

A-Engrossed
Senate Bill 189

Ordered by the Senate February 25
Including Senate Amendments dated February 25

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, M.D., for Department of Consumer and Business Services)

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.

Authorizes disqualification, from licensure as or employment with manufactured structure dealer, of person whose acts or omissions [*led to revocation of*] **were basis for violation of statutory obligation for which** manufactured structure dealer license **can be revoked or suspended.**

Modifies references to federal law.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to manufactured structure dealer licensing; creating new provisions; amending ORS 446.003
3 and 446.741; and declaring an emergency.

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

5 **SECTION 1.** ORS 446.741 is amended to read:

6 446.741. (1) The Director of the Department of Consumer and Business Services may revoke or
7 suspend a manufactured structure dealer license, or place a dealer on probation, if the dealer does
8 any of the following:

9 (a) Commits an act that is grounds for suspension, revocation or probation under rules the di-
10 rector adopted.

11 (b) Fails to comply with the requirements for notices or reports of the transfer of interest in
12 manufactured structures.

13 (c) Moves a manufactured structure or causes a manufactured structure to be moved without
14 complying with the requirements for variance permits under ORS 818.200 and trip permits under
15 ORS 446.631.

16 (d) Knowingly provides false information on an application for a dealer license, supplemental
17 license or corrected dealer license.

18 (e) Deals in a manufactured structure that both before and after the sale is assessed as real
19 property under ORS 308.875 or is recorded in the deed records of a county. This paragraph does not
20 apply if an ownership document is issued for the manufactured structure prior to sale.

21 (f) Employs a person in an administrative or managerial capacity while the person is disqualified
22 under subsection (5) of this section.

23 (g) Fails, in conducting activities of a mortgage loan originator, to comply with the provisions
24 of:

25 (A) The Truth in Lending Act, 15 U.S.C. 1601 et seq., and Regulation Z, 12 C.F.R. part [226]

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 **1026**, as in effect on October 1, [2009] **2013**;

2 (B) The Real Estate Settlement Procedures Act, 12 U.S.C. 2601 et seq., and Regulation X, [24
3 *C.F.R. part 3500*] **12 C.F.R. part 1024**, as in effect on January 1, [2010] **2013**;

4 (C) The Equal Credit Opportunity Act, 15 U.S.C. 1691 et seq., and Regulation B, 12 C.F.R. [202.9,
5 202.11, 202.12 and 202.14] **part 1002**, as in effect on [July 30, 2009] **January 1, 2013**; or

6 (D) **The S.A.F.E. Mortgage Licensing Act**, 12 U.S.C. 5101 et seq., and [regulations adopted
7 under 12 U.S.C. 5101 et seq] **Regulation H, 12 C.F.R. part 1008, as in effect on January 1, 2013**.

8 (h) Fails to certify to the director in a form and manner the director specifies by rule that the
9 dealer has independently verified that every individual the dealer hired or intends to hire as a
10 mortgage loan originator meets the requirements set forth in ORS 86A.200 to 86A.239 and ORS
11 86A.186.

12 (i) Employs a device, scheme or artifice to defraud or engage in an act, practice or course of
13 business that operates or would operate as a fraud or deceit.

14 (j) Knowingly makes an untrue statement of a material fact or omits from a statement a material
15 fact that would make the statement not misleading in light of the circumstances under which the
16 dealer makes the statement.

17 (k) Makes or files or causes to be made or filed with the director a statement, report or docu-
18 ment that the dealer knows is false in a material respect or matter.

19 (2) The director shall cancel a manufactured structure dealer license immediately upon receipt
20 of legal notice that a bond described under ORS 446.726 or under ORS 86A.227 is canceled.

21 (3) Upon suspension, revocation or cancellation of a manufactured structure dealer license under
22 this section, the director shall demand the return of the license.

23 (4) The director shall cancel a dealer license or supplemental license immediately upon receipt
24 of notice that zoning approval for a place of business has been revoked.

25 *[(5) If the director revokes a manufactured structure dealer license pursuant to subsection (1) of this*
26 *section, the director shall disqualify the person whose license is revoked from obtaining any type of*
27 *license as a manufactured structure dealer and from working in an administrative or managerial ca-*
28 *pacitv for any type of manufactured structure dealer, for a period of not more than five years after the*
29 *date the revocation becomes effective.]*

30 **(5) If the director finds that a violation of subsection (1)(d), (i), (j) or (k) of this section**
31 **has occurred, the director may issue an order under ORS chapter 183 disqualifying, for up**
32 **to seven years after the date that the disqualification becomes effective:**

33 **(a) The dealer whose license is revoked from:**

34 **(A) Obtaining a license as a manufactured structure dealer; or**

35 **(B) Working in an administrative or managerial capacity for a manufactured structure**
36 **dealer.**

37 **(b) Any other person whose acts or omissions were material to the events that were the**
38 **basis for the violation from working in an administrative or managerial capacity for a man-**
39 **ufactured structure dealer.**

40 **(6) If a person who is subject to disqualification or who is disqualified under subsection**
41 **(5) of this section elects to pay restitution to a customer whom the director finds suffered**
42 **harm as a result of the violation of subsection (1)(d), (i), (j) or (k) of this section, the director**
43 **may choose not to issue an order of disqualification to the person or may rescind a previ-**
44 **ously issued order of disqualification.**

45 **(7) [If the person] A person who** applies for licensing as a manufactured structure dealer fol-

1 lowing a period of disqualification under [*this*] subsection **(5) of this section**, *the person*] must meet
2 the requirements for issuance of an initial manufactured structure dealer license.

3 **SECTION 2.** ORS 446.003 is amended to read:

4 446.003. As used in ORS 446.003 to 446.200 and 446.225 to 446.285, and for the purposes of ORS
5 chapters 195, 196, 197, 215 and 227, the following definitions apply, unless the context requires oth-
6 erwise, or unless administration and enforcement by the State of Oregon under the existing or re-
7 vised National Manufactured Housing Construction and Safety Standards Act would be adversely
8 affected, and except as provided in ORS 446.265:

9 (1) “Accessory building or structure” means any portable, demountable or permanent structure
10 established for use of the occupant of the manufactured structure and as further defined by rule by
11 the Director of the Department of Consumer and Business Services.

12 (2)(a) “Alteration” means any change, addition, repair, conversion, replacement, modification or
13 removal of any equipment or installation that may affect the operation, construction or occupancy
14 of a manufactured structure.

15 (b) “Alteration” does not include:

16 (A) Minor repairs with approved component parts;

17 (B) Conversion of listed fuel-burning appliances in accordance with the terms of their listing;

18 (C) Adjustment and maintenance of equipment; or

19 (D) Replacement of equipment or accessories in kind.

20 (3) “Approved” means approved, licensed or certified by the Department of Consumer and
21 Business Services or its designee.

22 (4) “Board” means the Residential and Manufactured Structures Board.

23 (5) “Cabana” means a stationary, lightweight structure that may be prefabricated, or demount-
24 able, with two or more walls, used adjacent to and in conjunction with a manufactured structure to
25 provide additional living space.

26 (6) “Certification” means an evaluation process by which the department verifies a
27 manufacturer’s ability to produce manufactured structures to the department rules and to the de-
28 partment approved quality control manual.

29 (7) “Conversion” or “to convert” means the process of changing a manufactured structure in
30 whole or in part from one type of vehicle or structure to another.

31 (8) “Dealer” means any person engaged in **the business of** selling, **leasing** or distributing
32 manufactured structures or equipment, or both, primarily to persons who in good faith purchase or
33 lease manufactured structures or equipment, or both, for purposes other than resale.

34 (9) “Department” means the Department of Consumer and Business Services.

35 (10) “Director” means the Director of the Department of Consumer and Business Services.

36 (11) “Distributor” means any person engaged in selling and distributing manufactured structures
37 or equipment for resale.

38 (12) “Equipment” means materials, appliances, subassembly, devices, fixtures, fittings and
39 apparatuses used in the construction, plumbing, mechanical and electrical systems of a manufactured
40 structure.

41 (13) “Federal manufactured housing construction and safety standard” means a standard for
42 construction, design and performance of a manufactured dwelling promulgated by the Secretary of
43 Housing and Urban Development pursuant to the federal National Manufactured Housing Con-
44 struction and Safety Standards Act of 1974 (Public Law 93-383).

45 (14) “Fire Marshal” means the State Fire Marshal.

1 (15) "Imminent safety hazard" means an imminent and unreasonable risk of death or severe
2 personal injury.

3 (16) "Insignia of compliance" means:

4 (a) For a manufactured dwelling built to HUD standards for such dwellings, the HUD label; or

5 (b) For all other manufactured structures, the insignia issued by this state indicating compliance
6 with state law.

7 (17) "Inspecting authority" or "inspector" means the Director of the Department of Consumer
8 and Business Services or representatives as appointed or authorized to administer and enforce pro-
9 visions of ORS 446.111, 446.160, 446.176, 446.225 to 446.285, 446.310 to 446.350, 446.990 and this sec-
10 tion.

11 (18) "Installation" in relation to:

12 (a) Construction means the arrangements and methods of construction, fire and life safety,
13 electrical, plumbing and mechanical equipment and systems within a manufactured structure.

14 (b) Siting means the manufactured structure and cabana foundation support and tiedown, the
15 structural, fire and life safety, electrical, plumbing and mechanical equipment and material con-
16 nections and the installation of skirting and temporary steps.

17 (19) "Installer" means any individual licensed by the director to install, set up, connect, hook
18 up, block, tie down, secure, support, install temporary steps for, install skirting for or make elec-
19 trical, plumbing or mechanical connections to manufactured dwellings or cabanas or who provides
20 consultation or supervision for any of these activities, except architects licensed under ORS 671.010
21 to 671.220 or engineers registered under ORS 672.002 to 672.325.

22 (20) "Listed" means equipment or materials included in a list, published by an organization
23 concerned with product evaluation acceptable to the department that maintains periodic inspection
24 of production of listed equipment or materials, and whose listing states either that the equipment
25 or materials meets appropriate standards or has been tested and found suitable in a specified man-
26 ner.

27 (21) "Lot" means any space, area or tract of land, or portion of a manufactured dwelling park,
28 mobile home park or recreation park that is designated or used for occupancy by one manufactured
29 structure.

30 (22)(a) "Manufactured dwelling" means a residential trailer, mobile home or manufactured home.

31 (b) "Manufactured dwelling" does not include any building or structure constructed to conform
32 to the State of Oregon Structural Specialty Code or the Low-Rise Residential Dwelling Code adopted
33 pursuant to ORS 455.100 to 455.450 and 455.610 to 455.630 or any unit identified as a recreational
34 vehicle by the manufacturer.

35 (23) "Manufactured dwelling park" means any place where four or more manufactured dwellings
36 are located within 500 feet of one another on a lot, tract or parcel of land under the same owner-
37 ship, the primary purpose of which is to rent or lease space or keep space for rent or lease to any
38 person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer
39 space free in connection with securing the trade or patronage of such person. "Manufactured
40 dwelling park" does not include a lot or lots located within a subdivision being rented or leased for
41 occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by
42 the local government unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010
43 to 92.192.

44 (24)(a) "Manufactured home," except as provided in paragraph (b) of this subsection, means a
45 structure constructed for movement on the public highways that has sleeping, cooking and plumbing

1 facilities, that is intended for human occupancy, that is being used for residential purposes and that
2 was constructed in accordance with federal manufactured housing construction and safety standards
3 and regulations in effect at the time of construction.

4 (b) For purposes of implementing any contract pertaining to manufactured homes between the
5 department and the federal government, “manufactured home” has the meaning given the term in
6 the contract.

7 (25)(a) “Manufactured structure” means a recreational vehicle, manufactured dwelling or recre-
8 ational structure.

9 (b) “Manufactured structure” does not include any building or structure regulated under the
10 State of Oregon Structural Specialty Code or the Low-Rise Residential Dwelling Code.

11 (26) “Manufacturer” means any person engaged in manufacturing, building, rebuilding, altering,
12 converting or assembling manufactured structures or equipment.

13 (27) “Manufacturing” means the building, rebuilding, altering or converting of manufactured
14 structures that bear or are required to bear an Oregon insignia of compliance.

15 (28) “Minimum safety standards” means the plumbing, mechanical, electrical, thermal, fire and
16 life safety, structural and transportation standards prescribed by rules adopted by the director.

17 (29) “Mobile home” means a structure constructed for movement on the public highways that
18 has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being
19 used for residential purposes and that was constructed between January 1, 1962, and June 15, 1976,
20 and met the construction requirements of Oregon mobile home law in effect at the time of con-
21 struction.

22 (30) “Mobile home park” means any place where four or more manufactured structures are lo-
23 cated within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the
24 primary purpose of which is to rent space or keep space for rent to any person for a charge or fee
25 paid or to be paid for the rental or use of facilities or to offer space free in connection with securing
26 the trade or patronage of such person. “Mobile home park” does not include a lot or lots located
27 within a subdivision being rented or leased for occupancy by no more than one manufactured
28 dwelling per lot if the subdivision was approved by the municipality unit having jurisdiction under
29 an ordinance adopted pursuant to ORS 92.010 to 92.192.

30 (31) “Municipality” means a city, county or other unit of local government otherwise authorized
31 by law to enact codes.

32 (32) “Recreational structure” means a campground structure with or without plumbing, heating
33 or cooking facilities intended to be used by any particular occupant on a limited-time basis for rec-
34 reational, seasonal, emergency or transitional housing purposes and may include yurts, cabins, fabric
35 structures or similar structures as further defined, by rule, by the director.

36 (33) “Recreational vehicle” means a vehicle with or without motive power, that is designed for
37 human occupancy and to be used temporarily for recreational, seasonal or emergency purposes and
38 as further defined, by rule, by the director.

39 (34) “Residential trailer” means a structure constructed for movement on the public highways
40 that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is
41 being used for residential purposes and that was constructed before January 1, 1962.

42 (35) “Sale” means rent, lease, sale or exchange.

43 (36) “Skirting” means a weather resistant material used to enclose the space below the manu-
44 factured structure.

45 (37) “Tiedown” means any device designed to anchor a manufactured structure securely to the

1 ground.

2 (38) "Transitional housing accommodations" means accommodations described under ORS
3 446.265.

4 (39) "Utilities" means the water, sewer, gas or electric services provided on a lot for a manu-
5 factured structure.

6 **SECTION 3. The amendments to ORS 446.003 and 446.741 by sections 1 and 2 of this 2013**
7 **Act apply to transactions between manufactured structure dealers and customers on and**
8 **after the effective date of this 2013 Act.**

9 **SECTION 4. This 2013 Act being necessary for the immediate preservation of the public**
10 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
11 **on its passage.**

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