

# ARKANSAS REGISTER

## Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

**John Thurston**

500 Woodlane, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-5070

[www.sos.arkansas.gov](http://www.sos.arkansas.gov)



For Office

Use Only:

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency Arkansas Manufactured Home Commission

Department Labor & Licensing

Contact Aaron Howard E-mail aaron.howard@arkansas.gov Phone 324-9032

Statutory Authority for Promulgating Rules 20-25-106(a)(2)(B) and (b)

Rule Title: Rules for Modular Homes

### Intended Effective Date

(Check One)

☐ Emergency (ACA 25-15-204)

☒ 10 Days After Filing (ACA 25-15-204)

☐ Other \_\_\_\_\_  
(Must be more than 10 days after filing date.)

Legal Notice Published ..... Jan 31, 2021

Final Date for Public Comment ..... Mar 9, 2021

Reviewed by Legislative Council ..... May 21, 2021

Adopted by State Agency ..... June 8, 2021

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Aaron Howard

aaron.howard@arkansas.gov

06/14/2021

Contact Person

E-mail Address

Date

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Signature

501-324-9032

Phone Number

aaron.howard@arkansas.gov

E-mail Address

Director

Title

06/14/2021

Date

# ***RULES FOR MODULAR HOMES***



**Adopted June 8, 2021**

## ***ARKANSAS MANUFACTURED HOME COMMISSION***

***900 West Capitol Avenue - Suite 400  
Little Rock, Arkansas 72201***

***Phone: (501) 324-9032***

***Fax: (501) 683-3538***



# TABLE OF CONTENTS

|              |                                                                  |                |
|--------------|------------------------------------------------------------------|----------------|
| CHAPTER I.   | <b><u>AUTHORITY</u></b> .....                                    | <del>3</del> 5 |
| CHAPTER II.  | <b><u>DEFINITIONS</u></b> .....                                  | <del>3</del> 5 |
| CHAPTER III. | <b><u>CERTIFICATION AND LICENSING</u></b> .....                  | <del>4</del> 6 |
|              | <i>Section 300 - Certification and Licensing - General</i>       |                |
|              | <i>Section 301 - Certification of Modular Home Manufacturers</i> |                |
|              | <i>Section 302 - Certification of Modular Home Retailers</i>     |                |
|              | <i>Section 303 - Licensing of Modular Home Installers</i>        |                |
|              | <i>Section 304 - Licensing of Modular Home Salespeople</i>       |                |
|              | <i>Section 305 - Action Against Certification and License</i>    |                |
|              | <i>Section 306 - Reports and Unit Fees</i>                       |                |



**CHAPTER 1.**

**AUTHORITY**

Act 1235 of 2005 established the authority of Arkansas Manufactured Home Commission to require licensing and/or certification of modular home manufacturers, retailers, and salespeople; and to promulgate and enforce rules governing the sale of modular homes produced, sold or offered for sale in the state of Arkansas.

The following rules pertaining to the production and sale and of modular homes are duly adopted and promulgated by the Arkansas Manufactured Home Commission pursuant to the authority expressly conferred by Act 1235 of 2005.

Repealing Clause: All previous rules pertaining to the production and sale of modular homes are hereby repealed.

**CHAPTER 2.**

**DEFINITIONS**

The following terms are defined for the purpose of these rules. No attempt is made to define ordinary words which are used in accordance with the established dictionary meaning except when the word has been loosely used and it is necessary to define its meaning as used in these rules to avoid a misunderstanding.

Because the purpose is to define terms rather than words, the definitions are alphabetical using the first word of the term rather than by the noun.

- A. *Agency*: The Director of the Arkansas Manufactured Home Commission or other personnel authorized to act on behalf of the Director.
- B. *Certification*: Means the act of certifying or a state of being certified.
- C. *Commission*: Means Arkansas Manufactured Home Commission.
- D. *Director*: Means the Director of the Arkansas Manufactured Home Commission.
- E. *Installation*: means work done to stabilize, support or anchor a modular home or to join sections of a multi-section modular home.
- F. *Installer*: Means any person, firm or corporation not otherwise certified or licensed, engaged in the business of installing modular homes for himself or on behalf of any other person not certified or licensed under this Act.
- G. *Manufacturer*: Means any person, firm or corporation who manufactures modular homes.

- H. *Modular Home*: Means a factory-built structure produced in accordance with state or local construction codes or standards and designed to be used as a dwelling unit with a foundation when connected to the required utilities.
- I. *Retailer*: Means any person, firm or corporation in the business of accepting on consignment, buying for resale, selling or exchanging modular 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 under this Act.
- J. *Revocation*: Means the repeal or reversal of the rights of the manufacturer or retailer to sell or distribute modular homes in the State of Arkansas.
- K. *Salesperson*: Means any person employed by the retailer or manufacturer who is engaged in either the wholesale or retail sale of modular homes.
- L. *Separate Entity*: Means each individual location of a manufacturing plant or each individual retail location.
- M. *Statement of Compliance*: Means the manufacturer or retailer certified and/or licensed by the Arkansas Manufactured Home Commission will comply with Act 1235 of 2005 and the Arkansas Manufactured Home Commission's rules for modular homes.
- N. *Suspension*: Means to cease or stop temporarily the right to produce or sell modular homes within the State of Arkansas.

### **CHAPTER 3.**

### **CERTIFICATION AND LICENSING**

#### **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* - Any person, firm or corporation not otherwise certified or licensed, in or out of state, delivering or shipping modular homes into the State for sale,
2. *Retailer* - Any person, firm or corporation not otherwise certified or licensed, in the business of accepting on consignment, buying for resale, selling or exchanging modular homes or offering same to the public for sale, exchange or lease-purchase, whether for himself or on behalf of any other person.
3. *Installer* - Any person, firm or corporation not otherwise certified or licensed, installing and anchoring modular homes,

4. *Salesperson* - Any person engaged in the selling of modular homes (either as a manufacturer' representative or retailer salesperson) must apply for a license within 30 days of beginning to sell modular homes in the state of Arkansas.

*B. Annual Certification or License Renewal Required*

*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 for certification or license renewal.
2. Certifications or licenses shall expire one (1) year from the date 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 thirty (30) days. After 30 days, the certification or license shall be suspended. Suspension of certification or license may be appealed in accordance with Section 304 (A) (4) of these rules. Continuing to operate after the suspension of certification or license is in violation of Act 1235 of 2005.

*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 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 1235 of 2005 or the rules 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) Compliance with reporting and unit fee requirements; and
  - (c) Fees set forth for certification.
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***

1. Original certification fee shall be \$1,000.00.
2. Annual renewal fee shall be \$625.00.

#### **C.     *Compliance Assurance***

1. A manufacturer of modular or factory-built structures, other than manufactured housing that is governed by the United States Department of Housing and Urban Development, certified to do business in the State of Arkansas may contract with an independent third-party compliance assurance or inspection agency that is modular or factory-built buildings destined for delivery within the state for compliance with the Arkansas Fire Protection Code and applicable state and municipal electrical, plumbing, and mechanical codes. If a manufacturer of modular or factory-built buildings contracts with an independent third-party inspector to monitor compliance with the Arkansas Fire Protection Code and applicable state and municipal electrical, plumbing, and mechanical codes relating to the construction of new buildings, no further inspection by state or local building officials may be required for that part of the structure built in the factory.
2. A copy of the third-party inspector's inspection report shall accompany the building to the construction site for review.
3. The cost of the independent third-party inspection shall be borne by the modular building manufacturer.

#### **D.     *Violation***

Any in-state or out of state person, firm or corporation that produces modular homes and offers them for sale or use in the State without being properly certified with the Commission; or any manufacturer selling or offering modular 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 Act 1235 of 2005.

**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 certification is granted:
  - (a)      Statement of Compliance; and
  - (b)      Fees set forth for certification.
  - (c)      Salespersons' license applications with fees other than the owner(s) of the retail location; and
  - (d)      A list of the principal owners of the retail location on a form provided by the Agency.
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***

1. Original certification fee shall be \$1,000.00.
2. Annual renewal fee shall be \$250.00.

**C. *Violation***

Any person, firm or corporation acting as a retailer without being properly certified with the Commission; any retailer accepting a modular home, directly or indirectly, from a manufacturer not certified with the Commission; or any retailer failing to license a salesperson with the Commission within 30 days of hiring is in violation of Act 1235 of 2005.

**SECTION 303. *Licensing of Installers***

**A. *Requirements for Installer Licensing***

1. Application forms shall be supplied by the Agency.
2. Each application shall be accompanied by the following before license is granted:
  - (a) Statement of Compliance; and
  - (b) Fees set forth for licensing.
3. Applicant shall be in good standing with the Commission and shall not have any unpaid civil penalties or outstanding obligations to the Commission.
4. The Commission may require an examination of applicants for modular home installer based on knowledge of laws, rules pertaining to modular homes.

**B. *License Fees and Expiration***

1. Original license and annual renewal fees shall be \$250.00.

*C. Violation*

Any in state or out of state person, firm or corporation that installs modular homes for use in the State without being properly certified with the Commission; or any retailer or installer who does not install modular homes according to the rules is in violation of this Act.

*D. Reciprocity*

1. An applicant applying for reciprocal licensure as an installer shall meet the following requirements:

- (a) hold a substantially-similar license in another United States jurisdiction;
- (b) provide proof of having met similar educational and testing requirements as set out in Section 303 A(4) above to attain an installer's license in another United States jurisdiction;
- (c) provide proof that the installer's license from another United States jurisdiction is held in good standing, has not been revoked for an act of bad faith or a violation of law, rule, or ethics, and that the license is not probationary and has not been suspended.

*E. Required Documentation for Reciprocal Licensure*

1. An applicant applying for reciprocal licensure as an installer shall submit the following:

- (a) a fully-executed application and the required fees;
- (b) evidence of current and active licensure in another United States jurisdiction, verifiable by Commission staff online or by telephone to the other state's licensing board;
- (c) evidence that the educational requirements for installers in the other United States jurisdiction are substantially similar to those listed in Section 303 (A)(4), verifiable online or by telephone;
- (d) the names of all states in which the applicant is licensed or has been licensed; and
- (e) letters of good standing or other information from each state in which the applicant is or has been licensed showing applicant has not had a license revoked for the reasons listed in Section D(1)(c) and does not hold a probationary license or a license that has been suspended, verifiable online or by telephone.

*F. Temporary and Provisional License*

1. The Commission shall issue a temporary and provisional license immediately upon receipt of an application, the required fee, and the documentation required under Section 303 (E)(1)(a)-(b).

2. The temporary and provisional license shall be effective until the Commission makes a decision on the application, unless the Commission determines the applicant does not meet the requirements of Section 303 (D)(1)(a)-(c), in which case the temporary and provisional license shall be revoked immediately.

3. An applicant may provide the rest of the documentation required above in order to receive a license, or the applicant may only provide the information necessary for the issuance of a temporary and provisional license, which will be effective for ninety (90) days.

*G. License for Person from a State That Does Not License Installers*

1. An applicant from a state that does not license modular home installers shall meet the following requirements:

(a) Shall be sufficiently competent as a modular home installer; and

(b) May be required to complete a training and education course presented or approved by the Commission and pass an examination presented or approved by the Commission based on knowledge of laws, rules, and basic skills pertaining to the installation of modular homes. No applicant who has failed to complete such training and pass such examination shall be eligible to receive an initial license. Applicants for initial licensure who fail the examination must wait thirty (30) days before requesting to re-take the exam.

2. An applicant shall submit a fully-executed application, the required fee, and the documentation described below:

(a) Proof of a passing grade on an examination presented or approved by the Commission based on knowledge of laws, rules, and basic skills pertaining to the installation of modular homes, if required by the Commission.

(b) Letters of recommendation from prior employer(s) or customer(s) with knowledge of applicant's experience as a modular home installer.

*H. Reciprocity and State-Specific Education*

1. The Commission may require an applicant to take an examination presented or approved by the Commission based on knowledge of Arkansas laws and rules, and on basic skills pertaining to the installation of modular homes, if the applicant is licensed in another state that does not offer reciprocity to Arkansas residents that is similar to reciprocity to out-of-state applicants under A.C.A. § 17-1-108.

2. Reciprocity in another state will be considered similar to reciprocity under A.C.A. § 17-1-108 if the reciprocity provisions of the other state:

(a) Provide the least restrictive path to licensure for Arkansas applicants:

(b) Does not require Arkansas applicants to participate in the apprenticeship, education, or training required as a prerequisite to licensure of a modular home installer in that state, except that the state may require Arkansas applicants to participate in continuing education or training that is required for all installers in that state to maintain licensure.

(c) Does not require Arkansas applicants to take a state-specified education unless required under the same conditions described in A.C.A. § 17-1-108.

**SECTION 304.           *Licensing of Modular Home Salespeople***

**A.           *Requirement for Salesperson's License***

1.     Application forms shall be supplied by the Agency.
2.     Each application shall be accompanied by the following before the license is granted:
  - (a)    Fees set forth for licensing.
3.     The Commission may require an examination of applicants for modular home salespeople based on knowledge of laws, rules pertaining to modular homes.
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 retail salesperson's license 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.

**B.           *License Fee***

1.     Original license and annual renewal fees shall be \$50.00, payable by the or retailer. Licenses shall remain the property of the manufacturer or retailer, and shall not be able to be transferred to individuals other than the original licensee.

**C.           *Violation***

Any in state or out of state person engaged in selling modular homes in the State without being properly licensed with the Commission shall be considered to be in violation of Act 1235 of 2005.

**D.           *Reciprocity***

1.     An applicant applying for reciprocal licensure as salesperson shall meet the following requirements:
  - (a)    hold a substantially-similar license in another United States jurisdiction;
  - (b)    provide proof of having met similar educational and testing requirements as set out in Section 304 (A)(3) above to attain a salesperson's license in another United States jurisdiction;
  - (c)    provide proof that the salesperson's license from another United States jurisdiction is held in good standing, has not been revoked for an act of bad faith or a violation of law, rule, or ethics, and that the license is not probationary and has not been suspended.

**E.           *Required Documentation for Reciprocal Licensure***

1. An applicant applying for reciprocal licensure as a salesperson shall submit the following:

- (a) a fully-executed application and the required fees;
- (b) evidence of current and active licensure in another United States jurisdiction, verifiable by Commission staff online or by telephone to the other state's licensing board;
- (c) evidence that the educational requirements for salespeople in the other United States jurisdiction are substantially similar to those listed in Section 304 (A)(3), verifiable online or by telephone;
- (d) the names of all states in which the applicant is licensed or has been licensed; and
- (e) letters of good standing or other information from each state in which the applicant is or has been licensed showing applicant has not had a license revoked for the reasons listed in Section 304 (D)(1)(c) and does not hold a probationary license or a license that has been suspended, verifiable online or by telephone.

*F. Temporary and Provisional License*

1. The Commission shall issue a temporary and provisional license immediately upon receipt of an application, the required fee, and the documentation required under Section 304 (E)(1)(a)-(b).
2. The temporary and provisional license shall be effective until the Commission makes a decision on the application, unless the Commission determines the applicant does not meet the requirements of Section 304 (D)(1)(a)-(c), in which case the temporary and provisional license shall be revoked immediately.
3. An applicant may provide the rest of the documentation required above in order to receive a license, or the applicant may only provide the information necessary for the issuance of a temporary and provisional license, which will be effective for ninety (90) days.

*G. License for Person from a State That Does Not License Salespeople*

1. An applicant from a state that does not license modular home salespeople shall meet the following requirements:
  - (a) Shall be sufficiently competent as a modular home salesperson; and
  - (b) Shall provide proof of having met similar educational and testing requirements as set out in Section 304 (A)(3) above to attain a salesperson's license in another United States jurisdiction;
2. An applicant shall submit a fully-executed application, the required fee, and the documentation described below:

- (a) Letters of recommendation from prior employer(s) or customer(s) with knowledge of applicant's experience as a modular home salesperson.

*H. Reciprocity and State-Specific Education*

1. The Commission may require an applicant to take an examination presented or approved by the Commission based on knowledge of Arkansas laws and rules, and on basic skills pertaining to the sales of modular homes, if the applicant is licensed in another state that does not offer reciprocity to Arkansas residents that is similar to reciprocity to out-of-state applicants under A.C.A. § 17-1-108.
2. Reciprocity in another state will be considered similar to reciprocity under A.C.A. § 17-1-108 if the reciprocity provisions of the other state:
  - (a) Provide the least restrictive path to licensure for Arkansas applicants:
  - (b) Does not require Arkansas applicants to participate in the apprenticeship, education, or training required as a prerequisite to licensure of a modular home salesperson in that state, except that the state may require Arkansas applicants to participate in continuing education or training that is required for all salespeople in that state to maintain licensure.
  - (c) Does not require Arkansas applicants to take a state-specified education unless required under the same conditions described in A.C.A. § 17-1-108.

**SECTION 305.           Action Against Certification or License**

*A. Suspension, Revocation of License And Other Penalties*

1. The Commission shall have the power to suspend, revoke or refuse to renew the certification or a manufacturer or retailer or the license of an installer or salesperson who is found to have been guilty of:
  - (a) Fraud, misrepresentation or deception in obtaining a license;
  - (b) Failure to comply with any valid directive of the Director or rules ~~and regulations~~ of the Arkansas Manufactured Home Commission; and
  - (c) Violating any provision of Act 1235 of 2005 or the rules and promulgated thereunder.
2. In lieu of suspension, revocation, or refusal to renew a license or certification, the Commission shall have the authority to impose a monetary penalty not to exceed one thousand dollars (\$1,000) for each violation and may suspend, refuse to renew, or revoke the license or certification until the penalty is paid to the Commission. Such a penalty shall be imposed only if the Commission formally finds that the public welfare would not be impaired by the imposition of a monetary penalty rather than suspension, refusal to renew, or revocation and that payment of same should achieve the desired disciplinary purpose.

- (a) The Commission shall not impose a civil penalty upon any person, firm or corporation whose certification or license is suspended, revoked or not renewed under this section.
- 3. Any individual who knowingly and willfully violates the provisions of the Act in a manner which threatens the health or safety of any purchaser shall be deemed guilty of a misdemeanor and upon conviction therefore fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one (1) year or both for each violation.
- 4. Suspension Appeal
  - (a) Any suspension may be appealed to the Manufactured Home Commission by a written request within ten (10) days. Suspension shall remain in effect until a speedy hearing by the Commission or Compliance Sub-Committee of the Commission. The Chairman of the Commission may waive the suspension after review of the facts pending the hearing. After the revocation hearing, the Commission may revoke the certification or license.
  - (b) A manufacturer, retailer, installer or salesperson may be represented by legal Counsel and present any evidence and/or witnesses in his behalf against any charges.
  - (c) The Commission shall not revoke any manufacturer or retailer's certification, or installer or salesperson's license without a hearing.

**SECTION 306.        *Reports and Fee***

- 1. The Commission shall require manufacturers, in or out of state, delivering or shipping modular homes into the state and retailers or others in the business of accepting on consignment, buying for resale, selling or exchanging modular homes or offering same to the public for sale, exchange or lease-purchase, whether for himself or on behalf of any other person to make reports as it deems necessary. The reports shall be filed with the Director in a format approved by the Commission.
- 2. There shall be a fee of \$100.00 per home for each modular home manufactured, delivered, shipped into the state or offered for sale in the state. This fee shall be to the Commission by the modular home manufacturer.