

**A-Engrossed**  
**Senate Bill 85**

Ordered by the Senate April 26  
Including Senate Amendments dated April 26

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber for Department of Consumer and Business Services)

**Corrected Summary**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

*[Requires manufactured structure dealer to retain earnest money or other deposit of retail customer for manufactured structure in trust until dealer delivers manufactured structure to retail customer.]*  
Limits access to dealer's surety bond by persons other than retail customers of dealer.

**Provides Director of Department of Consumer and Business Services with enforcement powers related to regulation of sale of manufactured structures.**

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to manufactured structure dealers; creating new provisions; amending ORS 446.661 and  
3 446.726; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. ORS 446.661 and section 4 of this 2011 Act are added to and made a part of**  
6 **ORS 446.666 to 446.756.**

7 **SECTION 2.** ORS 446.661 is amended to read:

8 446.661. As used in ORS 446.666 to 446.756:

9 (1) **"Dealer" has the meaning given that term in ORS 446.003.**

10 (2) **"Insured institution" has the meaning given that term in ORS 706.008.**

11 [(1)] (3) "Manufactured dwelling" has the meaning given that term in ORS 446.003. [; and]

12 [(2)] (4) "Manufactured structure" has the meaning given that term in ORS 446.561.

13 **SECTION 3.** ORS 446.726 is amended to read:

14 446.726. (1) A bond or letter of credit required to qualify for issuance or renewal of a manufac-  
15 tured structure dealer license under ORS 446.691 or 446.696 or a temporary manufactured structure  
16 dealer license under ORS 446.701 must comply with the following requirements:

17 (a) The bond must have a corporate surety licensed to do business within this state. A letter  
18 of credit must be an irrevocable letter of credit issued by an insured institution[, *as defined in ORS*  
19 *706.008*].

20 (b) The bond or letter of credit must:

21 (A) Be executed to the State of Oregon;

22 (B) Be in the sum of \$40,000 for each year the license is valid;

23 (C) Be in a form approved by the [Attorney General] **Director of the Department of Consumer**  
24 **and Business Services;**

25 (D) Be conditioned that the dealer will conduct the manufactured structure dealership without

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 fraud or fraudulent representation and without violating any statute or rule relating to manufac-  
2 tured structure dealers, manufactured structure dealerships, transfers of interests in manufactured  
3 structures, alteration of manufactured structures or moving manufactured structures;

4 (E) Be separate from any bond or letter of credit covering business activities other than dealing  
5 in manufactured structures; and

6 (F) Be filed and held [*in the office of the Department of Consumer and Business Services*] **by the**  
7 **director**.

8 (2) The surety or institution shall notify the [*department*] **director** if the bond or letter of credit  
9 is canceled for any reason. The surety or institution continues to be liable under the bond or letter  
10 of credit until the [*department*] **director** receives the notice required by this subsection, or until the  
11 cancellation date specified in the notice, whichever is later.

12 (3) If the license of a manufactured structure dealer is not renewed or is voluntarily or invol-  
13 untarily canceled, the surety on the bond and the issuer of the letter of credit are relieved from li-  
14 ability that accrues after the [*department*] **director** cancels the license.

15 (4) The manufactured structure dealer shall purchase a bond or letter of credit under this sec-  
16 tion annually on or before each anniversary of the issuance of the dealer's license.

17 (5) A [*person*] **retail customer** has a right of action against a manufactured structure dealer,  
18 against the surety on the dealer's bond and the issuer of a letter of credit if the [*person*] **retail**  
19 **customer** suffers any loss or damage by reason of the manufactured structure dealer's fraud,  
20 fraudulent representations or violations of statutes relating to:

21 (a) Transfer of interests in manufactured structures;

22 (b) Moving manufactured structures;

23 (c) The alteration of manufactured structures; or

24 (d) The regulation of manufactured structure dealers and manufactured structure dealerships.

25 [*(6) Notwithstanding subsection (5) of this section, the maximum amount available under a bond*  
26 *or letter of credit described in this section for the payment of claims by persons other than retail cus-*  
27 *tomers of the dealer is \$20,000.]*

28 **SECTION 4. (1) If the Director of the Department of Consumer and Business Services**  
29 **has reason to believe that a person has engaged, is engaging or is about to engage in a vio-**  
30 **lation of ORS 446.666 to 446.756 or a rule adopted under ORS 446.666 to 446.756, the director**  
31 **may issue an order directed to the person to cease and desist from the violation or threat-**  
32 **ened violation.**

33 (2) The director may require a manufactured structure dealer, or a person associated  
34 with the manufactured structure dealer, to produce for the director's examination and use  
35 books, accounts, records, files, documents or other information or evidence as the director  
36 deems necessary to carry out the purposes of ORS 446.666 to 446.756.

37 (3) The director may direct, subpoena, examine, compel the attendance of, administer  
38 oaths and affirmations to, and request production of books, accounts, records, files, docu-  
39 ments or other information or evidence from witnesses and persons that are subject to reg-  
40 ulation under ORS 446.666 to 446.756.

41 (4) The director may interview, take and preserve testimony concerning business prac-  
42 tices and operations from the manufactured structure dealer's officers, principals, mortgage  
43 loan originators if applicable, employees, agents and customers or independent contractors  
44 associated with the manufactured structure dealer.

45 **SECTION 5. (1) The amendments to ORS 446.661 by section 2 of this 2011 Act apply to**

1 **transactions between manufactured structure dealers and retail customers on or after the**  
2 **effective date of this 2011 Act.**

3 **(2) The amendments to ORS 446.726 by section 3 of this 2011 Act apply to causes of action**  
4 **commenced against a manufactured structure dealer by a retail customer on or after the**  
5 **effective date of this 2011 Act.**

6 **(3) Section 4 of this 2011 Act applies to transactions between manufactured structure**  
7 **dealers and retail customers before, on or after the effective date of this 2011 Act.**

8 **SECTION 6. This 2011 Act being necessary for the immediate preservation of the public**  
9 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
10 **on its passage.**

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