

Section 300. *Certification and Licensing - General*A. *Types of Certification and License*

Any person, firm or corporation which acts in one or more of the following capacities shall be required to certify or license with the Arkansas Manufactured Home Commission:

1. *Manufacturer* - Each manufacturer, in or out of state, delivering or shipping manufactured homes into the State for sale.
2. *Retailer* - Any person, firm or corporation in the business of accepting on consignment, buying for resale, selling or exchanging manufactured homes or offering same to the public for sale, exchange or lease-purchase, whether for himself or on behalf of any other person not certified as a retailer.
3. *Installer* - Any person, firm or corporation not otherwise certified, installing and anchoring manufactured homes.
4. *Salesperson* - Any person engaged in the selling of manufactured homes (either as a manufacturer' representative or retailer salesperson) must apply for a license within 30 days of beginning to sell manufactured homes in the state of Arkansas.

B. *Annual Certification or License Renewal Required*

1. Each person, firm or corporation certified or licensed by the Commission shall apply for renewal of their certification or license annually and must meet all the criteria set forth for original certification or license renewal.
2. Certifications or licenses shall expire one (1) year from the date of the original certification or license, and must be renewed annually.
3. The Director may authorize the renewal of a certification or license made after the renewal date upon payment of a late fee of \$10.00 per calendar day of delinquency not to exceed forty five (45) days. After 45 days, the certification or license shall be suspended. Suspension of certification or license may be appealed in accordance with Section 306 (A) (4) of these regulations. Continuing to operate after the suspension of certification or license is in violation of this Act.

C. *Separate Entity*

For certification/licensing and compliance purposes, manufacturers, retailers and installers that occupy more than one location shall have each location treated as a separate entity and adhere to all requirements for certification or licensing.

*D. Statement of Compliance*

The Statement of Compliance shall be signed by the person or responsible officer having full authority to commit his firm to the conditions of compliance and shall not be transferable. Violation of the Statement of Compliance shall be considered grounds for suspension of the certification or license.

*E. Failure to Obtain Certification or License*

1. No person, firm or corporation shall act as a manufacturer, retailer or installer without having first secured the required certification or license from the Commission.
2. The Commission shall have the authority to collect fees and assessments from any person, firm or corporation found to be acting as a manufacturer, retailer or installer without having first secured the required certification or license from the Commission.
3. The Commission shall have the authority to impose a monetary penalty not to exceed one thousand dollars (\$1,000.00) for each violation of any provision of Act 419 of 1977 as amended or the rules and regulations promulgated thereunder.
4. The Commission shall have the authority to file suit in Circuit Court to enjoin any person, firm or corporation acting as a manufacturer, retailer or installer without having first secured the required certification or license from the Commission.

**Section 301.      *Certification of Manufacturers***

*A. Requirements for Manufacturer Certification*

1. Application shall be on forms supplied by the Agency.
2. Each application shall be accompanied by the following before certification is granted:
  - (a) Statement of Compliance;
  - (b) Fees set forth for certification,
  - (c) The required deposit in the Manufactured Housing Recovery Fund; and
  - (d) A copy of the Manufacturer's Homeowner and Installation manual(s).
3. Applicant shall be in good standing with the Commission and shall not have any unpaid civil penalties or outstanding obligations to the Commission.

*B. Certification Fee and Recovery Fund Deposit*

1. Original certification fee shall be \$1,000.00.  
Annual renewal fee shall be \$625.00.
2. An assessment fee of ten thousand dollars (\$10,000) per plant location to be deposited in the Manufactured Housing Recovery Fund.

*C. Violation*

Any in-state or out of state person, firm or corporation that manufactures homes and offers them for sale or use in the State without being properly certified with the Commission; or any manufacturer selling or offering manufactured homes for sale to a person, firm or corporation not certified as a retailer as required under Section 300 shall be considered to be in violation of this Act.

**SECTION 302.      *Certification of Retailers***

*A. Requirements for Certification of Retailers*

1. Application forms shall be supplied by the Agency.
2. Each application shall be accompanied by the following before original certification is granted:
  - (a) Statement of Compliance;
  - (b) Fees set forth for certification;
  - (c) The required deposit in the Manufactured Housing Recovery Fund;
  - (d) Proof of installation, anchoring and service capabilities, including compliance with installation testing and continuing education requirements set forth in Section 303 (A)(3) of these regulations or provision of a written contract with a licensed installer to perform installation and anchoring of manufactured homes;
  - (e) Salespersons' license applications with fees other than the owner(s) of the retail location; and
  - (f) A list of the all directors, officers, limited and general partners, or controlling shareholders if the application is made on behalf of a corporation or partnership or a list of all principal owner(s) of the retail location on a form provided by the Agency;
  - (g) A general business / employment history for each person identified on the application form, including a sworn statement that none of the directors, officers, partners, shareholders or owners of the applicant have:
    - (i) been found guilty, pleaded guilty or entered a plea of nolo

contendere or suffered a judgement in a civil action in this state or any other jurisdiction for forgery, embezzlement, obtaining funds under false pretenses, extortion, conspiracy to defraud, bribery, fraud, misrepresentation or moral turpitude; or

- (ii) had a license, permit or certification suspended or revoked by any government agency in this state or any other jurisdiction for violation of Federal or state laws or regulations;

(h) Evidence of a net worth of at least \$100,000;

(i) A financial statement compiled or reviewed by an independent, third-party accounting firm, prepared within six (6) months of the application date for:

(i) each owner or partner, if the applicant is a sole proprietor or partnership, or

(ii) the business, if the applicant is a corporation, LLC, or LLP; and

(i) Evidence of having at least two (2) years experience as a licensed retailer or salesperson, working for a licensed retailer, in this state or any other jurisdiction. Applicants purchasing a retail location currently licensed by the Commission will be exempt from the experience requirement.

3. Applicants for original ~~retailer certification after January 1, 2012~~ or ~~applicants for renewal certification after July 1, 2012,~~ must maintain:
  - (a) A business office, separate and apart from any residence, connected to all applicable public utilities and in compliance with applicable local zoning regulations;
  - (b) A public restroom, connected to all applicable public utilities;
  - (c) A valid landline business telephone, with number listed under the name of the business;
  - (d) A state sales tax permit and master certification issued by Arkansas Department of Finance and Administration;
  - (e) Proof of at least \$1 million in commercial general liability insurance issued in the name of the business; and,
  - (f) A permanent, all-weather business sign in view of public traffic bearing the name of the firm and identifying the firm with the housing industry. Sign letters shall be at least eight inches (8") in height.
4. Applicant shall be in good standing with the Commission and shall not have any unpaid civil penalties or outstanding obligations to the Commission.
5. Any person applying for an initial certification with the Arkansas Manufactured Home Commission shall be subject to a criminal background

check. If the criminal background check shows that the applicant has been convicted of a felony, the certification will not be granted without a hearing before the Commission and approval by the Commission.

6. An applicant for original or renewal certification may request a waiver of any of the requirements for certification set forth in this Section. The Commission may grant an applicant's request for a waiver of any of the requirements set forth in this section, other than a requirement mandated by statute, following a hearing before the Commission and approval of the waiver request by the Commission.

*B. Certification Fee and Recovery Fund Deposit*

1. Original certification fee shall be \$1,000.00.  
Annual renewal fee shall be \$250.00.
2. An assessment fee of five thousand dollars (\$5,000.00) per location to be deposited in the Manufactured Housing Recovery Fund.

*C. Sales or Auction to Retailers*

1. Any person, firm or corporation engaged in the sale of manufactured homes to certified retailers in the State in an auction or liquidation format or on consignment, other than manufacturers, shall be not be required to become certified, and shall not be subject to the requirements for certification set forth in these regulations.
2. Any person, firm or corporation engaged in the sale of manufactured homes to certified retailers in the State in an auction or liquidation format or on consignment, shall submit to the Commission, immediately following such auction or sale, a report on forms provided by the Commission, including the following information:
  - (a) A complete list of the homes sold, auctioned or consigned;
  - (b) The manufacturer, model and size of each home;
  - (c) The serial number and HUD label number of each home; and
  - (d) The name and license number of the retailer purchasing the home.

*D. Violation*

Any person, firm or corporation acting as a retailer without being properly certified with the Commission; any retailer accepting a manufactured home, directly or indirectly, from a manufacturer not certified with the Commission; any retailer using an installer not licensed with the Commission; or any retailer failing to license a salesperson with the Commission within 30 days of hiring is in violation of this Act.