

**PROPOSED REGULATION OF
THE ADMINISTRATOR OF THE
MANUFACTURED HOUSING DIVISION OF
THE DEPARTMENT OF BUSINESS AND INDUSTRY**

LCB File No. R177-09

April 5, 2010

(Sections 2, 3, 8 and 9 of the agency draft of this regulation are located in LCB File No. R178-09)

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §1, NRS 118B.024 and 118B.120, as amended by section 77 of Senate Bill No. 89, chapter 370, Statutes of Nevada 2009, at page 1927; §§2, 4, 6 and 8, NRS 489.231; §3, NRS 489.231 and 489.724, as amended by section 61 of Senate Bill No. 89, chapter 370, Statutes of Nevada 2009, at page 1923; §5, NRS 489.231 and 489.351, as amended by section 40 of Senate Bill No. 89, chapter 370, Statutes of Nevada 2009, at page 1914; §7, NRS 489.231 and 489.305, as amended by section 29 of Senate Bill No. 89, chapter 370, Statutes of Nevada 2009, at page 1907; §9, NRS 489.325; §10, NRS 489.231, 489.311 and 489.325; §§11 and 12, NRS 489.231 and 489.341, as amended by section 35 of Senate Bill No. 89, chapter 370, Statutes of Nevada 2009, at page 1909; §13, NRS 489.231 and 489.343, as amended by section 38, of Senate Bill No. 89, chapter 370, Statutes of Nevada 2009, at page 1912; §14, NRS 489.241; §15, NRS 489.231 and 489.541, as amended by section 52 of Senate Bill No. 89, chapter 370, Statutes of Nevada 2009, at page 1920.

A REGULATION relating to manufactured housing; defining the circumstances in which the Manufactured Housing Division of the Department of Business and Industry will consider a manufactured home to be dismantled; enacting provisions governing the annual reconciliation of the separate trust accounts of dealers; defining the physical location which constitutes the principal place of business of certain persons; amending provisions concerning certain license examinations; adopting by reference certain codes and standards; amending provisions concerning the licensing and supervision of branch offices of certain persons; amending provisions relating to the licensing of general servicepersons and specialty servicepersons; enacting provisions governing the licensing of responsible managing employees and salespersons employed by distributors; enacting provisions governing the licensing of distributors that are business entities; amending provisions concerning the approval of plans for the

construction, addition, alteration or reconstruction of a manufactured home or mobile home; defining the circumstances in which the Division will deem factory-built housing to constitute real property; and providing other matters properly relating thereto.

Section 1. Chapter 118B of NAC is hereby amended by adding thereto a new section to read as follows:

For the purposes of NRS 118B.120, as amended by section 77 of Senate Bill No. 89, chapter 370, Statutes of Nevada 2009, at page 1927, the Division will consider a manufactured home to be dismantled if the manufactured home has been taken out of compliance with any standards for manufactured homes adopted by the Division because the manufactured home has been torn down, disassembled or destroyed in such a manner that the manufactured home cannot be rebuilt or rehabilitated into a manufactured home.

Sec. 2. Chapter 489 of NAC is hereby amended by adding thereto the provisions set forth as sections 3, 4 and 5 of this regulation.

Sec. 3. 1. *When requested in writing by the Division, a dealer must submit an annual accounting of the trust account maintained by the dealer pursuant to NRS 489.724. In an annual accounting submitted pursuant to this subsection, the dealer shall include copies of documents relating to each sales transaction during the period for which the accounting is provided, including, without limitation:*

(a) Buyer's purchase agreements and any addendums, special agreements or attachments to those purchase agreements;

(b) Documentation of any prepaid expenses relating to the sales transactions;

(c) The ledger card containing all financial transactions relating to the sales transactions, including, without limitation, the deposit or down payment, direct expenses related to the sale,

proceeds of loans, proof of payment of an outstanding security interest and a final transfer of money to the dealer's operating account;

(d) The title or title documents which show clear title and salability, including, without limitation, the dealer's report of sale;

(e) Copies of the reconciled bank statements of the trust account;

(f) Proof that the dealer has satisfied an outstanding security interest within 30 days after a manufactured home, mobile home, manufactured building, commercial coach or factory-built housing is taken in trade on the purchase of another home, building or coach; and

(g) Any other documents or correspondence related to a sales transaction which are requested by the Division.

2. A dealer may submit the annual accounting and the supporting documents required by subsection 1 in print or electronic form.

Sec. 4. *For the purposes of NRS 489.811, the Division will interpret the term "principal place of business" to mean the principal office of the defendant which the defendant uses to conduct business as a manufacturer, dealer, distributor, general serviceperson or specialty serviceperson and the Division will not interpret the term to include a post office box.*

Sec. 5. *1. The Division will not accept the results of an examination required pursuant to NRS 489.351, as amended by section 40 of Senate Bill No. 89, chapter 370, Statutes of Nevada 2009, at page 1914, more than 12 months, to the day, before the date of the application for a license.*

2. Except as otherwise provided in this subsection, an applicant for a license who fails the examination for that license may retake the examination after paying the appropriate

examination fee. An applicant who fails the examination on three consecutive occasions may not retake the examination until 90 days after completing the last examination.

Sec. 6. NAC 489.177 is hereby amended to read as follows:

489.177 The Administrator hereby adopts by reference the following codes and standards for commercial coaches and accessory structures:

1. The International Building Code, ~~{2006}~~ 2009 edition, published by the International Code Council, with the following modifications:

(a) Any reference to the International Plumbing Code shall be deemed a reference to the Uniform Plumbing Code, ~~{2006}~~ 2009 edition;

(b) Any reference to the International Electrical Code shall be deemed a reference to the National Electrical Code, ~~{2005}~~ 2008 edition;

(c) Any reference to the International Mechanical Code shall be deemed a reference to the Uniform Mechanical Code, ~~{2006}~~ 2009 edition;

(d) The definition of “manufactured home” set forth in section G201.2 of Appendix G is deleted and replaced with “has the meaning ascribed to it in NRS 489.113”; and

(e) Section G501 of Appendix G is deleted.

↪ The International Building Code, ~~{2006}~~ 2009 edition, may be obtained from the International Code Council by mail at 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5771, or at the Internet address <http://www.iccsafe.org>. The price is ~~[\$78.75]~~ \$82 for members and ~~[\$105]~~ \$109.25 for nonmembers.

2. The Uniform Plumbing Code, ~~{2006}~~ 2009 edition, published by the International Association of Plumbing and Mechanical Officials. This code may be obtained from the International Association of Plumbing and Mechanical Officials by mail at 5001 East

Philadelphia Street, Ontario, California 91761-2816, or at the Internet address

~~http://www.iapmo.org.~~ <http://www.iapmostore.org>. The price is ~~[\$74]~~ \$82 for members and ~~[\$93]~~ \$103 for nonmembers.

3. The Uniform Mechanical Code, ~~[2006]~~ 2009 edition, published by the International Association of Plumbing and Mechanical Officials. This code may be obtained from the International Association of Plumbing and Mechanical Officials by mail at 5001 East Philadelphia Street, Ontario, California 91761-2816, or at the Internet address

~~http://www.iapmo.org.~~ <http://www.iapmostore.org>. The price is ~~[\$74]~~ \$82 for members and ~~[\$93]~~ \$103 for nonmembers.

4. The National Electrical Code, ~~[2005]~~ 2008 edition, published by the National Fire Protection Association. This code may be obtained from the National Fire Protection Association by mail at 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, or at the Internet address <http://www.nfpa.org>. The price is ~~[\$67.50]~~ \$76.50 for members and ~~[\$75.00]~~ \$85.00 for nonmembers.

5. The NFPA 101: Life Safety Code, ~~[2006]~~ 2009 edition, published by the National Fire Protection Association. The code may be obtained from the National Fire Protection Association by mail at 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, or at the Internet address <http://www.nfpa.org>. The price is ~~[\$67.50]~~ \$76.50 for members and ~~[\$75.00]~~ \$85.00 for nonmembers.

6. The International Energy Conservation Code, ~~[2006]~~ 2009 edition, published by the International Code Council. This code may be obtained from the International Code Council by mail at 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5771, or at the Internet

address <http://www.iccsafe.org>. The price is ~~[\$25.00]~~ \$25.50 for members and ~~[\$32.50]~~ \$34 for nonmembers.

Sec. 7. NAC 489.305 is hereby amended to read as follows:

489.305 1. The Division may require as a condition of licensing any information it deems necessary for each location *in this State* where a manufactured home or commercial coach dealer, *distributor*, manufacturer, general ~~[serviceman]~~ *serviceperson* or specialty ~~[serviceman]~~ *serviceperson* maintains a branch office. Upon receiving sufficient information, the Division will issue a license for the branch office.

2. The mere listing of manufactured homes, mobile homes or commercial coaches for sale does not constitute a branch office, but the use of a mobile home park or estate sales office by a licensee for the sale or offering for sale of manufactured homes or mobile homes does constitute the maintenance of a branch office.

3. Except as *otherwise* provided in this ~~[subsection,]~~ *section*, the licensee is responsible for the operation of the branch office in accordance with the provisions of this chapter and chapter 489 of NRS.

4. If it is not feasible for a licensee to exercise direct supervision over a branch office, it must be managed by a corporate officer, partner or responsible managing employee.

5. A responsible managing employee of a branch office may not manage more than one branch office.

6. All branch office records required to be kept by this chapter and chapter 489 of NRS must be kept at that branch office or the main office of the licensee.

7. A branch office is not required to have a trust account separate from the trust account of the main office. If a separate account is maintained, the required signatures are those of the

responsible managing employee of the branch office and the dealer to whom the main office license is issued.

Sec. 8. NAC 489.307 is hereby amended to read as follows:

489.307 1. Except as otherwise provided in subsection 2, a dealer, *distributor, manufacturer, general [serviceman] serviceperson* or specialty *[serviceman] serviceperson* is responsible for the operation of the main office of the licensee's business in accordance with the provisions of this chapter and chapter 489 of NRS.

2. If it is not feasible for a dealer, *distributor, manufacturer, general [serviceman] serviceperson* or specialty *[serviceman] serviceperson* to exercise direct supervision over the main office, it must be managed by a corporate officer, partner or responsible managing employee.

Sec. 9. NAC 489.311 is hereby amended to read as follows:

489.311 *1.* An applicant for a specialty *[serviceman's] serviceperson's* license pursuant to NRS 489.325 must submit to the Division:

~~H.~~ *(a)* An application on a form provided by the Division; and

~~2.—Proof~~ *(b) Except as otherwise provided in subsection 2, proof* that he holds a license issued by the State Contractors' Board which indicates proficiency in the category of license for which he is applying to the Division.

2. If an applicant for a specialty serviceperson's license is applying for licensure in a category for which a license is not issued by the State Contractors' Board or any other agency of this State, the Division may require the applicant to submit to the Division proof that the applicant has the necessary experience in the category of license for which the applicant is applying.

Sec. 10. NAC 489.314 is hereby amended to read as follows:

489.314 An owner or responsible managing employee of a business must be licensed as a general ~~{serviceman}~~ *serviceperson* or specialty ~~{serviceman}~~ *serviceperson* if the business:

1. Installs any manufactured home, mobile home, commercial coach, manufactured building or factory-built housing; or

2. Performs work on any manufactured home, mobile home, commercial coach, manufactured building or factory-built housing in one or more of the following categories:

(a) Installation or repair of:

(1) Awnings ~~{,roofing}~~ or skirting;

(2) *Roofing;*

(3) Plumbing;

~~{(3)}~~ (4) Heating or air-conditioning systems; or

~~{(4)}~~ (5) Electrical systems;

(b) Preparation for transport;

(c) Reconstruction, ~~{by}~~ alteration, addition or substitution ~~{,}~~ of substantial or essential parts;

~~{or}~~

(d) *Minor, nonstructural aesthetic repairs; or*

(e) Any other category of work that may be performed by a person who holds a license issued by the State Contractors' Board.

Sec. 11. NAC 489.320 is hereby amended to read as follows:

489.320 1. Any person employed by a dealer *or distributor* to act or exercise authority in connection with the dealer's *or distributor's* business must be licensed as a ~~{salesman}~~ *salesperson* to:

(a) List manufactured homes, mobile homes or commercial coaches for sale.

(b) Close the sale of a manufactured home, mobile home or commercial coach, including the signing of the sales contract.

2. A licensee may not employ a person who is required to be licensed under chapter 489 of NRS unless that person is so licensed.

3. If a manufactured home or commercial coach dealer *or distributor* fails to maintain or renew his license, the licenses of all ~~[salesmen]~~ *salespersons* whom he employs will be placed on inactive status immediately until the dealer *or distributor* reinstates or renews his license or an application for transferring the ~~[salesman's]~~ *salesperson's* license is made and the required fees are paid.

4. If the license of a manufactured home or commercial coach dealer *or distributor* is not renewed, or is suspended or revoked, the licensee shall deliver immediately to the Division all of the licenses issued to his ~~[salesmen.]~~ *salespersons*. In such a case, a ~~[salesman]~~ *salesperson* may, by applying and paying the required fee, transfer to the employment of another dealer ~~[.]~~ *or distributor*.

5. A manufactured home or commercial coach dealer *or distributor* shall notify the Division within 5 business days after the date of the termination or separation of employment of an employee and surrender all licenses of the employee to the Division. Failure to comply with this subsection may result in disciplinary action and the imposition of an administrative fine pursuant to NRS 489.381.

Sec. 12. NAC 489.325 is hereby amended to read as follows:

489.325 1. Any person who applies, pursuant to NRS 489.341, for a license to act as a responsible managing employee for a licensed dealer, *distributor*, general ~~[serviceman]~~

serviceperson or specialty ~~{serviceman}~~ *serviceperson* must submit his application for a license upon the form supplied by the Division.

2. If the application is approved, the Division will issue to the applicant a license containing his name and the address and name of the licensed dealer, *distributor*, general ~~{serviceman}~~ *serviceperson* or specialty ~~{serviceman}~~ *serviceperson* employing him.

3. If a licensed dealer, *distributor*, general ~~{serviceman}~~ *serviceperson* or specialty ~~{serviceman}~~ *serviceperson* fails to maintain or renew his license, the licenses of all his responsible managing employees are automatically placed on inactive status until the license of the dealer, *distributor*, general ~~{serviceman}~~ *serviceperson* or specialty ~~{serviceman}~~ *serviceperson* is reinstated or renewed or the responsible managing employee's license is transferred to the employment of another dealer, *distributor*, general ~~{serviceman}~~ *serviceperson* or specialty ~~{serviceman}~~ *serviceperson*.

Sec. 13. NAC 489.331 is hereby amended to read as follows:

489.331 1. A license issued to a designated member or corporate officer of a business pursuant to NRS 489.343 on behalf of the business becomes inactive immediately if the member or officer:

- (a) Is disabled from engaging in the business; or
- (b) Ceases to be engaged in or connected with the business.

2. The business may continue to operate pursuant to the inactive license if the business:

- (a) Notifies the Division that its license has become inactive; and
- (b) Designates another member or officer who submits an application for a license on behalf of the business.

↳ Except as otherwise provided in subsection 3, the business must submit the notice within 5 business days after the license becomes inactive. If the application for a license on behalf of the business is not submitted within 15 days after the license becomes inactive, the business shall cease to operate until such an application has been submitted and approved by the Division.

3. The Division may grant an extension of time to comply with subsection 2 if the business requests an extension in writing within the 5-day period.

4. If a business dissolves or fails to designate a new member or corporate officer within the period allowed pursuant to this section, the business shall return to the Division all licenses issued to the business by the Division.

5. As used in this section, “business” means a partnership, limited partnership, limited-liability partnership, limited-liability limited partnership or limited-liability company or a corporation, whether or not for profit, doing business as a manufacturer, dealer, *distributor*, general ~~[serviceman]~~ *serviceperson* or specialty ~~[serviceman]~~ *serviceperson* in this State.

Sec. 14. NAC 489.486 is hereby amended to read as follows:

489.486 1. A person shall not:

(a) Construct a room, garage or other addition that is freestanding or adjoined to a manufactured home or mobile home if the room, garage or other addition is directly accessible from the manufactured home or mobile home; ~~[or]~~

(b) Alter , *repair* or reconstruct the structural, electrical, mechanical, roofing or plumbing system of a manufactured home or mobile home ~~[;]~~ ; *or*

(c) *Install or place a manufactured home or mobile home on a perimeter foundation or support system,*

↳ unless the person first obtains approval from the Division.

2. The application for approval must be on a form provided by the Division and include:

- (a) Two copies of the plans for the work to be performed;
- (b) A copy of each applicable certificate, label or permit; and
- (c) Any other document required by the Division or local governing body.

3. *If the approval of the Division is required pursuant to this section, a person must obtain the Division's approval of the plans for any construction, addition, alteration, repair, reconstruction, installation or placement before the plans are submitted to a local governing body.*

4. Any construction, addition, alteration ~~[or]~~, *repair*, reconstruction, *installation or placement* must:

- (a) Comply with all applicable technical codes; and
- (b) Be completed in accordance with the plans as approved by the Division and the local governing body.

Sec. 15. Section 8 of LCB File No. R126-08 is hereby amended to read as follows:

Sec. 8. 1. The Division will not issue a certificate of title, certificate of ownership or real property notice for factory-built housing that constitutes real property pursuant to subsection 4 of NRS 361.244.

2. *For the purpose of determining whether factory-built housing constitutes real property pursuant to subsection 4 of NRS 361.244, the Division will deem factory-built housing to be permanently affixed to land if:*

- (a) A certificate of occupancy has been issued for the factory-built housing;*
- (b) The factory-built housing has been approved for occupancy after an enforcement agency has performed a final inspection; or*

(c) An enforcement agency has taken any other action which allows the factory-built housing to be occupied by the first user.

3. As used in this section ~~[,“real”]~~:

(a) “Enforcement agency” has the meaning ascribed to it in NAC 489.500.

(b) “First user” has the meaning ascribed to it in NRS 461.090.

(c) “Real property notice” means a document issued by the Division as verification to a county assessor that a mobile or manufactured home has been converted from personal property to real property pursuant to NRS 361.244.