

CHAPTER 327B

MANUFACTURED HOME SALES

327B.01 Definitions.
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327B.01 DEFINITIONS.

[For text of subds 1 to 10, see M.S.1982]

Subd. 11. **In park sale.** "In park sale" has the meaning specified in section 327C.01, subdivision 2.

[For text of subds 12 and 13, see M.S.1982]

Subd. 14. **Manufactured home park.** "Manufactured home park" has the meaning specified in section 327C.01, subdivision 5.

[For text of subds 15 to 21, see M.S.1982]

History: 1983 c 142 s 1,2; 1983 c 216 art 1 s 52,53

327B.04 MANUFACTURERS AND DEALERS; LICENSES; BONDS.

[For text of subds 1 to 3, see M.S.1982]

Subd. 4. **License prerequisites.** No application shall be granted nor license issued until the applicant proves to the commissioner that:

(a) the applicant has a permanent, established place of business at each licensed location. An "established place of business" means a permanent enclosed building other than a residence, or a commercial office space, either owned by the applicant or leased by the applicant for a term of at least one year, located in an area where zoning regulations allow commercial activity, and where the books, records and files necessary to conduct the business are kept and maintained. The owner of a licensed manufactured home park who resides in or adjacent to the park may use his residence as the established place of business required by this subdivision, unless prohibited by local zoning ordinance.

If a license is granted, the licensee may use unimproved lots and premises for sale, storage, and display of manufactured homes, if the licensee first notifies the commissioner in writing;

(b) if the applicant desires to sell, solicit or advertise the sale of new manufactured homes, it has a bona fide contract or franchise in effect with a manufacturer or distributor of the new manufactured home it proposes to deal in;

(c) the applicant has secured a surety bond in the amount of \$20,000 for the protection of consumer customers, executed by the applicant as principal and issued by a surety company admitted to do business in this state. The bond shall be exclusively for the purpose of reimbursing consumer customers and shall be conditioned upon the faithful compliance by the applicant with all of the laws and rules of this state pertaining to the applicant's business as a dealer or manufacturer, including sections 325D.44, 325F.67 and 325F.69, and upon the applicant's faithful performance of all its legal obligations to consumer customers;

(d) the applicant has established a trust account as required by section 327B.08, subdivision 3, unless the applicant states in writing its intention to limit

its business to selling, offering for sale, soliciting or advertising the sale of new manufactured homes; and

(e) the applicant has provided evidence of having had at least two years' prior experience in the sale of manufactured homes, working for a licensed dealer.

[For text of subds 5 to 7, see M.S.1982]

History: 1983 c 142 s 3; 1983 c 216 art 1 s 54

327B.05 DENIAL, SUSPENSION AND REVOCATION OF LICENSES.

Subdivision 1. **Grounds.** The commissioner may by order deny, suspend or revoke any license if he finds (1) that the order is in the public interest and (2) that the applicant or licensee or any of its directors, officers, limited or general partners, controlling shareholders or affiliates:

(a) has filed an application for a license or a license renewal which fails to disclose any material information or contains any statement which is false or misleading with respect to any material fact;

(b) has violated any of the provisions of sections 327B.01 to 327B.12 or any rule or order issued by the commissioner or any prior law providing for the licensing of manufactured home dealers or manufacturers;

(c) has had a previous manufacturer or dealer license revoked in this or any other state;

(d) has engaged in acts or omissions which have been adjudicated or amount to a violation of any of the provisions of section 325D.44, 325F.67 or 325F.69;

(e) has sold or brokered the sale of a home containing a material violation of sections 327.31 to 327.35 about which the dealer knew or which should have been obvious to a reasonably prudent dealer;

(f) has failed to make or provide to the commissioner all listings, notices and reports required by him;

(g) has failed to pay a civil penalty assessed under subdivision 5 within ten days after the assessment becomes final;

(h) has failed to pay to the commissioner or other responsible government agency all taxes, fees and arrearages due;

(i) has failed to duly apply for license renewal;

(j) has violated any applicable manufactured home building or safety code;

(k) has failed or refused to honor any express or implied warranty as provided in section 327B.03;

(l) has failed to continuously occupy a permanent, established place of business licensed under section 327B.04;

(m) has, without first notifying the commissioner, sold a new and unused manufactured home other than the make of manufactured home described in a franchise or contract filed with the application for license or license renewal;

(n) has wrongfully failed to deliver a certificate of title to a person entitled to it;

(o) is insolvent or bankrupt;

(p) holds an impaired or canceled bond;

(q) has failed to notify the commissioner of bankruptcy proceedings within ten days after a petition in bankruptcy has been filed by or against the dealer or manufacturer;

(r) has, within the previous ten years, been convicted of a crime that either related directly to the business of the dealer or manufacturer or involved fraud, misrepresentation or misuse of funds;

(s) has suffered a judgment within the previous five years in a civil action involving fraud, misrepresentation or misuse of funds; or

(t) has failed to reasonably supervise any employee or agent of the dealer or manufacturer, resulting in injury or harm to the public.

The commissioner may establish rules pursuant to section 327B.10 further specifying, defining or establishing standards of conduct for manufactured home dealers and manufacturers.

Subd. 2. Denial; appeal; reconsideration. If the commissioner denies an application for a license, he shall inform the applicant and summarize in writing the reasons for the denial. Within 15 days of receiving the commissioner's notice, the applicant may request in writing that the commissioner reconsider. The request for reconsideration shall explain why the commissioner's previous decision was wrong and shall specifically address each reason given by the commissioner for the denial. Within 20 days of receiving the request for reconsideration, the commissioner shall decide whether to withdraw the denial and grant a license. If the commissioner reaffirms the denial, the applicant may appeal in accordance with chapter 14. An applicant whose application is denied may also cure the defects in the application cited by the commissioner and resubmit the application at no extra charge.

[For text of subds 3 to 5, see M.S.1982]

Subd. 6. Appeals. The contested case provisions of chapter 14 shall apply to appeals from any order by the commissioner denying, suspending or revoking a license, or assessing penalties.

History: 1983 c 142 s 4,6; 1983 c 216 art 1 s 55; 1983 c 247 s 133

NOTE: Subdivision 2 was also amended by Laws 1983, chapter 142, section 5, to read as follows:

"Subd. 2. Denial; reconsideration. If the commissioner denies an application for a license, he shall inform the applicant and summarize in writing the reasons for the denial. Within 15 days of receiving the commissioner's notice, the applicant may request in writing that the commissioner reconsider. The request for reconsideration shall explain why the commissioner's previous decision was wrong and shall specifically address each reason given by the commissioner for the denial. Within 20 days of receiving the request for reconsideration, the commissioner shall decide whether to withdraw the denial and grant a license. If the commissioner reaffirms the denial, the applicant may appeal in the manner provided in subdivision 6. An applicant whose application is denied may also cure the defects in the application cited by the commissioner and resubmit the application at no extra charge."

327B.07 RESPONSIBILITY OF DEALERS.

Subdivision 1. Liability. Each dealer is responsible for the activities of any person employed by or acting on behalf of that dealer when the activities occur in connection with the sale or attempted sale of a manufactured home. Each corporation licensed as a dealer is responsible for the activities of any person employed by or acting on behalf of the corporation when such activities occur in connection with the sale or attempted sale of a manufactured home.

[For text of subd 2, see M.S.1982]

History: 1983 c 142 s 7

327B.09 PROHIBITIONS.

Subdivision 1. License required. No person shall engage in the business, either exclusively or in addition to any other occupation of manufacturing, selling, offering to sell, soliciting or advertising the sale of manufactured homes, or act as a broker without being licensed as a manufacturer or a dealer as provided in

section 327B.04. Any person who manufactures, sells, offers to sell, solicits or advertises the sale of manufactured homes, or acts as a broker in violation of this subdivision shall nevertheless be subject to the duties, prohibitions and penalties imposed by sections 327B.01 to 327B.12. This subdivision does not prohibit an individual from reselling, without a license, a manufactured home which is or has been his or her residence.

[For text of subds 2 and 3, see M.S.1982]

Subd. 4. Net listing prohibited. No dealer shall use or offer to use a net listing agreement.

Subd. 5. Broker or dealer arrangement of financing. A dealer who is acting as a broker for the sale of a manufactured home and who can arrange financing for the sale may charge a separate fee for that service, if:

(a) the listing agreement does not require that the seller or buyer use the dealer's services to arrange financing;

(b) in arranging the financing, the dealer will pay a fee or will guarantee all or part of the buyer's performance to a third person; and

(c) the listing agreement clearly and conspicuously discloses the amount of the fee, the fact that the fee is in addition to the dealer's commission and the fact that the seller and buyer are not required to use the dealer's services to arrange financing.

History: 1983 c 142 s 9; 1983 c 216 art 1 s 56

NOTE: Subdivision 1 was also amended by Laws 1983, chapter 142, section 8, to read as follows:

"Subdivision 1. License required. No person shall engage in the business, either exclusively or in addition to any other occupation of manufacturing, selling, offering to sell, soliciting or advertising the sale of manufactured homes, or act as a broker without being licensed as a manufacturer or a dealer as provided in section 327.04. Any person who manufactures, sells, offers to sell, solicits or advertises the sale of manufactured homes, or acts as a broker in violation of this subdivision shall nevertheless be subject to the duties, prohibitions and penalties imposed by sections 327B.01 to 327B.12. This subdivision does not prohibit an individual from reselling, without a license, a manufactured home which is or has been his or her residence."