

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1700
94TH GENERAL ASSEMBLY

Reported from the Special Committee on Professional Registration and Licensing April 14, 2008 with recommendation that House Committee Substitute for House Bill No. 1700 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

4262L.04C

AN ACT

To repeal sections 144.011, 326.256, 326.283, 326.289, 326.292, 335.076, 338.132, 339.150, 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, 700.525, and 700.650, RSMo, and to enact in lieu thereof twenty-two new sections relating to professional registration, with penalty provisions.

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

Section A. Sections 144.011, 326.256, 326.283, 326.289, 326.292, 335.076, 338.132, 339.150, 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700.070, 700.090, 700.100, 700.115, 700.450, 700.455, 700.460, 700.465, 700.470, 700.525, and 700.650, RSMo, are repealed and twenty-two new sections enacted in lieu thereof, to be known as sections 144.011, 326.256, 326.283, 326.289, 326.292, 335.076, 338.132, 339.150, 700.010, 700.041, 700.045, 700.056, 700.065, 700.090, 700.095, 700.096, 700.097, 700.098, 700.100, 700.115, 700.525, and 700.650, to read as follows:

144.011. 1. For purposes of sections 144.010 to 144.525 and 144.600 to 144.748, and the taxes imposed thereby, the definition of "retail sale" or "sale at retail" shall not be construed to include any of the following:

(1) The transfer by one corporation of substantially all of its tangible personal property to another corporation pursuant to a merger or consolidation effected under the laws of the state of Missouri or any other jurisdiction;

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 (2) The transfer of tangible personal property incident to the liquidation or cessation of
8 a taxpayer's trade or business, conducted in proprietorship, partnership or corporate form, except
9 to the extent any transfer is made in the ordinary course of the taxpayer's trade or business;

10 (3) The transfer of tangible personal property to a corporation solely in exchange for its
11 stock or securities;

12 (4) The transfer of tangible personal property to a corporation by a shareholder as a
13 contribution to the capital of the transferee corporation;

14 (5) The transfer of tangible personal property to a partnership solely in exchange for a
15 partnership interest therein;

16 (6) The transfer of tangible personal property by a partner as a contribution to the capital
17 of the transferee partnership;

18 (7) The transfer of tangible personal property by a corporation to one or more of its
19 shareholders as a dividend, return of capital, distribution in the partial or complete liquidation
20 of the corporation or distribution in redemption of the shareholder's interest therein;

21 (8) The transfer of tangible personal property by a partnership to one or more of its
22 partners as a current distribution, return of capital or distribution in the partial or complete
23 liquidation of the partnership or of the partner's interest therein;

24 (9) The transfer of reusable containers used in connection with the sale of tangible
25 personal property contained therein for which a deposit is required and refunded on return;

26 (10) The purchase by persons operating eating or food service establishments, of items
27 of a nonreusable nature which are furnished to the customers of such establishments with or in
28 conjunction with the retail sales of their food or beverage. Such items shall include, but not be
29 limited to, wrapping or packaging materials and nonreusable paper, wood, plastic and aluminum
30 articles such as containers, trays, napkins, dishes, silverware, cups, bags, boxes, straws, sticks
31 and toothpicks;

32 (11) The purchase by persons operating hotels, motels or other transient accommodation
33 establishments, of items of a nonreusable nature which are furnished to the guests in the guests'
34 rooms of such establishments and such items are included in the charge made for such
35 accommodations. Such items shall include, but not be limited to, soap, shampoo, tissue and
36 other toiletries and food or confectionery items offered to the guests without charge;

37 (12) The transfer of a manufactured home other than:

38 (a) A transfer which involves the delivery of the document known as the "Manufacturer's
39 Statement of Origin" to a person other than a manufactured home dealer, as defined in section
40 [700.450] **700.010**, RSMo, for purposes of allowing such person to obtain a title to the
41 manufactured home from the department of revenue of this state or the appropriate agency or
42 officer of any other state;

43 (b) A transfer which involves the delivery of a "Reposessed Title" to a resident of this
44 state if the tax imposed by sections 144.010 to 144.525 was not paid on the transfer of the
45 manufactured home described in paragraph (a) of this subdivision;

46 (c) The first transfer which occurs after December 31, 1985, if the tax imposed by
47 sections 144.010 to 144.525 was not paid on any transfer of the same manufactured home which
48 occurred before December 31, 1985; or

49 (13) Charges for initiation fees or dues to:

50 (a) Fraternal beneficiaries societies, or domestic fraternal societies, orders or associations
51 operating under the lodge system a substantial part of the activities of which are devoted to
52 religious, charitable, scientific, literary, educational or fraternal purposes; or

53 (b) Posts or organizations of past or present members of the armed forces of the United
54 States or an auxiliary unit or society of, or a trust or foundation for, any such post or organization
55 substantially all of the members of which are past or present members of the armed forces of the
56 United States or who are cadets, spouses, widows, or widowers of past or present members of
57 the armed forces of the United States, no part of the net earnings of which inures to the benefit
58 of any private shareholder or individual.

59 2. The assumption of liabilities of the transferor by the transferee incident to any of the
60 transactions enumerated in the above subdivisions (1) to (8) of subsection 1 of this section shall
61 not disqualify the transfer from the exclusion described in this section, where such liability
62 assumption is related to the property transferred and where the assumption does not have as its
63 principal purpose the avoidance of Missouri sales or use tax.

326.256. 1. As used in this chapter, the following terms mean:

2 (1) "AICPA", the American Institute of Certified Public Accountants;

3 (2) "Attest" or **"attest services"**, providing the following financial statement services:

4 (a) Any audit or other engagement to be performed in accordance with the Statements
5 on Auditing Standards (SAS);

6 (b) Any examination of prospective financial information to be performed in accordance
7 with the Statements on Standards for Attestation Engagements (SSAE); or

8 **(c) Any engagement to be performed in accordance with the auditing standards and**
9 **rules of the Public Company Accounting Oversight Board (PCAOB);**

10 (3) "Board", the Missouri state board of accountancy established pursuant to section
11 326.259 or its predecessor pursuant to prior law;

12 (4) "Certificate", a certificate issued pursuant to section 326.060 prior to August 28,
13 2001;

14 (5) "Certified public accountant" or "CPA", the holder of a certificate or license as
15 defined in this section;

16 (6) "Certified public accountant firm", "CPA firm" or "firm", a sole proprietorship, a
17 corporation, a partnership or any other form of organization issued a permit pursuant to section
18 326.289;

19 (7) "Client", a person or entity that agrees with a licensee or licensee's employer to
20 receive any professional service;

21 (8) "Compilation", providing a service to be performed in accordance with Statements
22 on Standards for Accounting and Review Services (SSARS) that is presented in the form of
23 financial statements information that is the representation of management (owners) without
24 undertaking to express any assurance on the statements;

25 (9) **"Home office", the location specified by the client as the address to which a**
26 **service described in subdivision (4) of subsection 1 of section 326.283 is directed;**

27 (10) "License", a license issued pursuant to section 326.280, or [a provisional license
28 issued] **privilege to practice granted** pursuant to section 326.283; or, in each case, an individual
29 license or permit issued pursuant to corresponding provisions of prior law;

30 [(10)] (11) "Licensee", the holder of a license as defined in this section;

31 [(11)] (12) "Manager", a manager of a limited liability company;

32 [(12)] (13) "Member", a member of a limited liability company;

33 [(13)] (14) "NASBA", the National Association of State Boards of Accountancy;

34 [(14)] (15) "Peer review", a study, appraisal or review of one or more aspects of the
35 professional work of a licensee or certified public accountant firm that performs attest, review
36 or compilation services, by licensees who are not affiliated either personally or through their
37 certified public accountant firm being reviewed pursuant to the Standards for Performing and
38 Reporting on Peer Reviews promulgated by the AICPA or such other standard adopted by
39 regulation of the board which meets or exceeds the AICPA standards;

40 [(15)] (16) "Permit", a permit to practice as a certified public accountant firm issued
41 pursuant to section 326.289 or corresponding provisions of prior law or pursuant to
42 corresponding provisions of the laws of other states;

43 [(16)] (17) "Professional", arising out of or related to the specialized knowledge or skills
44 associated with certified public accountants;

45 [(17)] (18) "Public accounting":

46 (a) Performing or offering to perform for an enterprise, client or potential client one or
47 more services involving the use of accounting or auditing skills, or one or more management
48 advisory or consulting services, or the preparation of tax returns or the furnishing of advice on
49 tax matters by a person, firm, limited liability company or professional corporation using the title
50 "C.P.A." or "P.A." in signs, advertising, directory listing, business cards, letterheads or other
51 public representations;

52 (b) Signing or affixing a name, with any wording indicating the person or entity has
53 expert knowledge in accounting or auditing to any opinion or certificate attesting to the reliability
54 of any representation or estimate in regard to any person or organization embracing financial
55 information or facts respecting compliance with conditions established by law or contract,
56 including but not limited to statutes, ordinances, rules, grants, loans and appropriations; or

57 (c) Offering to the public or to prospective clients to perform, or actually performing on
58 behalf of clients, professional services that involve or require an audit or examination of financial
59 records leading to the expression of a written attestation or opinion concerning these records;

60 [(18)] (19) "Report", when used with reference to financial statements, means an
61 opinion, report or other form of language that states or implies assurance as to the reliability of
62 any financial statements, and that also includes or is accompanied by any statement or
63 implication that the person or firm issuing it has special knowledge or competence in accounting
64 or auditing. Such a statement or implication of special knowledge or competence may arise from
65 use by the issuer of the report of names or titles indicating that the person or firm is an
66 accountant or auditor, or from the language of the report itself. The term report includes any
67 form of language which disclaims an opinion when such form of language is conventionally
68 understood to imply any positive assurance as to the reliability of the financial statements
69 referred to or special competence on the part of the person or firm issuing such language, or both,
70 and includes any other form of language that is conventionally understood to imply such
71 assurance or such special knowledge or competence, or both;

72 [(19)] (20) "Review", providing a service to be performed in accordance with Statements
73 on Standards for Accounting and Review Services (SSARS) that is performing inquiry and
74 analytical procedures that provide the accountant with a reasonable basis for expressing limited
75 assurance that there are no material modifications that should be made to the statements for them
76 to be in conformity with generally accepted accounting principles or, if applicable, with another
77 comprehensive basis of accounting;

78 [(20)] (21) "State", any state of the United States, the District of Columbia, Puerto Rico,
79 the U.S. Virgin Islands and Guam; except that "this state" means the state of Missouri;

80 [(21)] (22) "Substantial equivalency" or "**substantially equivalent**", a determination
81 by the board of accountancy or its designee that the education, examination and experience
82 requirements contained in the statutes and administrative rules of another jurisdiction are
83 comparable to or exceed the education, examination and experience requirements contained in
84 this chapter or that an individual certified public accountant's education, examination and
85 experience qualifications are comparable to or exceed the education, examination and experience
86 requirements contained in this chapter;

87 [(22)] **(23)** "Transmittal", any transmission of information in any form, including but not
88 limited to any and all documents, records, minutes, computer files, disks or information.

89 2. The statements on standards specified in this section shall be adopted by reference by
90 the board pursuant to rulemaking and shall be those developed for general application by the
91 AICPA or other recognized national accountancy organization as prescribed by board rule.

326.283. 1. (1) An individual whose principal place of business, **domicile, or residency**
2 is not in this state and [has] **who holds** a valid [designation] **and unrestricted license** to practice
3 public accounting from any state which the board **of accountancy or its designee** has
4 determined by rule to be in substantial equivalence with the licensure requirements of [sections
5 326.250 to 326.331] **this chapter**, or if the individual's qualifications are substantially equivalent
6 to the licensure requirements of [sections 326.250 to 326.331] **this chapter**, shall be presumed
7 to have qualifications substantially equivalent to this state's requirements and shall have all the
8 privileges of licensees of this state[, provided the individual shall notify the board of his or her
9 intent to engage in the practice of accounting with a client within this state whether in person,
10 by electronic or technological means, or any other manner. The board by rule may require
11 individuals to obtain a license] **without the need to obtain a license or to otherwise notify or**
12 **register with the board or pay any fee; provided however, the board may by rule require**
13 **individuals with a valid but restricted license to obtain a license.**

14 (2) **An individual who qualifies for the privilege to practice under this section may**
15 **offer or render professional services in this state, whether in person, by mail, telephone,**
16 **or electronic means, and no notice or other submission shall be required of any such**
17 **individual. Such individual shall be subject to the requirements of subdivision (3) of this**
18 **subsection.**

19 [(2) Any] **(3) An individual licensee** of another state exercising the privilege afforded
20 [pursuant to] **under** this section [consents] **and the firm which employs such licensee hereby**
21 **simultaneously consents** as a condition of the grant of this privilege [to]:

22 (a) **To** the personal and subject matter jurisdiction and disciplinary authority of the
23 board;

24 (b) **To** comply with this chapter and the board's rules; [and]

25 (c) **That in the event the license from any state is no longer valid or unrestricted,**
26 **the individual will cease offering or rendering professional services in this state**
27 **individually and on behalf of a firm; and**

28 (d) **To** the appointment of the state board [which] **that** issued the individual's license as
29 his or her agent upon whom process may be served in any action or proceeding by this board
30 against the individual.

31 **(4) An individual who has been granted the privilege to practice under this section**
32 **who performs any of the following financial statement services for an entity with a home**
33 **office in this state shall only do so through a firm which has obtained a permit issued under**
34 **section 326.289:**

35 **(a) Any audit or other engagement to be performed in accordance with Statements**
36 **on Auditing Standards (SAS);**

37 **(b) Any examination of prospective financial information to be performed in**
38 **accordance with Statements on Standards for Attestation Engagements (SSAE); or**

39 **(c) Any engagement to be performed in accordance with the auditing standards and**
40 **rules of the Public Company Accounting Oversight Board (PCAOB).**

41 **[(3)] (5) Nothing in this [section] chapter shall prohibit temporary practice in this state**
42 **for professional business incidental to a CPA's regular practice outside this state. "Temporary**
43 **practice" means that practice [which is a continuation or extension] related to the direct**
44 **purpose of an engagement for a client located outside this state, which engagement began**
45 **outside this state and extends into this state through common ownership, existence of a**
46 **subsidiary, assets or other operations located within this state.**

47 **2. A licensee of this state offering or rendering services or using his or her certified**
48 **public accountant title in another state shall be subject to disciplinary action in this state for an**
49 **act committed in another state for which the licensee would be subject to discipline for an act**
50 **committed in the other state. Notwithstanding the provisions of section 326.274 to the contrary,**
51 **the board may investigate any complaint made by the board of accountancy of another state.**

 326.289. 1. The board may grant or renew permits to practice as a certified public
2 accounting firm to [entities] **applicants** that [make application and] demonstrate their
3 qualifications in accordance with this [section or to certified public accounting firms originally
4 licensed in another state that establish an office in this state. A firm shall hold a permit issued
5 pursuant to this section to provide attest, review or compilation services or to use the title
6 certified public accountant or certified public accounting firm] **chapter.**

7 **2. A permit issued under this chapter is required of the following:**

8 **(1) Any firm with an office in this state, as defined by the board by rule, performing**
9 **attest services, as defined in section 326.256;**

10 **(2) Any firm with an office in this state that uses the title "CPA" or "CPA firm";**
11 **or**

12 **(3) Any firm that does not have an office in this state but performs attest services,**
13 **as defined in section 326.256, for a client having its home office in the state.**

14 **3. A firm without an office in this state may perform compilation and review**
15 **services, as defined in section 326.256, for a client having its home office in this state and**

16 may use the title "CPA" or "CPA firm" without a permit issued under this section only
17 if the firm:

18 (1) Has the qualifications described in subsections 7 and 12 of this section; and

19 (2) Performs such services through an individual with the privilege to practice
20 under subsection 1 of section 326.283.

21 4. A firm not subject to the requirements of subsections 2 and 3 of this section may
22 perform other professional services while using the title "CPA" or "CPA firm" in this state
23 without a permit issued under this section only if the firm:

24 (1) Has the qualifications described in subsection 7 of this section;

25 (2) Performs such services through an individual with the privilege to practice
26 under section 326.283; and

27 (3) It can lawfully do so in the state where said individual with privilege to practice
28 has his or her principal place of business.

29 [2.] 5. Permits shall be initially issued and renewed for periods of not more than three
30 years or for a specific period as prescribed by board rule following issuance or renewal.

31 [3.] 6. The board shall determine by rule the form for application and renewal of permits
32 and shall annually determine the fees for permits and their renewals.

33 [4.] 7. An applicant for initial issuance or renewal of a permit to practice pursuant to this
34 section shall be required to show that:

35 (1) [Notwithstanding any other provision of law to the contrary,] A simple majority of
36 the ownership of the firm, in terms of financial interests and voting rights of all partners, officers,
37 principals, shareholders, members or managers, belongs to licensees who are licensed in some
38 state, and the partners, officers, principals, shareholders, members or managers, whose principal
39 place of business is in this state and who perform professional services in this state are licensees
40 pursuant to section 326.280 or the corresponding provision of prior law. Although firms may
41 include nonlicensee owners, the firm and its ownership shall comply with rules promulgated by
42 the board;

43 (2) Any certified public accounting firm may include owners who are not licensees,
44 provided that:

45 (a) The firm designates a licensee of this state; **or in the case of a firm required to**
46 **have a permit under this section, such firm designates a licensee of another state who meets**
47 **the requirements of section 326.283;** who is responsible for the proper registration of the firm
48 and identifies that individual to the board;

49 (b) All nonlicensee owners are active individual participants in the certified public
50 accounting firm or affiliated entities;

51 (c) **All owners are of good moral character;**

52 (d) The firm complies with other requirements as the board may impose by rule;

53 (3) Any licensee, initially licensed on or after August 28, 2001, who is responsible for
54 supervising attest services, or signs or authorizes someone to sign the licensee's report on the
55 financial statements on behalf of the firm, shall meet competency requirements as determined
56 by the board by rule which shall include one year of experience in addition to the experience
57 required pursuant to subdivision (6) of subsection 1 of section 326.280 and shall be verified by
58 a licensee. The additional experience required by this subsection shall include experience in
59 attest work supervised by a licensee;

60 (4) Any licensee who is responsible for supervising review services or signs or
61 authorizes someone to sign review reports shall meet the competency requirements as determined
62 by board by rule which shall include experience in review services.

63 [5.] 8. An applicant for initial issuance or renewal of a permit to practice shall register
64 each office of the firm within this state with the board and show that all attest, review and
65 compilation services rendered in this state are under the charge of a licensee.

66 [6.] 9. No licensee or firm holding a permit pursuant to this chapter shall use a
67 professional or firm name or designation that is misleading as to:

68 (1) The legal form of the firm;

69 (2) The persons who are partners, officers, members, managers or shareholders of the
70 firm; or

71 (3) Any other matter.

72

73 The names of one or more former partners, members or shareholders may be included in the
74 name of a firm or its successor unless the firm becomes a sole proprietorship because of the
75 death or withdrawal of all other partners, officers, members or shareholders. A firm may use a
76 fictitious name if the fictitious name is registered with the board and is not otherwise misleading.
77 The name of a firm shall not include the name or initials of an individual who is not a present
78 or a past partner, member or shareholder of the firm or its predecessor. The name of the firm
79 shall not include the name of an individual who is not a licensee.

80 [7.] 10. Applicants for initial issuance or renewal of permits shall list in their application
81 all states in which they have applied for or hold permits as certified public accounting firms and
82 list any past denial, revocation, suspension or any discipline of a permit by any other state. Each
83 holder of or applicant for a permit pursuant to this section shall notify the board in writing within
84 thirty days after its occurrence of any change in the identities of partners, principals, officers,
85 shareholders, members or managers whose principal place of business is in this state; any change
86 in the number or location of offices within this state; any change in the identity of the persons

87 in charge of such offices; and any issuance, denial, revocation, suspension or any discipline of
88 a permit by any other state.

89 [8.] **11.** Firms which fall out of compliance with the provisions of this section due to
90 changes in firm ownership or personnel after receiving or renewing a permit shall take corrective
91 action to bring the firm back into compliance as quickly as possible. The board may grant a
92 reasonable period of time for a firm to take such corrective action. Failure to bring the firm back
93 into compliance within a reasonable period as defined by the board may result in the suspension
94 or revocation of the firm permit.

95 [9.] **12.** The board shall require by rule, as a condition to the renewal of permits, that
96 firms undergo, no more frequently than once every three years, peer reviews conducted in a
97 manner as the board shall specify. The review shall include a verification that individuals in the
98 firm who are responsible for supervising attest, review and compilation services or sign or
99 authorize someone to sign the accountant's report on the financial statements on behalf of the
100 firm meet the competency requirements set out in the professional standards for such services,
101 provided that any such rule:

102 (1) Shall include reasonable provision for compliance by a firm showing that it has
103 within the preceding three years undergone a peer review that is a satisfactory equivalent to peer
104 review generally required pursuant to this subsection;

105 (2) May require, with respect to peer reviews, that peer reviews be subject to oversight
106 by an oversight body established or sanctioned by board rule, which shall periodically report to
107 the board on the effectiveness of the review program under its charge and provide to the board
108 a listing of firms that have participated in a peer review program that is satisfactory to the board;
109 and

110 (3) Shall require, with respect to peer reviews, that the peer review processes be operated
111 and documents maintained in a manner designed to preserve confidentiality, and that the board
112 or any third party other than the oversight body shall not have access to documents furnished or
113 generated in the course of the peer review of the firm except as provided in subdivision (2) of
114 this subsection.

115 [10.] **13.** Prior to January 1, 2008, licensees who perform fewer than three attest services
116 during each calendar year shall be exempt from the requirements of subsection [9] **12** of this
117 section.

118 [11.] **14.** The board may, by rule, charge a fee for oversight of peer reviews, provided
119 that the fee charged shall be substantially equivalent to the cost of oversight.

120 [12.] **15.** In connection with proceedings before the board or upon receipt of a complaint
121 involving the licensee performing peer reviews, the board shall not have access to any documents
122 furnished or generated in the course of the performance of the peer reviews except for peer

123 review reports, letters of comment and summary review memoranda. The documents shall be
124 furnished to the board only in a redacted manner that does not specifically identify any firm or
125 licensee being peer reviewed or any of their clients.

126 [13.] **16.** The peer review processes shall be operated and the documents generated
127 thereby be maintained in a manner designed to preserve their confidentiality. No third party,
128 other than the oversight body, the board, subject to the provisions of subsection [12] **15** of this
129 section, or the organization performing peer review shall have access to documents furnished or
130 generated in the course of the review. All documents shall be privileged and closed records for
131 all purposes and all meetings at which the documents are discussed shall be considered closed
132 meetings pursuant to subdivision (1) of section 610.021, RSMo. The proceedings, records and
133 workpapers of the board and any peer review subjected to the board process shall be privileged
134 and shall not be subject to discovery, subpoena or other means of legal process or introduction
135 into evidence at any civil action, arbitration, administrative proceeding or board proceeding. No
136 member of the board or person who is involved in the peer review process shall be permitted or
137 required to testify in any civil action, arbitration, administrative proceeding or board proceeding
138 as to any matters produced, presented, disclosed or discussed during or in connection with the
139 peer review process or as to any findings, recommendations, evaluations, opinions or other
140 actions of such committees or any of its members; provided, however, that information,
141 documents or records that are publicly available shall not be subject to discovery or use in any
142 civil action, arbitration, administrative proceeding or board proceeding merely because they were
143 presented or considered in connection with the peer review process.

326.292. 1. Only licensees may issue a report on financial statements of any person,
2 firm, organization or governmental unit or offer to render or render any attest service. Such
3 restriction shall not prohibit any act of a public official or public employee in the performance
4 of the person's duties as such; nor prohibit the performance by any nonlicensee of other services
5 involving the use of accounting skills, including the preparation of tax returns, management
6 advisory services and the preparation of nonattest financial statements. Nonlicensees may
7 prepare financial statements and issue nonattest transmittals or information thereon which do not
8 purport to be in compliance with the Statements on Standards for Accounting and Review
9 Services (SSARS).

10 2. Only certified public accountants shall use or assume the title certified public
11 accountant, or the abbreviation CPA or any other title, designation, words, letters, abbreviation,
12 sign, card or device tending to indicate that such person is a certified public accountant. Nothing
13 in this section shall prohibit:

14 (1) A certified public accountant whose certificate was in full force and effect, issued
15 pursuant to the laws of this state prior to August 28, 2001, and who does not engage in the

16 practice of public accounting, auditing, bookkeeping or any similar occupation, from using the
17 title certified public accountant or abbreviation CPA;

18 (2) A person who holds a certificate, then in force and effect, issued pursuant to the laws
19 of this state prior to August 28, 2001, and who is regularly employed by or is a director or officer
20 of a corporation, partnership, association or business trust, in his or her capacity as such, from
21 signing, delivering or issuing any financial, accounting or related statement, or report thereon
22 relating to such corporation, partnership, association or business trust provided the capacity is
23 so designated, and provided in the signature line the title CPA or certified public accountant is
24 not designated.

25 3. No firm shall provide attest services or assume or use the title certified public
26 accountants or the abbreviation CPAs, or any other title, designation, words, letters, abbreviation,
27 sign, card or device tending to indicate that such firm is a certified public accounting firm unless:

28 (1) The firm holds a valid permit issued pursuant to section 326.289 **or is a firm exempt**
29 **from the permit requirement under subsections 3 and 4 of section 326.289 and complies**
30 **with all other applicable provisions of that section;** and

31 (2) Ownership of the firm is in accord with section 326.289 and rules promulgated by
32 the board.

33 4. Only persons holding a valid license or permit issued pursuant to section 326.280 or
34 326.289, **or persons qualifying for the privilege to practice under section 326.283, and firms**
35 **exempt from the permit requirement under section 326.289** shall assume or use the title
36 certified accountant, chartered accountant, enrolled accountant, licensed accountant, registered
37 accountant, accredited accountant or any other title or designation likely to be confused with the
38 titles certified public accountant or public accountant, or use any of the abbreviations CA, LA,
39 RA, AA or similar abbreviation likely to be confused with the abbreviation CPA or PA. The title
40 enrolled agent or EA shall only be used by individuals so designated by the Internal Revenue
41 Service. Nothing in this section shall prohibit the use or issuance of a title for nonattest services
42 provided that the organization and the title issued by the organization existed prior to August 28,
43 2001.

44 5. (1) Nonlicensees shall not use language in any statement relating to the financial
45 affairs of a person or entity that is conventionally used by certified public accountants in reports
46 on financial statements. Nonlicensees may use the following safe harbor language:

47 (a) For compilations:

48

49 "I (We) have prepared the accompanying (financial statements) of (name of entity) as of (time
50 period) for the (period) then ended. This presentation is limited to preparing in the form of a
51 financial statement information that is the representation of management (owners). I (We) have

52 not audited or reviewed the accompanying financial statements and accordingly do not express
53 an opinion or any other form of assurance on them.";

54 (b) For reviews:

55

56 "I (We) reviewed the accompanying (financial statements) of (name of entity) as of (time period)
57 for the (period) then ended. These financial statements (information) are (is) the responsibility
58 of the company's management. I (We) have not audited the accompanying financial statements
59 and accordingly do not express an opinion or any other form of assurance on them.".

60 (2) Only persons or firms holding a valid license or permit issued pursuant to section
61 326.280 or 326.289 shall assume or use any title or designation that includes the words
62 accountant or accounting in connection with any other language, including the language of a
63 report, that implies that the person or firm holds a license or permit or has special competence
64 as an accountant or auditor; provided, however, that this subsection shall not prohibit any officer,
65 partner, principal, member, manager or employee of any firm or organization from affixing such
66 person's own signature to any statement in reference to the financial affairs of the firm or
67 organization with any wording designating the position, title or office that the person holds
68 therein nor prohibit any act of a public official or employee in the performance of the person's
69 duties as such. Nothing in this subsection shall prohibit the singular use of "accountant" or
70 "accounting" for nonattest purposes.

71 6. Licensees signing or authorizing someone to sign reports on financial statements when
72 performing attest, review or compilation services shall provide those services in accordance with
73 professional standards as determined by the board by rule.

74 7. No licensee [or holder of a provisional license] or firm holding a permit pursuant to
75 sections 326.280 to 326.289 shall use a professional or firm name or designation that is
76 misleading about the legal form of the firm, or about the persons who are partners, principals,
77 officers, members, managers or shareholders of the firm, or about any other matter.

78 8. None of the foregoing provisions of this section shall apply to a person or firm holding
79 a certification, designation, degree or license granted in a foreign country entitling the holder to
80 engage in the practice of public accounting or its equivalent in the country whose activities in
81 this state are limited to the provision of professional services to persons or firms who are
82 residents of, governments of, or business entities of the country in which the person holds the
83 entitlement, who performs no attest, review or compilation services and who issues no reports
84 with respect to the financial statements of any other persons, firms or governmental units in this
85 state, and who does not use in this state any title or designation other than the one under which
86 the person practices in such country, followed by a translation of such title or designation into
87 the English language, if it is in a different language, and by the name of such country.

88 9. No licensee whose license is issued pursuant to section 326.280 or issued pursuant to
89 prior law shall perform attest services through any certified public accounting firm that does not
90 hold a valid permit issued pursuant to section 326.289.

91 10. Nothing herein shall prohibit a practicing attorney or firm of attorneys from
92 preparing or presenting records or documents customarily prepared by an attorney or firm of
93 attorneys in connection with the attorney's professional work in the practice of law.

94 11. Nothing herein shall prohibit any trustee, executor, administrator, referee or
95 commissioner from signing and certifying financial reports incident to his or her duties in that
96 capacity.

97 12. Nothing herein shall prohibit any director or officer of a corporation, partner or a
98 partnership, sole proprietor of a business enterprise, member of a joint venture, member of a
99 committee appointed by stockholders, creditors or courts, or an employee of any of the foregoing,
100 in his or her capacity as such, from signing, delivering or issuing any financial, accounting or
101 related statement, or report thereon, relating to the corporation, partnership, business enterprise,
102 joint venture or committee, provided the capacity is designated on the statement or report.

103 13. (1) A licensee shall not for a commission recommend or refer to a client any product
104 or service, or for a commission recommend or refer any product or service to be supplied by a
105 client, or receive a commission, when the licensee also performs for that client:

106 (a) An audit or review of a financial statement; or

107 (b) A compilation of a financial statement when the licensee expects, or reasonably may
108 expect, that a third party will use the financial statement and the licensee's compilation report
109 does not disclose a lack of independence; or

110 (c) An examination of prospective financial information.

111

112 Such prohibition applies during the period in which the licensee is engaged to perform any of the
113 services listed above and the period covered by any historical financial statements involved in
114 such listed services.

115 (2) A licensee who is not prohibited by this section from performing services for or
116 receiving a commission and who is paid or expects to be paid a commission shall disclose in
117 writing that fact to any person or entity to whom the licensee recommends or refers a product or
118 service to which the commission relates.

119 (3) Any licensee who accepts a referral fee for recommending or referring any service
120 of a licensee to any person or entity or who pays a referral fee to obtain a client shall disclose in
121 writing the acceptance or payment to the client.

122 14. (1) A licensee shall not:

123 (a) Perform for a contingent fee any professional services for, or receive a fee from, a
124 client for whom the licensee or the licensees's firm performs:

125 a. An audit or review of a financial statement; or

126 b. A compilation of a financial statement when the licensee expects, or reasonably might
127 expect, that a third party will use the financial statement and the licensee's compilation report
128 does not disclose a lack of independence; or

129 c. An examination of prospective financial information;

130 (b) Prepare an original tax return or claim for a tax refund for a contingent fee for any
131 client; or

132 (c) Prepare an amended tax return or claim for a tax refund for a contingent fee for any
133 client, unless permitted by board rule.

134 (2) The prohibition in subdivision (1) of this subsection applies during the period in
135 which the licensee is engaged to perform any of those services and the period covered by any
136 historical financial statements involved in any services.

137 (3) A contingent fee is a fee established for the performance of any service pursuant to
138 an arrangement in which no fee will be charged unless a specified finding or result is attained,
139 or in which the amount of the fee is otherwise dependent upon the finding or result of the service.
140 Solely for purposes of this section, fees are not regarded as being contingent if fixed by courts
141 or other public authorities, or, in tax matters, if determined based on the results of judicial
142 proceedings or the findings of governmental agencies. A licensee's fees may vary depending,
143 for example, on the complexity of services rendered.

144 15. Any person who violates any provision of subsections 1 to 5 of this section shall be
145 guilty of a class A misdemeanor. Whenever the board has reason to believe that any person has
146 violated this section it may certify the facts to the attorney general of this state or bring other
147 appropriate proceedings.

335.076. 1. Any person who holds a license to practice professional nursing in this state
2 may use the title "Registered Professional Nurse" and the abbreviation "R.N.". No other person
3 shall use the title "Registered Professional Nurse" or the abbreviation "R.N.". No other person
4 shall assume any title or use any abbreviation or any other words, letters, signs, or devices to
5 indicate that the person using the same is a registered professional nurse.

6 2. Any person who holds a license to practice practical nursing in this state may use the
7 title "Licensed Practical Nurse" and the abbreviation "L.P.N.". No other person shall use the title
8 "Licensed Practical Nurse" or the abbreviation "L.P.N.". No other person shall assume any title
9 or use any abbreviation or any other words, letters, signs, or devices to indicate that the person
10 using the same is a licensed practical nurse.

11 3. Any person who holds a license or recognition to practice advanced practice nursing
12 in this state may use the title "Advanced Practice Registered Nurse", and the abbreviation
13 "APRN", and any other title designations appearing on his or her license. No other person shall
14 use the title "Advanced Practice Registered Nurse" or the abbreviation "APRN". No other
15 person shall assume any title or use any abbreviation or any other words, letters, signs, or devices
16 to indicate that the person using the same is an advanced practice registered nurse.

17 4. No person shall practice or offer to practice professional nursing, practical nursing,
18 or advanced practice nursing in this state or use any title, sign, abbreviation, card, or device to
19 indicate that such person is a practicing professional nurse, practical nurse, or advanced practice
20 nurse unless he or she has been duly licensed under the provisions of this chapter.

21 5. In the interest of public safety and consumer awareness, it is unlawful for any person
22 to use the title "nurse" in reference to himself or herself in any capacity, except individuals who
23 are or have been licensed as a registered nurse, licensed practical nurse, or advanced practice
24 registered nurse under this chapter.

25 6. Notwithstanding any law to the contrary, nothing in this chapter shall prohibit a
26 [person listed as a] Christian Science nurse [in the Christian Science Journal published by the
27 Christian Science Publishing Society, Boston, Massachusetts,] from using the title "Christian
28 Science nurse", so long as such person provides **only** religious nonmedical services when
29 offering or providing **such** services to [a member of his or her own religious organization and
30 does not hold his or her own religious organization] **those who choose to rely upon healing by**
31 **spiritual means alone** and does not hold himself or herself out as a registered nurse, advanced
32 practice registered nurse, nurse practitioner, licensed practical nurse, nurse midwife, clinical
33 nurse specialist, or nurse anesthetist, unless otherwise authorized by law to do so.

 338.132. Any provision of the law to the contrary notwithstanding, the board of
2 pharmacy shall prepare and maintain an equitable salary schedule for professional staff that are
3 employees of the board. **The position of executive director and inspector shall be licensed**
4 **pharmacists with at least three years of pharmacy practice experience.** The positions and
5 classification plan for personnel attributed to **the executive director and** the inspection of
6 licensed entities within this chapter shall allow for a comparison of such positions with similar
7 positions in adjoining states. Board of pharmacy professional positions shall [not] be
8 compensated at [more than ninety percent parity] **the composite average** for corresponding
9 positions within adjoining states for pharmacists employed in those positions. **An equitable**
10 **salary survey will be conducted on an annual basis prior to the first day of July and salary**
11 **adjustments as determined by the board will begin prior to the first day of September of**
12 **each calendar year.**

339.150. 1. No real estate broker shall knowingly employ or engage any person to perform any service to the broker for which licensure as a real estate broker or a real estate salesperson is required pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860, unless such a person is:

(1) A licensed real estate salesperson or a licensed real estate broker as required by section 339.020[,] ; or

(2) **For a transaction involving commercial real estate as defined in section 339.710, a person regularly engaged in the real estate brokerage business outside the state of Missouri who has, in such forms as the commission may adopt by rule:**

(a) **Executed a brokerage agreement with the Missouri real estate broker;**

(b) **Consented to the jurisdiction of Missouri and the commission;**

(c) **Consented to disciplinary procedures under section 339.100; and**

(d) **Appointed the commission as his or her agent for service of process regarding any administrative or legal actions relating to the conduct in Missouri; or**

(3) **For any other transaction,** a person regularly engaged in the real estate brokerage business outside of the state of Missouri.

17

Any such action shall be unlawful as provided by section 339.100 and shall be grounds for investigation, complaint, proceedings and discipline as provided by section 339.100.

2. No real estate licensee shall pay any part of a fee, commission or other compensation received by the licensee to any person for any service rendered by such person to the licensee in buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate, unless such a person is a licensed real estate salesperson regularly associated with such a broker, or a licensed real estate broker, or a person regularly engaged in the real estate brokerage business outside of the state of Missouri.

3. Notwithstanding the provisions of subsections 1 and 2 of this section, any real estate broker who shall refuse to pay any person for services rendered by such person to the broker, with the consent, knowledge and acquiescence of the broker that such person was not licensed as required by section 339.020, in buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate for which services a license is required, and who is employed or engaged by such broker to perform such services, shall be liable to such person for the reasonable value of the same or similar services rendered to the broker, regardless of whether or not the person possesses or holds any particular license, permit or certification at the time the service was performed. Any such person may bring a civil action for the reasonable value of his services rendered to a broker notwithstanding the provisions of section 339.160.

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

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

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

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

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

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

(6) "Manufactured home", [a factory-built structure or structures 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, contains three hundred twenty or more square feet, equipped with the necessary service connections and made so as to be readily movable as a unit or units on its or their own running gear and designed to be used as a dwelling unit or units with or without a permanent foundation. The phrase "without a permanent foundation" indicates that the support system is constructed with the intent that the manufactured home placed thereon may be moved from time to time at the convenience of the owner] **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 therein. The term includes any structure that meets all of the requirements of this subdivision except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code;**

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

[(7)] (8) "Modular unit", a transportable building unit designed to be used by itself or to be incorporated with similar units at a point-of-use into a modular structure to be used for residential, commercial, educational or industrial purposes. **A modular unit shall be built to**

37 **the International Residential Codes (IRC) for residential units and the International**
38 **Building Codes (IBC) for commercial, educational, and industrial units as adopted by the**
39 **commission.** This definition shall not apply to structures under six hundred fifty square feet
40 used temporarily and exclusively for construction site office purposes;

41 [(8)] (9) "New", being sold or offered for sale to the first purchaser for purposes other
42 than resale;

43 [(9)] (10) "Person", an individual, partnership, corporation or other legal entity;

44 [(10)] (11) "Premises", a lot, plot, or parcel of land including the buildings, structures,
45 and manufactured homes thereon;

46 [(11)] (12) "Recreational park trailer", a recreational park trailer as defined in the
47 American National Standards Institute (ANSI) A119.5 Standard on Recreational Park Trailers.
48 A recreational park trailer is not a recreational vehicle;

49 [(12)] (13) "Recreational vehicle", a recreational vehicle as defined in the American
50 National Standards Institute (ANSI) A119.2 Standard on Recreational Vehicles;

51 [(13)] (14) "Seal", a device, label or insignia issued by the public service commission,
52 U.S. Department of Housing and Urban Development, or its agent, to be displayed on the
53 exterior of the manufactured home, or modular unit to evidence compliance with the code;

54 [(14)] (15) "Setup", the operations performed at the occupancy site which renders a
55 manufactured home or modular unit fit for habitation, which operations include, but are not
56 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 Consumer Recovery Fund" for the purpose of paying**
3 **consumer claims under procedures the commission may promulgate by rule. The public**
4 **service commission shall administer the manufactured housing consumer recovery fund**
5 **and all moneys in the fund shall be used solely as prescribed in this section. Any interest**
6 **earned from the investment of moneys in the fund shall be credited to the fund.**

7 **2. Claims approved by the commission under law may be paid from the fund**
8 **subject to appropriation. No claims shall be considered by the commission until all other**
9 **legal remedies have been exhausted. The commission shall establish an advisory committee**
10 **to assist with the evaluation of all claims filed by consumers. The committee members shall**
11 **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 **new** manufactured home offered for sale in this state shall
2 at the time of sale provide the purchaser with a bill of sale **or the purchase agreement**
3 containing at least the following: The total price of the unit, **serial number if available, if not**
4 **available, the manufacturer name and model number of the unit**, and its contents, **any**
5 **waivers**, a list of all furniture and appliances in the manufactured home, any other costs which
6 will be assessed to the purchaser **by the dealer** such as transportation, handling, or such other
7 costs, 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 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 application for registration or renewal and shall be required to maintain a bona fide established place of business and maintain 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 or modular units where the public may contact the owner or operator at any reasonable time and where the books, records, files, and other matter 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 address, 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. Upon the payment of a registration or renewal fee of two hundred dollars, there shall be assigned to each dealer a certificate of registration in such form as the commission shall prescribe.

700.096. 1. Each person registered as a dealer under the provisions of sections 700.010 to 700.115 shall file monthly reports with the commission, and such reports shall be in the form and manner and contain the information required by the commission by rules promulgated under 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 or her possession or under his or her control:

(1) Any manufacturer's invoice or invoices, certificate of origin, statement of origin, or title to any manufactured home or modular unit;

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

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

(4) Any assignment of title to any manufactured home;

(5) Any disclosure statement or other document required by the laws of the United States or any other state.

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

(1) The attorney general, or any person designated by the attorney general to make such an inspection;

18 (2) Any prosecuting attorney or any person designated by the 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
2 be 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 shall be accompanied by a notice
7 informing the recipient that the decision of the commission may be appealed as provided
8 in 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. Notification of unfavorable action by the commission on any
4 application for registration or renewal of registration must be delivered to the applicant within
5 thirty days from date it is received by the commission. Notification of unfavorable action by the
6 commission on any application for registration or renewal of registration must be accompanied
7 by a notice informing the recipient that the decision of the commission may be appealed as
8 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] **except as allowed under**
25 **subsection 5 of section 700.656**; the dealer [receives] **shall receive** a written waiver of that
26 service from the purchaser or his or her authorized agent;
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 registrant 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 the person has violated any provision of this**
11 **chapter, it may direct its general counsel to enforce the provisions of this section by filing**
12 **a petition in circuit court for such civil penalties.** Each violation of this chapter shall
13 constitute a separate violation with respect to each manufactured home **or modular unit** or with
14 respect to each failure or refusal to allow or perform an act required by this chapter; except that,
15 the 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.

700.525. As used in sections 700.525 to 700.541, the following terms mean:

2 (1) "Abandoned", a physical absence from the property, and either:

3 (a) Failure by a renter of real property to pay any required rent for fifteen consecutive
4 days, along with the discontinuation of utility service to the rented property for such period; or

5 (b) Indication of or notice of abandonment of real property rented from a landlord;

6 (2) "Manufactured home", a factory-built structure as defined in subdivision [(5) or (7)]
7 **(6) or (8)** of section 700.010.

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 manufactured homes in any consecutive twelve-month period;

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

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

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

18 (7) "Manufactured home", a manufactured home as that term is defined in subdivision
19 [(5)] (6) of section 700.010;

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

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

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;

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

20

2 [700.455. 1. Every dealer shall, on or before January fifteenth of each
3 year, instead of registering each manufactured home dealt in, make a verified
4 application, upon a blank for such purpose to be furnished by the commission,
5 for a distinctive number for all the manufactured homes dealt in or controlled by
6 such dealer. The application shall contain, but need not be limited to:

7 (1) When the applicant is a partnership, the name and address of each
8 partner, or, when the applicant is a corporation, the names of the principal
9 officers of the corporation and the state in which it is incorporated. The
10 application shall be verified by the oath or affirmation of the applicant, if an
11 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;
- (4) Any assignment of title to any manufactured home;
- (5) Any disclosure statement or other document required by the laws of the United States or any other state.

2. For purposes of this section, the term "law enforcement official" shall mean any of the following:

- (1) Attorney general, or any person designated by him to make such an inspection;
- (2) Any prosecuting attorney or any person designated by a prosecuting attorney to make such an inspection;
- (3) Any member of the highway patrol;
- (4) Any sheriff or deputy sheriff;
- (5) Any peace officer certified pursuant to chapter 590, RSMo, acting in his official capacity.]

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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