaranty bond if the**
29 **operator is not licensed as a preneed provider as defined in chapter 436, RSMo.**

30 **3. (1) The bond required under subsection 2 of this section shall be issued in the**
31 **name of the person or business entity authorized to conduct business in Missouri as an**
32 **endowed care cemetery operator. Such bond shall be issued for the purpose of**
33 **guaranteeing or ensuring the proper handling of funds received by any endowed care**
34 **cemetery, its agents or employees, from or on behalf of any person for any goods, services**
35 **or contract regulated by chapter 333 or 436, RSMo. The bond required by this section**
36 **may be executed upon or liquidated by any consumer or seller, or their duly authorized**
37 **representative, to whom such funds are legally owed, provided that a consumer or seller**
38 **shall not be entitled to recover any amount in excess of the amount owed. Such bond shall**
39 **cover the same length of time as the renewal.**

(2) Cancellation of the bond required under subsection 2 of this section shall result in the automatic suspension of the endowed care cemetery operator's license. In the case of such suspension, the board shall provide written notification to the licensee that the licensee may appeal the board's suspension to the administrative hearing commission within thirty days, under the provisions of chapter 621, RSMo. Such notification shall comply with the provisions of section 621.120, RSMo.

(3) No endowed care cemetery operator's license shall be issued or renewed without such legal bonding recognition covering the cemetery and all its employees. Such bond shall be in force at all times and the cemetery operator shall maintain proof of a valid bond on the premises of the cemetery at all times. Proof of a valid bond shall be available and provided by the endowed cemetery operator to the state board or its inspectors upon request. Such bond shall be held for one succeeding year by a former owner when a cemetery is sold or ceases business.

3. Subdivisions (1) through (7) of the report described in subsection 1 above shall be certified to under oath as complete and correct by a corporate officer of the trustee. Subdivision (8) of such report shall be certified under oath as complete and correct by an officer of the cemetery operator. Both the trustee and cemetery operator or officer shall be subject to the penalty of making a false affidavit or declaration.

[3.] 4. The report shall be placed in the cemetery's office within ninety days of the close of the trust's fiscal year. A copy of this report shall be filed by the cemetery operator with the division of professional registration [within ninety days of the close of the trust fund's fiscal year] as condition of license renewal as required by subsection 4 of section 214.275. The report shall not be sent to the state board of embalmers and funeral directors.

[4.] 5. Each cemetery operator who establishes a segregated account pursuant to subsection 1 of section 214.385 shall file with the report required under subsection 1 of this section a segregated account report that shall provide the following information:

(1) The number of monuments, markers and memorials that have been deferred for delivery by purchase designation;

(2) The aggregate wholesale cost of all such monuments, markers and memorials; and

(3) The amount on deposit in the segregated account established pursuant to section 214.385, and the account number.

333.011. As used in this chapter, unless the context requires otherwise, the following terms have the meanings indicated:

(1) "Board", the state board of embalmers and funeral directors created by this chapter;

(2) "Embalmer", any individual licensed to engage in the practice of embalming;

5 (3) "Funeral director", any individual licensed to engage in the practice of funeral
6 directing;

7 (4) "Funeral establishment", a building, place, **crematory**, or premises devoted to or
8 used in the care and preparation for burial or transportation of the human dead and includes every
9 building, place or premises maintained for that purpose or held out to the public by advertising
10 or otherwise to be used for that purpose;

11 (5) "Person" includes a corporation, partnership or other type of business organization;

12 (6) "Practice of embalming", the work of preserving, disinfecting and preparing by
13 arterial embalming, or otherwise, of dead human bodies for funeral services, transportation,
14 burial or cremation, or the holding of oneself out as being engaged in such work;

15 (7) "Practice of funeral directing", engaging by an individual in the business of
16 preparing, otherwise than by embalming, for the burial, disposal or transportation out of this state
17 of, and the directing and supervising of the burial or disposal of, dead human bodies or engaging
18 in the general control, supervision or management of the operations of a funeral establishment.

333.061. 1. No funeral establishment shall be operated in this state unless the owner or
2 operator thereof has a license issued by the board.

3 2. A license for the operation of a funeral establishment shall be issued by the board, if
4 the board finds:

5 (1) That the establishment is under the general management and the supervision of a duly
6 licensed funeral director;

7 (2) That all embalming performed therein is performed by or under the direct supervision
8 of a duly licensed embalmer;

9 (3) That any place in the funeral establishment where embalming is conducted contains
10 a preparation room with a sanitary floor, walls and ceiling, and adequate sanitary drainage and
11 disposal facilities including running water, and complies with the sanitary standard prescribed
12 by the department of health and senior services for the prevention of the spread of contagious,
13 infectious or communicable diseases;

14 (4) Each funeral establishment shall have available in the preparation or embalming
15 room a register book or log which shall be available at all times in full view for the board's
16 inspector and the name of each body embalmed, place, if other than at the establishment, the date
17 and time that the embalming took place, the name and signature of the embalmer and the
18 embalmer's license number shall be noted in the book; [and]

19 (5) The establishment complies with all applicable state, county or municipal zoning
20 ordinances and regulations; **and**

21 (6) **The funeral establishment has secured a guaranty bond in the following**
22 **amounts:**

23 (a) A guaranty bond of fifty thousand dollars for funeral establishments that
24 performed less than seventy-five embalming, funeral, or cremation services in the previous
25 tax year;

26 (b) A guaranty bond in the amount of one hundred thousand dollars for funeral
27 establishments that performed more than seventy-five but less than one hundred
28 embalming, funeral, or cremation services in the previous tax year; or

29 (c) A guaranty bond in the amount of two hundred fifty thousand dollars for
30 funeral establishments that performed more than one hundred embalming, funeral, or
31 cremation services in the previous tax year;

32 (d) A funeral establishment shall not be required to have a guaranty bond if the
33 funeral establishment is not licensed as a preneed provider as defined in chapter 436,
34 RSMo.

35 3. (1) The bond required under subdivision (6) of subsection 2 of this section shall
36 be issued in the name of the person or business entity authorized to conduct business in
37 Missouri as a funeral establishment. Such bond shall be issued for the purpose of
38 guaranteeing or ensuring the proper handling of funds received by any Missouri licensed
39 funeral establishment, its agents or employees, from or on behalf of any person for any
40 goods, services or contract regulated by this chapter or chapter 436, RSMo. The bond
41 required by this section may be executed upon or liquidated by any consumer or seller, or
42 their duly authorized representative, to whom such funds are legally owed, provided that
43 a consumer or seller shall not be entitled to recover any amount in excess of the amount
44 owed. Such bond shall cover the same length of time as the renewal.

45 (2) Cancellation of the bond required under subdivision (6) of subsection 2 of this
46 section shall result in the automatic suspension of the funeral establishment license. In the
47 case of such suspension, the board shall provide written notification to the licensee that the
48 licensee may appeal the board's suspension to the administrative hearing commission
49 within thirty days, under the provisions of chapter 621, RSMo. Such notification shall
50 comply with the provisions of section 621.120, RSMo.

51 (3) No funeral establishment license shall be issued or renewed without such legal
52 bonding recognition covering the funeral establishment and all its employees. Such bond
53 shall be in force at all times and the funeral establishment shall maintain proof of a valid
54 bond on the premises of the licensed funeral establishment at all times. Proof of a valid
55 bond shall be available and provided by the licensed funeral establishment to the state
56 board or its inspectors upon request. Such bond shall be held for one succeeding year by
57 a former owner when a funeral establishment is sold or ceases business.

58 [3.] 4. The board shall grant or deny each application for a license pursuant to this
59 section within thirty days after it is filed. The applicant may request in writing up to two
60 thirty-day extensions of the application, provided the request for an extension is received by the
61 board prior to the expiration of the thirty-day application or extension period.

62 [4.] 5. Licenses shall be issued pursuant to this section upon application and the payment
63 of a funeral establishment fee and shall be renewed at the end of the licensing period on the
64 establishment's renewal date.

65 [5.] 6. The board may refuse to renew or may suspend or revoke any license issued
66 pursuant to this section if it finds, after hearing, that the funeral establishment does not meet any
67 of the requirements set forth in this section as conditions for the issuance of a license, or for the
68 violation by the owner of the funeral establishment of any of the provisions of section 333.121.
69 No new license shall be issued to the owner of a funeral establishment or to any corporation
70 controlled by such owner for three years after the revocation of the license of the owner or of a
71 corporation controlled by the owner. Before any action is taken pursuant to this subsection the
72 procedure for notice and hearing as prescribed by section 333.121 shall be followed.

 333.121. 1. The board may refuse to issue any certificate of registration or authority,
2 permit or license required pursuant to this chapter for one or any combination of causes stated
3 in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for
4 the refusal and shall advise the applicant of his right to file a complaint with the administrative
5 hearing commission as provided by chapter 621, RSMo.

6 2. The board may cause a complaint to be filed with the administrative hearing
7 commission as provided by chapter 621, RSMo, against any holder of any certificate of
8 registration or authority, permit or license required by this chapter or any person who has failed
9 to renew or has surrendered his certificate of registration or authority, permit or license for any
10 one or any combination of the following causes:

11 (1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic
12 beverage to an extent that such use impairs a person's ability to perform the work of any
13 profession licensed or regulated by this chapter;

14 (2) The person has been finally adjudicated and found guilty, or entered a plea of guilty
15 or nolo contendere, in a criminal prosecution under the laws of any state or of the United States,
16 for any offense reasonably related to the qualifications, functions or duties of any profession
17 licensed or regulated under this chapter, for any offense an essential element of which is fraud,
18 dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not
19 sentence is imposed;

- 20 (3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of
21 registration or authority, permit or license issued pursuant to this chapter or in obtaining
22 permission to take any examination given or required pursuant to this chapter;
- 23 (4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by
24 fraud, deception or misrepresentation;
- 25 (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty
26 in the performance of the functions or duties of any profession licensed or regulated by this
27 chapter;
- 28 (6) Violation of, or assisting or enabling any person to violate, any provision of this
29 chapter, or of any lawful rule or regulation adopted pursuant to this chapter;
- 30 (7) Impersonation of any person holding a certificate of registration or authority, permit
31 or license or allowing any person to use his or her certificate of registration or authority, permit,
32 license or diploma from any school;
- 33 (8) Disciplinary action against the holder of a license or other right to practice any
34 profession regulated by this chapter granted by another state, territory, federal agency or country
35 upon grounds for which revocation or suspension is authorized in this state;
- 36 (9) A person is finally adjudged insane or incompetent by a court of competent
37 jurisdiction;
- 38 (10) Assisting or enabling any person to practice or offer to practice any profession
39 licensed or regulated by this chapter who is not registered and currently eligible to practice under
40 this chapter;
- 41 (11) Issuance of a certificate of registration or authority, permit or license based upon
42 a material mistake of fact;
- 43 (12) Failure to display a valid certificate or license if so required by this chapter or any
44 rule promulgated hereunder;
- 45 (13) Violation of any professional trust or confidence;
- 46 (14) Use of any advertisement or solicitation which is false, misleading or deceptive to
47 the general public or persons to whom the advertisement or solicitation is primarily directed;
- 48 (15) Violation of any of the provisions of chapter 193, RSMo, chapter 194, RSMo, or
49 chapter 436, RSMo;
- 50 (16) Presigning a death certificate or signing a death certificate on a body not embalmed
51 by, or under the personal supervision of, the licensee;
- 52 (17) Obtaining possession of or embalming a dead human body without express
53 authority to do so from the person entitled to the custody or control of the body;
- 54 (18) Failure to execute and sign the [reverse side of a] death certificate on a body
55 embalmed by, or under the personal supervision of, a licensee;

56 (19) Failure or refusal to properly guard against contagious, infectious or communicable
57 diseases or the spread thereof;

58 (20) Willfully and through undue influence selling a funeral;

59 (21) Refusing to surrender a dead human body upon request by the next of kin, legal
60 representative or other person entitled to the custody and control of the body.

61 3. After the filing of such complaint, the proceedings shall be conducted in accordance
62 with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing
63 commission that the grounds, provided in subsection 2, for disciplinary action are met, the board
64 may, singly or in combination, censure or place the person named in the complaint on probation
65 on such terms and conditions as the board deems appropriate for a period not to exceed five
66 years, or may suspend, for a period not to exceed three years, or revoke the license, certificate,
67 or permit.

700.010. As used in sections 700.010 to 700.500, for the purpose of sections 700.010
2 to 700.500, the following terms mean:

3 (1) "Authorized representative", any person, firm or corporation, or employee thereof,
4 approved or hired by the commission to perform inspection services;

5 (2) "Code", the standards relating to manufactured homes, or modular units as adopted
6 by the commission. The commission, in its discretion, may incorporate, in whole or in part, the
7 standards codes promulgated by the American National Standards Institute, the United States
8 Department of Housing and Urban Development or other recognized agencies or organizations;

9 (3) "Commission", the public service commission;

10 (4) "Dealer", any person, other than a manufacturer, who sells or offers for sale four or
11 more **used homes or one or more new** manufactured homes, or **one or more new** modular units
12 in any consecutive twelve-month period;

13 (5) **"Installer", an individual who is licensed by the commission to install**
14 **manufactured homes, under sections 700.650 to 700.692;**

15 (6) "Manufactured home", a factory-built structure or structures which, in the traveling
16 mode, is eight body feet or more in width or forty body feet or more in length, or, when erected
17 on site, contains three hundred twenty or more square feet, equipped with the necessary service
18 connections and made so as to be readily movable as a unit or units on its or their own running
19 gear and designed to be used as a dwelling unit or units with or without a permanent foundation.
20 The phrase "without a permanent foundation" indicates that the support system is constructed
21 with the intent that the manufactured home placed thereon may be moved from time to time at
22 the convenience of the owner;

23 [(6)] (7) "Manufacturer", any person who manufactures manufactured homes, or
24 modular units, including persons who engage in importing manufactured homes, or modular
25 units for resale;

26 [(7)] (8) "Modular unit", a transportable building unit designed to be used by itself or
27 to be incorporated with similar units at a point-of-use into a modular structure to be used for
28 residential, commercial, educational or industrial purposes. This definition shall not apply to
29 structures under six hundred fifty square feet used temporarily and exclusively for construction
30 site office purposes;

31 [(8)] (9) "New", being sold or offered for sale to the first purchaser for purposes other
32 than resale;

33 [(9)] (10) "Person", an individual, partnership, corporation or other legal entity;

34 [(10)] (11) "Premises", a lot, plot, or parcel of land including the buildings, structures,
35 and manufactured homes thereon;

36 [(11)] (12) "Recreational park trailer", a recreational park trailer as defined in the
37 American National Standards Institute (ANSI) A119.5 Standard on Recreational Park Trailers.
38 A recreational park trailer is not a recreational vehicle;

39 [(12)] (13) "Recreational vehicle", a recreational vehicle as defined in the American
40 National Standards Institute (ANSI) A119.2 Standard on Recreational Vehicles;

41 [(13)] (14) "Seal", a device, label or insignia issued by the public service commission,
42 U.S. Department of Housing and Urban Development, or its agent, to be displayed on the
43 exterior of the manufactured home, or modular unit to evidence compliance with the code;

44 [(14)] (15) "Setup", the operations performed at the occupancy site which renders a
45 manufactured home or modular unit fit for habitation, which operations include, but are not
46 limited to, moving, blocking, leveling, supporting, and assembling multiple or expandable units.

**700.041. 1. There is hereby established a fund in the state treasury to be known as
2 the "Manufactured Housing Customer Recovery Fund" for the purpose of paying
3 consumer claims pursuant to procedures the commission may promulgate by rule. The
4 public service commission shall administer the manufactured housing consumer recovery
5 fund and all moneys in the fund shall be used solely as prescribed in this section. Any
6 interest earned from the investment of the moneys in the fund shall be credited to the fund.**

**7 2. Claims approved by the commission pursuant to law may be paid from the fund
8 subject to appropriation. No claims may be considered by the commission until after all
9 other legal remedies have been exhausted. The commission may establish an advisory
10 committee to assist with the evaluation of all claims filed by consumers. The committee
11 members shall be volunteers and serve without compensation.**

12 **3. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys**
13 **in the manufactured housing consumer recovery fund shall not be transferred to the credit**
14 **of the general revenue fund at the end of the biennium; however, the total amount in the**
15 **manufactured housing consumer recovery fund shall not exceed thirty-two percent of the**
16 **amount of the annual appropriation of the manufactured housing fund from the preceding**
17 **fiscal year. Moneys in the manufactured housing consumer recovery fund may be**
18 **transferred back to the manufactured housing fund by appropriation.**

700.045. It shall be a misdemeanor:

2 (1) For a manufacturer or dealer to manufacture, rent, lease, sell or offer to sell any
3 manufactured home or modular unit after January 1, 1977, unless there is in effect a registration
4 with the commission;

5 (2) To rent, lease, sell or offer to sell any new manufactured home or new modular unit
6 or used modular unit used for educational purposes manufactured after January 1, 1974, which
7 does not bear a seal as required by sections 700.010 to 700.115;

8 (3) To affix a seal or cause a seal to be affixed to any manufactured home or modular
9 unit which does not comply with the code;

10 (4) To alter a manufactured home or modular unit in a manner prohibited by the
11 provisions of sections 700.010 to 700.115;

12 (5) To fail to correct within a reasonable time not to exceed ninety days after being
13 ordered to do so in writing by an authorized representative of the commission a code violation
14 in a new manufactured home or new modular unit or used modular unit used for educational
15 purposes owned, manufactured or sold if the same is manufactured after January 1, 1974.
16 **Reasonable and necessary extensions may be granted by the commission; or**

17 (6) To interfere with, obstruct, or hinder any authorized representative of the commission
18 in the performance of his or her duties.

700.056. Every dealer of a manufactured home offered for sale in this state shall at the
2 time of sale provide the purchaser with a bill of sale containing at least the following: The total
3 price of the unit, **serial number**, and its contents, **the name or names of the person or persons**
4 **responsible for the installation and setup, including site preparation and waivers**, a list of
5 all furniture and appliances in the manufactured home, any other costs which will be assessed
6 to the purchaser **by the dealer or installer** such as transportation, handling, or such other costs,
7 and the sales tax payable for such manufactured home.

700.065. All **new** manufactured homes located in this state shall be anchored and tied
2 down in accordance with the standards promulgated by the commission pursuant to the
3 provisions of sections 700.010 to 700.115 **and sections 700.650 to 700.692.**

700.090. 1. Every manufacturer or dealer [of manufactured homes] who sells or offers
2 for sale, on consignment or otherwise, a manufactured home or modular unit from or in the state
3 of Missouri shall register [each location] with the commission **each place of business at which**
4 **the manufacturer or dealer sells or offers for sale a manufactured home or modular unit.**

5 2. The commission shall issue a certificate of registration to a manufacturer who:
6 (1) Completes and files with the commission an application for registration which
7 contains the following information:
8 (a) The name of the manufacturer;
9 (b) The address of the manufacturer and addresses of each factory owned or operated by
10 the manufacturer, if different from the address of the manufacturer;
11 (c) If a corporation, the state of original incorporation, a list of the names and addresses
12 of all officers and directors of the corporation, and proof of the filing of all franchise and sales
13 tax forms required by Missouri law;
14 (d) If not a corporation, the name and address of the managing person or persons
15 responsible for overall operation of the manufacturer;
16 (2) Files with the commission an initial registration fee of seven hundred fifty dollars in
17 the form of a cashier's check or money order made payable to the state of Missouri.

18 3. The commission shall issue a certificate of registration to a dealer who:
19 (1) Completes and files with the commission an application for registration which
20 contains the following information:
21 (a) The name of the dealer;
22 (b) The business address of the dealer and addresses of each separate facility owned and
23 operated by the dealer from which manufactured homes or modular units are offered for sale if
24 different from the business address of the dealer;
25 (c) If a corporation, the state of original incorporation, a list of the names and addresses
26 of all officers and directors of the corporation, proof of the filing of all franchise and sales tax
27 forms required by Missouri law;
28 (d) If not a corporation, the name and address of the managing person or persons
29 responsible for the overall operations of the manufacturer;
30 (2) Files with the commission an initial registration fee of two hundred dollars in the
31 form of a cashier's check or money order made payable to the state of Missouri;
32 (3) Files with the commission proof of compliance with the provisions of section
33 301.280, RSMo.

34 4. The registration of any manufacturer or dealer shall be effective for a period of one
35 year and shall be renewed by the commission upon receipt by it from the registered dealer of a
36 renewal fee of seven hundred fifty dollars for manufacturers and two hundred dollars for dealers

37 and a form provided by the commission upon which shall be placed any changes from the
38 information requested on the initial registration form.

39 5. The commission may stagger the renewal of certificates of registration to provide for
40 more equal distribution over the twelve months of the number of registration renewals.

**700.095. 1. Every dealer shall, on or before January fifteenth of each year, make
2 application for registration or renewal, and shall be required to maintain a bona fide
3 established place of business and shall maintain a permanent enclosed building or
4 structure, either owned in fee or leased and actually occupied as a place of business by the
5 applicant for the selling, bartering, trading, or exchanging of manufactured homes or
6 modular units, where the public may contact the owner or operator at any reasonable time
7 and where the books, records, files, and other matters required and necessary to conduct
8 the business shall be kept and maintained.**

9 **2. The application shall contain the business address, not a post-office box address,
10 and telephone number of the place where the books, records, files, and other matters
11 required and necessary to conduct the business are located and where the same may be
12 inspected during normal daytime business hours.**

13 **3. Each application shall contain such additional information as may be required
14 by the commission to enable it to determine whether the applicant is a bona fide dealer in
15 fact and is of good moral character.**

16 **4. On the payment of a registration or renewal fee of two hundred dollars, there
17 shall be assigned to each dealer a certificate of registration in such form as the commission
18 shall prescribe.**

**700.096. 1. Each person registered as a dealer under the provisions of sections
2 700.010 to 700.115 shall file monthly reports with the commission, which reports shall be
3 in the form and manner and contain the information required by the commission by rules
4 promulgated under chapter 536, RSMo, and shall permit an employee of the commission
5 or any law enforcement official to inspect, during normal business hours, any of the
6 following documents which are in his or her possession or under his or her custody or
7 control:**

- 8 (1) Any title to any manufactured home or modular unit;
9 (2) Any application for title to any manufactured home or modular unit;
10 (3) Any affidavit provided under chapter 301 or 407, RSMo;
11 (4) Any assignment of title to any manufactured home or modular unit;
12 (5) Any disclosure statement or other document required by the laws of the United
13 States or any other state.

14 **2. For purposes of this section, the term "law enforcement official" means any of**
15 **the following:**

16 **(1) Attorney general, or any person designated by him or her to make such an**
17 **inspection;**

18 **(2) Any prosecuting attorney or any person designated by a prosecuting attorney**
19 **to make such an inspection;**

20 **(3) Any member of the highway patrol;**

21 **(4) Any sheriff or deputy sheriff;**

22 **(5) Any peace officer certified under chapter 590, RSMo, acting in his or her**
23 **official capacity.**

700.097. No insurance company, finance company, bank or trust company shall be
2 **required to register with the commission in order to sell any manufactured home or**
3 **modular unit repossessed or purchased by the company on the basis of total destruction**
4 **or theft thereof when the sale of the manufactured home or modular unit is in conformance**
5 **with applicable title and registration laws of this state.**

700.098. 1. The commission may refuse to register an applicant as a dealer, or may
2 **suspend the registration of an existing dealer from one day to thirty days, or revoke the**
3 **registration of a dealer, after a written notice and a hearing when the commission is**
4 **satisfied that the applicant or dealer has failed to comply with the provisions set out in**
5 **sections 700.010 to 700.115. Notification of unfavorable action by the commission on any**
6 **application for registration or renewal of registration must be accompanied by a notice**
7 **informing the recipient that the decision of the director may be appealed as provided in**
8 **chapter 386, RSMo.**

9 **2. It shall be unlawful for any person to hold forth or act as a dealer who is not**
10 **currently registered as a dealer by the commission as required by sections 700.010 to**
11 **700.115.**

700.100. 1. The commission may refuse to register or refuse to renew the registration
2 **of any person who fails to comply with the provisions of [section 700.090 or this section]**
3 **sections 700.010 to 700.115 or sections 700.650 to 700.692. Notification of unfavorable action**
4 **by the commission on any application for registration or renewal of registration must be**
5 **delivered to the applicant within thirty days from date it is received by the commission.**
6 **Notification of unfavorable action by the commission on any application for registration or**
7 **renewal of registration must be accompanied by a notice informing the recipient that the decision**
8 **of the commission may be appealed as provided in chapter 386, RSMo.**

9 **2. The commission may consider a complaint filed with it charging a registered**
10 **manufacturer or dealer with a violation of the provisions of this section, which charges, if**

11 proven, shall constitute grounds for revocation or suspension of his registration, or the placing
12 of the registered manufacturer or dealer on probation.

13 3. The following specifications shall constitute grounds for the suspension, revocation
14 or placing on probation of a manufacturer's or dealer's registration:

15 (1) If required, failure to comply with the provisions of section 301.280, RSMo;

16 (2) Failing to be in compliance with the provisions of section 700.090;

17 (3) If a corporation, failing to file all franchise or sales tax forms required by Missouri
18 law;

19 (4) Engaging in any conduct which constitutes a violation of the provisions of section
20 407.020, RSMo;

21 (5) Failing to comply with the provisions of Sections 2301-2312 of Title 15 of the United
22 States Code (Magnuson-Moss Warranty Act);

23 (6) As a dealer, failing to arrange for the proper initial setup of any new manufactured
24 home or modular unit sold from or in the state of Missouri, [unless the dealer receives a written
25 waiver of that service from the purchaser or his or her authorized agent] **except as allowed**
26 **under subsection 5 of section 700.656;**

27 (7) Requiring any person to purchase any type of insurance from that manufacturer or
28 dealer as a condition to his being sold any manufactured home or modular unit;

29 (8) Requiring any person to arrange financing or utilize the services of any particular
30 financing service as a condition to his being sold any manufactured home or modular unit;
31 provided, however, the registered manufacturer or dealer may reserve the right to establish
32 reasonable conditions for the approval of any financing source;

33 (9) Engaging in conduct in violation of section 700.045;

34 (10) Failing to comply with the provisions of section 301.210, RSMo;

35 (11) Failing to pay all necessary fees and assessments authorized pursuant to sections
36 700.010 to 700.115.

37 **4. The commission may order that any suspension, revocation, or probation**
38 **ordered under subsection 3 of this section shall apply to all manufacturer's or dealer's**
39 **registrations that are held by the same manufacturer or dealer or that are owned or**
40 **controlled by the same person or persons if a continued and consistent pattern of the**
41 **violations have been identified by the commission to be present with each licensee under**
42 **the same control or ownership.**

700.115. 1. Except as otherwise provided in subsections 2 and 3 of this section, a
2 violation of the provisions of sections 700.010 to 700.115 shall constitute a violation of the
3 provisions of section 407.020, RSMo. In addition to the authority vested in the attorney general
4 to enforce the provisions of that section, he may petition the court and the court may enter an

5 order revoking the registration certificate of the defendant or defendants issued pursuant to the
6 provisions of section 700.090.

7 2. Notwithstanding any provisions of subsection 1 of this section to the contrary,
8 whoever violates any provision of this chapter shall be liable to the state of Missouri for a civil
9 penalty in an amount which shall not exceed one thousand dollars for each such violation. **If,**
10 **after a hearing, the commission finds that person has violated any provision of this chapter,**
11 **it shall direct its general counsel to enforce the provisions of this subsection by filing a**
12 **petition in circuit court for such civil penalties.** Each violation of this chapter shall constitute
13 a separate violation with respect to each manufactured home or **modular unit or** with respect
14 to each failure or refusal to allow or perform an act required by this chapter; except that, the
15 maximum civil penalty may not exceed one million dollars for any related series of violations
16 occurring within one year from the date of the first violation.

17 3. Any individual or director, officer, or agent of a corporation who knowingly and
18 willfully violates any provision of sections 700.010 to 700.115, in a manner which threatens the
19 health or safety of any purchaser, shall, upon conviction therefor, be fined not more than one
20 thousand dollars or imprisoned for not more than one year, or both.

 700.650. 1. Sections 700.650 to 700.692 shall be known and may be cited as the
2 "Manufactured Home Installation Act".

3 2. For the purposes of sections 700.650 to 700.692, the following terms shall mean:

4 (1) "Applicant", a person who applies to the commission for a license or limited-use
5 license to install manufactured homes;

6 (2) "Commission", the Missouri public service commission;

7 (3) "Dealer", any person, other than a manufacturer, who sells or offers for sale four or
8 more **used homes or one or more new** manufactured homes, **or one or more new modular**
9 **units** in any consecutive twelve-month period;

10 (4) "Installation", work undertaken at the place of occupancy to ensure the proper initial
11 setup of a manufactured home which shall include the joining of all sections of the home,
12 installation of stabilization, support, and leveling systems, assembly of multiple or expanded
13 units, and installation of applicable utility hookups and anchoring systems that render the home
14 fit for habitation;

15 (5) "Installation standards", reasonable specifications for the installation of a
16 manufactured home;

17 (6) "Installer", an individual who is licensed by the commission to install manufactured
18 homes, pursuant to sections 700.650 to [700.680] **700.692;**

19 (7) "Manufactured home", a manufactured home as that term is defined in subdivision
20 (5) of section 700.010;

21 (8) "Manufacturer", any person who manufactures manufactured homes, including
22 persons who engage in importing manufactured homes for resale; and

23 (9) "Person", an individual, partnership, corporation, or other legal entity.

**Section 1. Notwithstanding any other provision of law to the contrary, any person
2 who purchases or leases merchandise primarily for personal, family, or household
3 purposes and thereby suffers an ascertainable loss of money or property, real or personal,
4 as a result of the use or employment by another person of an intentional method, act, or
5 practice declared unlawful by section 407.020, RSMo, may bring a private civil action in
6 either the circuit court of the county in which the seller or lessor resides or in which the
7 transaction complained of took place, to recover actual damages against any other person
8 with whom such aggrieved person has a commercial relationship. The court may, in its
9 discretion, award punitive damages and may award to the prevailing party attorney's fees,
10 based on the amount of time reasonably expended, and may provide such equitable relief
11 as it deems necessary or proper directed to any person with whom an aggrieved person has
12 a commercial relationship. For purposes of this section, "commercial relationship" shall
13 mean a relationship between two persons which thereby results in the retail sale or lease
14 of merchandise, but shall not include any persons in the chain of commerce with whom the
15 purchaser or lessor did not directly or personally negotiate or communicate.**

2 [700.070. Effective November 27, 1973, all purchasers of manufactured
3 homes shall, within thirty days from the date of occupancy, anchor and secure the
4 manufactured home in accordance with the standards promulgated by the
5 commission pursuant to the provisions of sections 700.010 to 700.115.]

2 [700.450. As used in sections 700.450 to 700.470, the following terms
shall mean:

3 (1) "Commission", the public service commission;

4 (2) "Dealer", any person, including, but not limited to, real estate brokers
5 and salespersons, other than a manufacturer, who sells or offers for sale four or
6 more manufactured homes in any consecutive twelve-month period;

7 (3) "Manufactured home", a factory-built structure or structures which,
8 in the traveling mode, is eight body feet or more in width or forty body feet or
9 more in length, or, when erected on site, contains three hundred twenty or more
10 square feet, equipped with the necessary service connections and made so as to
11 be readily movable as a unit or units on its or their own running gear and
12 designed to be used as a dwelling unit or units with or without a permanent
13 foundation. The phrase "without a permanent foundation" indicates that the
14 support system is constructed with the intent that the manufactured home placed
15 thereon may be moved from time to time at the convenience of the owner;

16 (4) "Manufacturer", any person who manufactures manufactured homes,
17 including persons who engage in importing manufactured homes for resale;

(5) "Person", any individual, partnership, corporation or other legal entity.]

[700.455. 1. Every dealer shall, on or before January fifteenth of each year, instead of registering each manufactured home dealt in, make a verified application, upon a blank for such purpose to be furnished by the commission, for a distinctive number for all the manufactured homes dealt in or controlled by such dealer. The application shall contain, but need not be limited to:

(1) When the applicant is a partnership, the name and address of each partner, or, when the applicant is a corporation, the names of the principal officers of the corporation and the state in which it is incorporated. The application shall be verified by the oath or affirmation of the applicant, if an individual, or in the event an applicant is a partnership or corporation, then by a partner or officer;

(2) A bona fide established place of business shall be required for every dealer. A bona fide established place of business for any dealer shall include a permanent enclosed building or structure, either owned in fee or leased and actually occupied as a place of business by the applicant for the selling, bartering, trading or exchanging of manufactured homes, where the public may contact the owner or operator at any reasonable time and where the books, records, files and other matters required and necessary to conduct the business shall be kept and maintained.

2. The application shall contain the business address, not a post-office box, and telephone number of the place where the books, records, files and other matters required and necessary to conduct the business are located and where the same may be inspected during normal daytime business hours.

3. Each application shall contain such additional information as may be required by the commission to enable it to determine whether the applicant is a bona fide dealer in fact and is of good moral character.

4. On the payment of a registration fee of fifty dollars there shall be assigned to each dealer a certificate of registration in such form as the commission shall prescribe.]

[700.460. 1. Each person registered as a dealer pursuant to the provisions of sections 700.450 to 700.470 shall file monthly reports with the commission, which reports shall be in the form and manner and contain the information required by the commission by rules promulgated pursuant to chapter 536, RSMo, and shall permit an employee of the commission or any law enforcement official to inspect, during normal business hours, any of the following documents which are in his possession or under his custody or control:

(1) Any title to any manufactured home;

(2) Any application for title to any manufactured home;

(3) Any affidavit provided pursuant to chapter 301 or 407, RSMo;

- 11 (4) Any assignment of title to any manufactured home;
12 (5) Any disclosure statement or other document required by the laws of
13 the United States or any other state.
14 2. For purposes of this section, the term "law enforcement official" shall
15 mean any of the following:
16 (1) Attorney general, or any person designated by him to make such an
17 inspection;
18 (2) Any prosecuting attorney or any person designated by a prosecuting
19 attorney to make such an inspection;
20 (3) Any member of the highway patrol;
21 (4) Any sheriff or deputy sheriff;
22 (5) Any peace officer certified pursuant to chapter 590, RSMo, acting in
23 his official capacity.]
24

2 [700.465. No insurance company, finance company, bank or trust
3 company shall be required to register with the commission in order to sell any
4 manufactured home repossessed or purchased by the company on the basis of
5 total destruction or theft thereof when the sale of the manufactured home is in
6 conformance with applicable title and registration laws of this state.]

- 2 [700.470. 1. The commission may refuse to register an applicant as a
3 dealer, or may suspend the registration of an existing dealer from one day to
4 thirty days, or revoke the registration of a dealer, after a written notice and a
5 hearing when he is satisfied that the applicant or dealer has failed to comply with
6 the provisions set out in sections 700.450 to 700.470. Notification of unfavorable
7 action by the commission on any application for registration or renewal of
8 registration must be accompanied by a notice informing the recipient that the
9 decision of the director may be appealed as provided in chapter 536, RSMo.
10 2. It shall be unlawful for any person to hold forth or act as a dealer who
11 is not currently registered as a dealer by the commission as required by sections
700.450 to 700.470.]

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