

Enrolled Senate Bill 189

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CHAPTER

AN ACT

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

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

SECTION 1. ORS 446.741 is amended to read:

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

(a) Commits an act that is grounds for suspension, revocation or probation under rules the director adopted.

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

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

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

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

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

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

(A) The Truth in Lending Act, 15 U.S.C. 1601 et seq., and Regulation Z, 12 C.F.R. part [226] **1026**, as in effect on October 1, [2009] **2013**;

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

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

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

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

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

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

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

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

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

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

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

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

(a) The dealer whose license is revoked from:

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

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

(b) Any other person whose acts or omissions were material to the events that were the basis for the violation from working in an administrative or managerial capacity for a manufactured structure dealer.

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

(7) [If the person] A person who applies for licensing as a manufactured structure dealer following a period of disqualification under *[this]* subsection **(5) of this section**, *the person* must meet the requirements for issuance of an initial manufactured structure dealer license.

SECTION 2. ORS 446.003 is amended to read:

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

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

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

- (b) "Alteration" does not include:
- (A) Minor repairs with approved component parts;
 - (B) Conversion of listed fuel-burning appliances in accordance with the terms of their listing;
 - (C) Adjustment and maintenance of equipment; or
 - (D) Replacement of equipment or accessories in kind.
- (3) "Approved" means approved, licensed or certified by the Department of Consumer and Business Services or its designee.
- (4) "Board" means the Residential and Manufactured Structures Board.
- (5) "Cabana" means a stationary, lightweight structure that may be prefabricated, or demountable, with two or more walls, used adjacent to and in conjunction with a manufactured structure to provide additional living space.
- (6) "Certification" means an evaluation process by which the department verifies a manufacturer's ability to produce manufactured structures to the department rules and to the department approved quality control manual.
- (7) "Conversion" or "to convert" means the process of changing a manufactured structure in whole or in part from one type of vehicle or structure to another.
- (8) "Dealer" means any person engaged in **the business of** selling, **leasing** or distributing manufactured structures or equipment, or both, primarily to persons who in good faith purchase or lease manufactured structures or equipment, or both, for purposes other than resale.
- (9) "Department" means the Department of Consumer and Business Services.
- (10) "Director" means the Director of the Department of Consumer and Business Services.
- (11) "Distributor" means any person engaged in selling and distributing manufactured structures or equipment for resale.
- (12) "Equipment" means materials, appliances, subassembly, devices, fixtures, fittings and apparatuses used in the construction, plumbing, mechanical and electrical systems of a manufactured structure.
- (13) "Federal manufactured housing construction and safety standard" means a standard for construction, design and performance of a manufactured dwelling promulgated by the Secretary of Housing and Urban Development pursuant to the federal National Manufactured Housing Construction and Safety Standards Act of 1974 (Public Law 93-383).
- (14) "Fire Marshal" means the State Fire Marshal.
- (15) "Imminent safety hazard" means an imminent and unreasonable risk of death or severe personal injury.
- (16) "Insignia of compliance" means:
- (a) For a manufactured dwelling built to HUD standards for such dwellings, the HUD label; or
 - (b) For all other manufactured structures, the insignia issued by this state indicating compliance with state law.
- (17) "Inspecting authority" or "inspector" means the Director of the Department of Consumer and Business Services or representatives as appointed or authorized to administer and enforce provisions of ORS 446.111, 446.160, 446.176, 446.225 to 446.285, 446.310 to 446.350, 446.990 and this section.
- (18) "Installation" in relation to:
- (a) Construction means the arrangements and methods of construction, fire and life safety, electrical, plumbing and mechanical equipment and systems within a manufactured structure.
 - (b) Siting means the manufactured structure and cabana foundation support and tiedown, the structural, fire and life safety, electrical, plumbing and mechanical equipment and material connections and the installation of skirting and temporary steps.
- (19) "Installer" means any individual licensed by the director to install, set up, connect, hook up, block, tie down, secure, support, install temporary steps for, install skirting for or make electrical, plumbing or mechanical connections to manufactured dwellings or cabanas or who provides consultation or supervision for any of these activities, except architects licensed under ORS 671.010 to 671.220 or engineers registered under ORS 672.002 to 672.325.

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

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

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

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

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

(24)(a) "Manufactured home," except as provided in paragraph (b) of this subsection, means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

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

(25)(a) "Manufactured structure" means a recreational vehicle, manufactured dwelling or recreational structure.

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

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

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

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

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

(30) "Mobile home park" means any place where four or more manufactured structures are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Mobile home park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured

dwelling per lot if the subdivision was approved by the municipality unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 to 92.192.

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

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

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

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

(35) "Sale" means rent, lease, sale or exchange.

(36) "Skirting" means a weather resistant material used to enclose the space below the manufactured structure.

(37) "Tiedown" means any device designed to anchor a manufactured structure securely to the ground.

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

(39) "Utilities" means the water, sewer, gas or electric services provided on a lot for a manufactured structure.

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

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

Passed by Senate February 28, 2013

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 6, 2013

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2013

Approved:

.....M.,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2013

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Kate Brown, Secretary of State