

Enrolled Senate Bill 85

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CHAPTER

AN ACT

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

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

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

SECTION 2. ORS 446.661 is amended to read:

446.661. As used in ORS 446.666 to 446.756:

(1) **“Dealer” has the meaning given that term in ORS 446.003.**

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

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

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

SECTION 3. ORS 446.726 is amended to read:

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

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

(b) The bond or letter of credit must:

(A) Be executed to the State of Oregon;

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

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

(D) Be conditioned that the dealer will conduct the manufactured structure dealership without fraud or fraudulent representation and without violating any statute or rule relating to manufactured structure dealers, manufactured structure dealerships, transfers of interests in manufactured structures, alteration of manufactured structures or moving manufactured structures;

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

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

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

(3) If the license of a manufactured structure dealer is not renewed or is voluntarily or involuntarily canceled, the surety on the bond and the issuer of the letter of credit are relieved from liability that accrues after the [department] **director** cancels the license.

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

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

(a) Transfer of interests in manufactured structures;

(b) Moving manufactured structures;

(c) The alteration of manufactured structures; or

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

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

SECTION 4. (1) If the Director of the Department of Consumer and Business Services has reason to believe that a person has engaged, is engaging or is about to engage in a violation of ORS 446.666 to 446.756 or a rule adopted under ORS 446.666 to 446.756, the director may issue an order directed to the person to cease and desist from the violation or threatened violation.

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

(3) **The director may direct, subpoena, examine, compel the attendance of, administer oaths and affirmations to, and request production of books, accounts, records, files, documents or other information or evidence from witnesses and persons that are subject to regulation under ORS 446.666 to 446.756.**

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

SECTION 5. (1) The amendments to ORS 446.661 by section 2 of this 2011 Act apply to transactions between manufactured structure dealers and retail customers on or after the effective date of this 2011 Act.

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

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

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

Passed by Senate April 28, 2011

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 17, 2011

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Received by Governor:

.....M,....., 2011

Approved:

.....M,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

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Kate Brown, Secretary of State