

**REVISED PROPOSED REGULATION
OF THE ADMINISTRATOR OF THE
MANUFACTURED HOUSING DIVISION OF
THE DEPARTMENT OF BUSINESS AND INDUSTRY**

LCB File No. R112-13

January 28, 2014

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §1, NRS 118B.024 and 118B.120; §§2 and 3, NRS 118B.024 and 118B.086; §§4, 6 and 12, NRS 489.231; §5, NRS 489.231 and 489.724; §7, NRS 489.231 and 489.541; §8, NRS 489.231 and 489.305; §§9 and 10, NRS 489.231 and 489.341; §11, NRS 489.231 and 489.343.

A REGULATION relating to manufactured housing; defining the circumstances in which the Manufactured Housing Division of the Department of Business and Industry will consider a manufactured home to be dismantled; revising provisions relating to instructors of continuing education courses for managers and assistant managers of manufactured home parks; enacting provisions governing the annual reconciliation of the separate trust accounts of dealers; defining the physical location which constitutes the principal place of business of certain persons; defining the circumstances under which the Division will deem factory-built housing to constitute real property for the purposes of issuing a certificate of title or certificate of ownership; applying to distributors certain regulations relating to the licensure of salespersons, responsible managing employees and business entities; and providing other matters properly relating thereto.

Section 1. Chapter 118B of NAC is hereby amended by adding thereto a new section to read as follows:

For the purposes of NRS 118B.120, the Division will consider a manufactured home to be dismantled if the manufactured home has been taken out of compliance with any standards for manufactured homes adopted by the Division because the manufactured home has been

torn down, disassembled or destroyed in such a manner that the manufactured home cannot be rebuilt or rehabilitated into a manufactured home.

Sec. 2. NAC 118B.140 is hereby amended to read as follows:

118B.140 ~~1.—The Administrator will not approve an instructor for a course unless the instructor is of good moral character and, except as otherwise provided in subsection 2:~~

- ~~—(a) Holds a bachelor’s degree or graduate degree in the area of instruction;~~
- ~~—(b) Teaches at a college or university within the Nevada System of Higher Education or any other accredited college or university in the area of instruction;~~
- ~~—(c) Is approved by the Real Estate Division of the Department of Business and Industry to teach courses relating to real estate;~~
- ~~—(d) Has at least 5 years of full-time experience, other than clerical experience, in the area of instruction; or~~
- ~~—(e) Has at least 3 years of full-time experience as a teacher in a school which offers education to adults.~~

~~—2.†~~ The Administrator may approve an employee of the Division or any other person as an instructor of a course if the Administrator is satisfied that he or she has the knowledge and experience required to teach that course.

Sec. 3. NAC 118B.200 is hereby amended to read as follows:

118B.200 1. Approval for each instructor or course must be renewed ~~annually~~ *when requested by the Division* by submitting to the Administrator:

(a) An application on a form prescribed by the Division; and

(b) A certificate, on a form prescribed by the Division, signed by the applicant, under penalty of perjury, declaring that the applicant has complied with *the* requirements of NAC 118B.100 to 118B.220, inclusive.

2. The Administrator will, within 30 days after receiving an application for renewal, approve or deny it and give written notice of the decision to the applicant by certified mail.

Sec. 4. Chapter 489 of NAC is hereby amended by adding thereto the provisions set forth as sections 5 and 6 of this regulation.

Sec. 5. 1. *When requested in writing by the Division, a dealer must submit an annual accounting of a separate trust account maintained by the dealer pursuant to paragraph (b) of subsection 1 of NRS 489.724. In an annual accounting submitted pursuant to this subsection, the dealer shall include copies of documents relating to each sales transaction during the period for which the accounting is provided, which may include, without limitation:*

(a) Buyer's purchase agreements and any addendums, special agreements or attachments to those purchase agreements;

(b) Documentation of any prepaid expenses relating to the sales transactions;

(c) The ledger card containing all financial transactions relating to the sales transactions, including, without limitation, the deposit or down payment, direct expenses related to the sale, proceeds of loans, proof of payment of an outstanding security interest and a final transfer of money to the dealer's operating account;

(d) The title or title documents which show clear title and salability, including, without limitation, the dealer's report of sale;

(e) Copies of the reconciled bank statements of the trust account;

(f) Proof that the dealer has satisfied an outstanding security interest within 30 days after a manufactured home, mobile home, manufactured building, commercial coach or factory-built housing is taken in trade on the purchase of another home, building, coach or unit of factory-built housing; and

(g) Any other documents or correspondence related to a sales transaction which are requested by the Division.

2. A dealer may submit the annual accounting and the supporting documents required by subsection 1 in print or electronic form.

Sec. 6. *For the purposes of NRS 489.811, the Division will interpret the term “principal place of business” to mean the principal office of the defendant which the defendant uses to conduct business as a manufacturer, dealer, distributor, general serviceperson or specialty serviceperson and the Division will not interpret the term to include a post office box.*

Sec. 7. NAC 489.203 is hereby amended to read as follows:

489.203 1. The Division will not issue a certificate of title, certificate of ownership or real property notice for factory-built housing that constitutes real property pursuant to subsection 4 of NRS 361.244.

2. For the purpose of determining whether factory-built housing constitutes real property pursuant to subsection 4 of NRS 361.244, the Division will deem factory-built housing to be permanently affixed to land if:

(a) A certificate of occupancy has been issued for the factory-built housing;

(b) The factory-built housing has been approved for occupancy after an enforcement agency has performed a final inspection; or

(c) An enforcement agency has taken any other action which allows the factory-built housing to be occupied.

3. As used in this section ~~“real”~~:

(a) “Enforcement agency” has the meaning ascribed to it in NAC 489.500.

(b) “Real property notice” means a document issued by the Division as verification to a county assessor that a mobile or manufactured home has been converted from personal property to real property pursuant to NRS 361.244.

Sec. 8. NAC 489.305 is hereby amended to read as follows:

489.305 1. The Division may require as a condition of licensing any information it deems necessary for each location *in this State* where a manufactured home or commercial coach dealer, *distributor*, manufacturer, general serviceperson or specialty serviceperson maintains a branch office. Upon receiving sufficient information, the Division will issue a license for the branch office.

2. The mere listing of manufactured homes, mobile homes or commercial coaches for sale does not constitute a branch office, but the use of a mobile home park or estate sales office by a licensee for the sale or offering for sale of manufactured homes or mobile homes does constitute the maintenance of a branch office.

3. ~~Except as provided in this subsection, the~~ *The* licensee is responsible for the operation of the branch office in accordance with the provisions of this chapter and chapter 489 of NRS.

4. ~~If it is not feasible for a licensee to exercise direct supervision over a branch office, it must be managed by a corporate officer, partner or responsible managing employee.~~

~~—5.†~~ A responsible managing employee of a branch office may not manage more than one branch office.

~~16.1~~ 5. All branch office records required to be kept by this chapter and chapter 489 of NRS must be kept at that branch office or the main office of the licensee.

~~17.1~~ 6. A branch office is not required to have a trust account separate from the trust account of the main office. If a separate account is maintained, the required signatures are those of the responsible managing employee of the branch office and the dealer to whom the main office license is issued.

Sec. 9. NAC 489.320 is hereby amended to read as follows:

489.320 1. Any person employed by a dealer *or distributor* to act or exercise authority in connection with the dealer's *or distributor's* business must be licensed as a salesperson to:

- (a) List manufactured homes, mobile homes or commercial coaches for sale.
- (b) Close the sale of a manufactured home, mobile home or commercial coach, including the signing of the sales contract.

2. A licensee may not employ a person who is required to be licensed under chapter 489 of NRS unless that person is so licensed.

3. If a manufactured home or commercial coach dealer *or distributor* fails to maintain or renew his or her license, the licenses of all salespersons whom he or she employs will be placed on inactive status immediately until the dealer *or distributor* reinstates or renews his or her license or an application for transferring the salesperson's license is made and the required fees are paid.

4. If the license of a manufactured home or commercial coach dealer *or distributor* is not renewed, or is suspended or revoked, the licensee shall deliver immediately to the Division all of the licenses issued to his or her salespersons. In such a case, a salesperson may, by applying and paying the required fee, transfer to the employment of another dealer ~~or~~ *or distributor*.

5. A manufactured home or commercial coach dealer *or distributor* shall notify the Division within 5 business days after the date of the termination or separation of employment of an employee and surrender all licenses of the employee to the Division. Failure to comply with this subsection may result in disciplinary action and the imposition of an administrative fine pursuant to NRS 489.381.

Sec. 10. NAC 489.325 is hereby amended to read as follows:

489.325 1. Any person who applies, pursuant to NRS 489.341, for a license to act as a responsible managing employee for a licensed dealer, *distributor*, general serviceperson or specialty serviceperson must submit his or her application for a license upon the form supplied by the Division.

2. If the application is approved, the Division will issue to the applicant a license containing the applicant's name and the address and name of the licensed dealer, *distributor*, general serviceperson or specialty serviceperson employing him or her.

3. If a licensed dealer, *distributor*, general serviceperson or specialty serviceperson fails to maintain or renew his or her license, the licenses of all his or her responsible managing employees are automatically placed on inactive status until the license of the dealer, *distributor*, general serviceperson or specialty serviceperson is reinstated or renewed or the responsible managing employee's license is transferred to the employment of another dealer, *distributor*, general serviceperson or specialty serviceperson.

Sec. 11. NAC 489.331 is hereby amended to read as follows:

489.331 1. A license issued to a designated member or corporate officer of a business pursuant to NRS 489.343 on behalf of the business becomes inactive immediately if the member or officer:

- (a) Is disabled from engaging in the business; or
- (b) Ceases to be engaged in or connected with the business.

2. The business may continue to operate pursuant to the inactive license if the business:

- (a) Notifies the Division that its license has become inactive; and

(b) Designates another member or officer who submits an application for a license on behalf of the business.

↪ Except as otherwise provided in subsection 3, the business must submit the notice within 5 business days after the license becomes inactive. If the application for a license on behalf of the business is not submitted within 15 days after the license becomes inactive, the business shall cease to operate until such an application has been submitted and approved by the Division.

3. The Division may grant an extension of time to comply with subsection 2 if the business requests an extension in writing within the 5-day period.

4. If a business dissolves or fails to designate a new member or corporate officer within the period allowed pursuant to this section, the business shall return to the Division all licenses issued to the business by the Division.

5. As used in this section, “business” means a partnership, limited partnership, limited-liability partnership, limited-liability limited partnership or limited-liability company or a corporation, whether or not for profit, doing business as a manufacturer, dealer, *distributor*, general serviceperson or specialty serviceperson in this State.

Sec. 12. NAC 489.307 is hereby repealed.

TEXT OF REPEALED SECTION

489.307 Operation of main office. (NRS 489.231)

1. Except as otherwise provided in subsection 2, a dealer, general serviceperson or specialty serviceperson is responsible for the operation of the main office of the licensee's business in accordance with the provisions of this chapter and chapter 489 of NRS.

2. If it is not feasible for a dealer, general serviceperson or specialty serviceperson to exercise direct supervision over the main office, it must be managed by a corporate officer, partner or responsible managing employee.