

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

LCB File No. R119-14

August 18, 2014

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

AUTHORITY: §1, NRS 489.231 and 489.305; §§2-4, NRS 489.231 and 489.321; §§5-8, NRS 489.231 and 489.336; §9, NRS 489.231.

A REGULATION relating to manufactured housing; revising provisions governing the management of certain branch offices; requiring certain applicants for licensure or renewal of a license by the Manufactured Housing Division of the Department of Business and Industry to submit to the Division a copy of their policy of liability insurance; requiring certain persons licensed by the Division to maintain a policy of liability insurance; deleting the requirement that an applicant for a limited lien resale license submit certain documents to the Division; eliminating the requirement that certain persons licensed by the Division carry, during working hours, an identification card issued by the Division; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires each partnership, limited-liability company or corporation doing business as a manufacturer, dealer, distributor, general serviceperson or specialty serviceperson to designate one of its officers to submit an application for the required license to do business. (NRS 489.343) Existing law also requires each dealer, distributor, general serviceperson or specialty serviceperson who opens a branch office to obtain a license from the Manufactured Housing Division of the Department of Business and Industry to operate the branch office and to provide for direct supervision of the branch office, either alone or by employing a responsible managing employee. (NRS 489.305) Existing regulations authorize the supervision of a branch office by a corporate officer or partner of the licensee. (NAC 489.305) **Section 1** of this regulation removes this authority.

Under existing law, a person may not engage in the following businesses until the person has applied for and been issued a license by the Division: (1) a dealer, distributor or manufacturer of manufactured homes, mobile homes, manufactured buildings, commercial coaches or factory-built housing; (2) a general serviceperson, who performs installation, repair, removal, transport or reconstruction services for manufactured homes, mobile homes, manufactured buildings, commercial coaches or factory-built housing; or (3) a specialty

serviceperson, who performs specialized work on or in manufactured homes, mobile homes, manufactured buildings, modular components, commercial coaches or factory-built housing. (NRS 489.311) When applying for a license or the renewal of a license, an applicant must provide to the Division any proof that the Division requires of the applicant's fitness to engage in the activities for which the license is sought. (NRS 489.321) Existing regulations prescribe the documents that applicants for a license or the renewal of a license must submit to the Division. (NAC 489.310, 489.347) **Section 3** of this regulation requires a person that holds any such license to maintain a policy of liability insurance, and **sections 2 and 4** of this regulation require applicants for the initial issuance or the renewal of any such license to submit to the Division a copy of that policy of liability insurance.

Existing law requires the Division to adopt regulations for the issuance of limited lien resale licenses and permits authorizing a landlord or manager to sell a used mobile home or manufactured home under certain circumstances. The regulations must specify the requirements for the issuance of such a license or permit. (NRS 489.336) **Section 7** of this regulation deletes the requirement that an applicant for a limited lien resale license submit to the Division a copy of the notice of lien, the notice of sale by auction or the lien satisfaction form for the used mobile home or manufactured home.

Section 9 of this regulation eliminates the requirement that certain persons licensed by the Division carry, during working hours, an identification card issued by the Division.

Section 1. 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 where a manufactured home or commercial coach dealer, ~~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.

~~6.~~ 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.

~~7.~~ 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. 2. NAC 489.310 is hereby amended to read as follows:

489.310 1. The Division may require an applicant for a license as a dealer, manufacturer, general serviceperson or specialty serviceperson to show such a degree of experience, financial responsibility and such general knowledge of this chapter, chapter 489 of NRS, federal construction and safety standards relating to manufactured homes, the safety, health, finance and lien laws of this State and the rudimentary principles of the business for which the applicant wishes to obtain a license as the Division deems necessary for the safety and protection of the public.

2. An applicant may demonstrate his or her experience and knowledge by submitting to the Division:

(a) Evidence of his or her prior employment or other experience in the occupation for which the applicant wishes to obtain a license; or

(b) Proof that he or she has completed not less than 30 semester hours in courses of study which are approved by the Division.

3. An applicant must submit to the Division:

(a) A copy of the federal income tax return filed by the applicant for the preceding calendar year; and

(b) Such other proof as the Division deems necessary to show the applicant's financial responsibility.

4. If the applicant is a corporation, its financial responsibility must be established independently of the assets of its officers, directors or stockholders, but the Division may inquire into and consider the personal assets of the officers, directors or stockholders in determining the financial responsibility of the corporation.

5. An applicant shall be deemed to be financially responsible if the Division determines that the applicant has, at the time the Division makes the determination, sufficient assets or income to operate his or her business for not less than 120 days.

6. The Division will determine financial responsibility according to the following criteria:

(a) Net worth;

(b) Liquid assets;

(c) Payment and credit records;

(d) Business experience;

(e) Prior and current liens;

(f) Prior and pending lawsuits;

(g) Adverse judgments;

- (h) Prior suspension or revocation of a license in this State or elsewhere for financial insolvency;
- (i) Any adjudication under bankruptcy law, including a composition, arrangement or reorganization;
- (j) Any appointment of a receiver for the property of the applicant or licensee or any officer, director, associate or partner thereof under the laws of this State or of the United States;
- (k) Any making of a prohibited assignment for the benefit of creditors;
- (l) Form of business organization;
- (m) Information obtained from confidential financial references and credit reports; and
- (n) Reputation for honesty and integrity of the applicant or licensee or any officer, director, associate or partner.

7. An applicant for a new manufactured home or commercial coach dealer's license must show proof that the applicant has not less than \$50,000 in cash on deposit in an operating account of the business in a Nevada financial institution before the Division will issue a license.

8. An applicant for a used manufactured home or commercial coach dealer's license must show proof that the applicant has not less than \$25,000 in cash on deposit in an operating account of the business in a Nevada financial institution before the Division will issue a license.

9. An applicant for a new manufactured home dealer's license, including a franchise dealership, must submit *to the Division* a letter of credit from a financial institution or a provider of inventory financing showing that the applicant will be granted a specified amount of credit of not less than \$200,000 from that institution for the flooring of manufactured homes, commercial coaches, manufactured buildings or factory-built housing. This requirement does not apply to a dealership owned by a licensed manufacturer.

10. *An applicant for a new dealer's, distributor's, manufacturer's, general serviceperson's or specialty serviceperson's license must submit to the Division a copy of the policy of liability insurance required pursuant to subsection 2 of NAC 489.3105.*

11. An applicant for an initial license must submit to the Division a copy of any similar license issued by another state.

~~11.1~~ 12. A partnership, limited partnership, limited-liability partnership, limited-liability limited partnership or limited-liability company or a corporation, whether or not for profit, that applies for a dealer's, *distributor's, manufacturer's*, general serviceperson's or specialty serviceperson's license must file a certified or verified copy of its partnership agreement, articles of organization or articles of incorporation with the Division.

~~12.1~~ 13. If an applicant submits an incomplete application:

(a) The Division will notify the applicant of the deficiencies in the application.

(b) Except as otherwise provided in paragraph (c), the Division will deny the application unless the applicant corrects the deficiencies within 15 days after receiving the notice.

(c) The Division may grant an extension of time to correct the deficiencies in the application if the applicant requests such an extension in writing within the 15-day period.

Sec. 3. NAC 489.3105 is hereby amended to read as follows:

489.3105 *1.* A person that holds a new manufactured home or commercial coach dealer's license or a used manufactured home or commercial coach dealer's license must:

~~11.1~~ (a) Maintain the same amount of cash on deposit in a Nevada financial institution as required for issuance of an initial license pursuant to NAC 489.310; and

~~12.1~~ (b) Provide proof of the deposit to the Division upon request.

2. A person that holds a dealer's, distributor's, manufacturer's, general serviceperson's or specialty serviceperson's license must maintain a policy of liability insurance.

Sec. 4. NAC 489.347 is hereby amended to read as follows:

489.347 An applicant for the renewal of the dealer's, *distributor's, manufacturer's*, general serviceperson's or specialty serviceperson's license issued to the applicant by the Division pursuant to chapter 489 of NRS must submit to the Division with his or her application for renewal:

1. The fee required pursuant to NAC 489.360;
2. Complete copies of bank statements for ~~†~~
~~—(a) The operating account of the licensee for the immediately preceding 6 months; and~~
~~—(b) The† the~~ trust account of the licensee for the immediately preceding 6 months if the licensee is a dealer;
3. A copy of the current business license issued for the licensee's business by the county, city or town in which the licensee's business is located; ~~†and†~~
4. *A copy of the policy of liability insurance required pursuant to subsection 2 of NAC 489.3105; and*
5. Any other proof requested in writing by the Division pursuant to NRS 489.321 or 489.323.

Sec. 5. NAC 489.760 is hereby amended to read as follows:

489.760 "Licensee" means a landlord or manager of a mobile home park to whom a limited *lien* resale license is issued by the Division pursuant to NAC 489.780.

Sec. 6. NAC 489.775 is hereby amended to read as follows:

489.775 1. Before a landlord or manager of a mobile home park may sell a used mobile home or manufactured home acquired at a sale to enforce a lien pursuant to NRS 108.265 to 108.367, inclusive, the landlord or manager must obtain a limited *lien* resale license from the Division. The license may be obtained by applying to the Division on a form supplied by the Division. Except as otherwise provided in this section, in addition to completing the application, the applicant must submit with the application:

(a) A fee of \$50;

(b) A copy of the business license issued for the mobile home park where the used mobile home or manufactured home to which the limited *lien* resale license will apply is located; and

(c) An affidavit stating that the applicant:

(1) Owns or leases the mobile home park, if the applicant is the landlord of the mobile home park; or

(2) Is an employee of the landlord and has the written permission of the landlord to sell the used mobile home or manufactured home, if the applicant is the manager of the mobile home park.

2. Except as otherwise provided in subsection 3, an applicant who submits an application for a limited *lien* resale license to the Division within 2 years after submitting a previous application for such a license is not required to submit a copy of the business license for the manufactured home park where the used mobile home or manufactured home to which the limited *lien* resale license will apply is located.

3. If a landlord or manager of a mobile home park has applied for or holds a limited *lien* resale license and the landlord of the mobile home park changes the name or address of the mobile home park, the landlord or manager shall submit to the Division a copy of the business

license which indicates the new name or address of the mobile home park not later than 10 days after the local government issues such a business license.

Sec. 7. NAC 489.780 is hereby amended to read as follows:

489.780 1. Upon receipt of an application for a limited *lien* resale license, the fee required by NAC 489.775 and any other information required by the Division, the Division will approve the application and issue to the applicant a limited *lien* resale license, unless the Division determines that the applicant is not fit to conduct the sale of the used mobile home or manufactured home identified in the application.

2. A limited *lien* resale license issued by the Division is valid only for the purpose of selling the used mobile home or manufactured home identified in the application for the license and for which the applicant submitted:

(a) A copy of the certificate of title or certificate of ownership of the used mobile home or manufactured home; *and*

(b) ~~A copy of the notice of lien, the notice of sale by auction or the lien satisfaction form;~~
~~and~~

~~—(c)—~~ Any other information deemed necessary by the Division.

3. If a landlord of a mobile home park terminates the employment of a manager of the park who has applied for or holds a limited *lien* resale license, the landlord shall, as soon as practicable, provide written notice of the termination to the Division and the application or license of the manager becomes invalid.

Sec. 8. NAC 489.785 is hereby amended to read as follows:

489.785 1. A landlord of a mobile home park shall maintain a permanent record of each sale of a used mobile home or manufactured home located in the mobile home park that is authorized pursuant to a limited *lien* resale license. The record must include:

(a) A copy of the certificate of title or certificate of ownership of the used mobile home or manufactured home;

(b) A copy of the purchase agreement;

(c) A copy of any financing agreement related to the sale;

(d) The date on which the landlord received the money from the sale and the name of the person from whom the landlord received the money;

(e) The date of deposit of the money received from the sale into an account in a financial institution and the dates of any withdrawals of that money from that account; and

(f) Any other pertinent information concerning the sale.

2. The records maintained pursuant to subsection 1 must be made available at reasonable times for audit or inspection by the Administrator or his or her agent.

Sec. 9. NAC 489.342 is hereby repealed.

TEXT OF REPEALED SECTION

489.342 Possession of identification card. (NRS 489.231) A person licensed pursuant to the provisions of chapter 489 of NRS who reconstructs, services or installs manufactured homes,

mobile homes or commercial coaches shall carry upon his or her person, during working hours, the identification card issued to the person by the Division.