

SECOND REGULAR SESSION

SENATE BILL NO. 1096

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR CASKEY.

Read 1st time January 20, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

4109S.01I

AN ACT

To amend chapter 700, RSMo, by adding thereto sixteen new sections relating to regulating the installation of manufactured homes, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 700, RSMo, is amended by adding thereto sixteen new sections, to be known as sections 700.650, 700.653, 700.656, 700.659, 700.662, 700.665, 700.668, 700.671, 700.674, 700.677, 700.680, 700.683, 700.686, 700.689, 700.692, and 700.695, to read as follows:

700.650. 1. Sections 700.650 to 700.692 shall be known and may be cited as the "Manufactured Home Installation Act".

2. For the purposes of sections 700.650 to 700.692, the following terms shall mean:

(1) "Applicant", a person who applies to the commission for a license or limited use license to install manufactured homes;

(2) "Commission", the Missouri public service commission;

(3) "Dealer", any person, other than a manufacturer, who sells or offers for sale four or more manufactured homes in any consecutive twelve-month period;

(4) "Installation", work undertaken at the place of occupancy to ensure the proper initial setup of a manufactured home which shall include the joining of all sections of the home, installation of stabilization, support, and leveling systems, assembly of multiple or expanded units, and installation of applicable utility hookups and anchoring systems that render the home fit for habitation;

(5) "Installation standards", reasonable specifications for the installation of a manufactured home;

(6) "Installer", an individual who is licensed by the commission to install manufactured homes, pursuant to sections 700.650 to 700.680 of this act;

(7) "Manufactured home", a manufactured home as that term is defined in

subdivision (5) of section 700.010;

(8) "Manufacturer", any person who manufactures manufactured homes, including persons who engage in importing manufactured homes for resale; and

(9) "Person", an individual, partnership, corporation, or other legal entity.

700.653. The commission shall implement a program, consistent with Title VI of P.L. 106-569 and any federal regulations promulgated pursuant to that act, to assure the proper installation of manufactured homes by licensed installers. The program shall include the following components:

(1) Licensing of installers, including penalties for engaging in the business of manufactured home installation without a license from the commission;

(2) Installation standards applicable to manufactured homes;

(3) Inspection of a percentage of installed manufactured homes; and

(4) A process to resolve disputes relating to the installation of manufactured homes.

700.656. 1. No person shall engage in the business of installing manufactured homes or hold himself or herself out as a manufactured home installer in this state unless such person holds a valid installer license issued by the commission pursuant to sections 700.650 to 700.680.

2. The installer license obtained from the commission shall be the only installer license required for installing manufactured homes within this state. No political subdivision of this state may issue an installer license or require additional professional licensure of installers already licensed by the commission.

3. Manufactured home dealers and manufactured home manufacturers who do not subcontract with a licensed installer and who perform installations themselves or through direct agents or employees shall have at least one agent or employee who is a licensed installer.

4. Any corporation, partnership, or other legal entity that performs installation shall have at least one supervising agent who is a licensed installer, and the supervising agent must be present at the site during the installation.

5. A license to install manufactured homes is not required for a person who installs a manufactured home on his or her property for his or her own occupancy or who is a direct agent of a licensee, working under the licensee's supervision and within the licensee's job scope. The licensed installer is responsible for supervising all such agents for their competent and proper performance.

700.659. 1. The commission shall issue an installer license to an applicant who:

(1) Files a written application with the commission on a form approved by the commission;

(2) Is at least eighteen years old;

(3) Is of good moral character;

(4) Presents evidence that he or she has completed a training program approved by the commission;

(5) Has attained a passing grade upon an examination, approved by the commission, that is designed to test the skills necessary to properly perform as an installer and to ascertain the adequacy of the applicant's knowledge of federal and state laws applicable to manufactured home installation. The commission may establish what constitutes a passing grade for the examination; and

(6) Pays all fees as required by sections 700.650 to 700.680 and by commission rule.

2. In addition to fulfilling the requirements of subsection 1 of this section, an applicant who is not an agent of a dealer or manufacturer shall obtain and show proof of a certificate of insurance for workers' compensation coverage.

3. In addition to fulfilling the requirements of subsection 1 of this section, an applicant who is an agent of a dealer or manufacturer shall show proof of general liability insurance in an amount of at least three hundred thousand dollars.

4. An installer license shall be valid for a period of time determined by the commission, but not for less than one year, and it may be renewed accordingly.

700.662. 1. The commission may waive the training and examination requirements of subsection 1 of section 700.659 and grant an installer license to an applicant who pays the applicable fee and demonstrates to the commission's satisfaction that his or her current license, registration, or certification requirements as an installer in another state, the District of Columbia, or territories of the United States substantially meets or exceeds the requirements in sections 700.650 to 700.680.

2. The commission may negotiate reciprocal agreements that allow licensed installers in Missouri to become licensed in other states, the District of Columbia, or territories of the United States.

700.665. Upon payment of an applicable fee, the commission may issue a limited use installer license to an applicant not otherwise licensed pursuant to sections 700.650 to 700.680 who already has installation experience but who has not met the training and examination requirements for licensure. The limited use installer license shall allow the person to install manufactured homes under the supervision of a person currently licensed pursuant to sections 700.650 to 700.680. The limited use license shall expire when the commission issues an installer license to the applicant or if the applicant fails to attain a passing grade

on the examination. The commission may renew an applicant's limited use license one time.

700.668. 1. The commission shall mail a renewal notice to the last known address of each installer licensee prior to the renewal date and shall establish procedures and requirements, including proof of continuing education, for renewing an installer license. The commission shall renew the license of a licensee who fulfills these requirements before the expiration date of his or her license and within a time period determined by the commission. The commission shall deny renewal to a licensee who does not fulfill these requirements.

2. Within ten days of receiving notification, a licensee shall notify the commission in writing of the cancellation, termination, or nonrenewal of any workers' compensation coverage or general liability insurance required by section 700.659. The commission may suspend an installer license until the licensee provides proof that the insurance coverage is restored.

3. Upon a licensee's written request, the commission may grant inactive status to a licensee, if the person meets the licensing requirements in sections 700.650 to 700.680 and:

(1) Does not install manufactured homes, except as allowed pursuant to section 700.659;

(2) Does not hold himself or herself out as an installer in the state of Missouri; and

(3) Maintains continuing education requirements established by the commission.

4. The commission may establish procedures and requirements for reissuing an installer license that has lapsed, expired, or been suspended, revoked, or placed on inactive status. The commission shall not reissue a license more than two years after its expiration date.

700.671. 1. No person shall:

(1) Falsely hold himself, herself, or a business organization out as a licensed installer;

(2) Falsely impersonate a licensed installer;

(3) Present as his or her own the installer's license of another;

(4) Knowingly give false or forged evidence to the commission;

(5) Use or attempt to use an installer license that has been suspended or revoked; or

(6) Engage in the business or act in the capacity of a licensed installer or advertise himself, herself, or a business organization as available to engage in the business or act in the capacity of an installer without being duly licensed by the

commission.

2. Any person who violates any provision of this section is guilty of a class A misdemeanor.

700.674. No person licensed as an installer and no applicant shall:

- (1) Obtain an installer license by fraud or misrepresentation;
- (2) Be convicted of or found guilty of, or enter a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction that directly relates to the business of performing or the ability to perform manufactured home installation;
- (3) Violate any order of the commission;
- (4) Commit misconduct, fraud, misrepresentation, or dishonesty in installing manufactured homes;
- (5) Commit gross negligence, repeated negligence, or negligence resulting in a significant danger to life or property; or
- (6) Commit violations of installation standards adopted by the commission pursuant to section 700.683.

700.677. 1. Notwithstanding any provision of law to the contrary, the commission may discipline a holder of an installer license, a holder of a limited use installer license, or any other person for any violation or combination of violations of sections 700.671 and 700.674.

2. The commission may discipline a licensee or applicant who violates any provision of section 700.674 by:

- (1) Revoking a license;
- (2) Suspending a license;
- (3) Requiring the person to take and pass, or retake and pass, an examination approved by the commission;
- (4) Placing the person on probation;
- (5) Sending the person a notice of noncompliance; or
- (6) Refusing to issue a license.

3. The commission may consider a complaint filed with it charging a licensed installer with a violation of the provisions of sections 700.650 to 700.680. If proven, the charges shall constitute grounds for revoking or suspending the installer license or for placing the licensed installer on probation.

4. If it refuses to issue or renew an installer license or limited use installer license, the commission shall notify the person, in writing, of:

- (1) The reasons for refusal;
- (2) The option to resolve the matter through the commission's alternative dispute resolution process;
- (3) The opportunity to file a formal complaint with the commission if the

person does not choose alternative dispute resolution or if that process fails to resolve the matter; and

(4) The right to review by the circuit court, pursuant to section 386.510, RSMo.

700.680. 1. The commission shall investigate all complaints concerning violations of sections 700.650 to 700.680 to determine if there are grounds for disciplining a holder of an installer license or limited use installer license or for refusing to issue either form of license to an applicant.

2. The commission may issue subpoenas duces tecum in order to cause any installer licensee, holder of a limited use installer license, or other person to produce records or appear as a witness in connection with an investigation or proceeding pursuant to this section.

3. In lieu of or in addition to any remedy provided in this section, the commission may file a petition in the name of the state asking a court to issue a restraining order or a writ of mandamus against any person who is or who had been violating any of the provisions of sections 700.650 to 700.680 or any rule, order, or subpoena issued by the commission.

700.683. 1. The commission shall require installers to install homes in accordance with the installation instructions provided by the manufacturer of the manufactured home. The instructions shall have been approved by the United States Department of Housing and Urban Development or one of its authorized agents pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended.

2. The commission shall adopt uniform, reasonable standards for the proper installation of manufactured homes in this state including, but not limited to, standards for the foundation, supports, anchoring, underpinning, and joining of the sections of the home. The standards shall provide for physical engineering needed to appropriately install a manufactured home on a specific site.

3. Each licensed installer shall purchase installation decals from the commission for a fee established by the commission. An installation decal shall be affixed to the manufactured home upon completion of the installation. The decal shall note the installer's license number and shall be permanently affixed to the manufactured home at a location determined by the commission.

700.686. The commission shall conduct inspections of new manufactured home installations performed by licensed installers consistent with standards adopted pursuant to section 700.683 and with requirements established by the United States Department of Housing and Urban Development.

700.689. The commission shall implement a process, by rule, consistent with

Title VI of PL 106-569 and any federal regulations promulgated pursuant to that act, to resolve disputes arising among manufacturers, dealers, and installers of manufactured homes regarding responsibility for correcting or repairing defects in manufactured homes that are reported during the one-year period beginning on the date of installation. The program shall provide for issuing appropriate orders.

700.692. 1. The commission may implement sections 700.650 to 700.692 using its own employees, using independent contractors, consistent with policies established by the office of administration, or through other private or public entities that provide a service to an applicant or licensee at the expense of the applicant, licensee, or his or her employer.

2. The commission may establish reasonable fees to cover the cost of implementing sections 700.650 to 700.692. The commission shall collect the fees and transmit them to the department of revenue for deposit in the state treasury to the credit of the "Manufactured Housing Fund" created pursuant to section 700.040.

3. The commission may promulgate any rules necessary and convenient to carry out the purposes of sections 700.650 to 700.692. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

700.695. 1. The commission shall not issue or renew a registration or license unless a bond or other security in a form prescribed by the commission is filed with the commission. The bond or other security is payable to the manufactured housing fund.

2. If a bond is filed, the bond must be issued by a company authorized to do business in this state. If other security is filed, that security must be maintained in or by a banking institution located in this state.

3. An applicant for a license or certificate of registration or a license holder shall file a bond or other security for the issuance or renewal of the license or certificate of registration in the following amount:

- (1) One hundred thousand dollars for a manufacturer;
- (2) Fifty thousand dollars for a dealer; or
- (3) Ten thousand dollars for an installer.

4. To ensure the availability of prompt and satisfactory warranty service,

a manufacturer who does not have a licensed manufacturing plant or other facility in this state from which warranty service and repairs can be provided shall file a bond or other security in the additional amount of one hundred thousand dollars.

5. The bond or other security is open to successive claims up to the face value of the bond or other security. The surety is not liable for successive claims in excess of the face value of the bond, regardless of the number of years the bond remains in force.

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