

CHAPTER 20

MANUFACTURED HOUSING LICENSING AND TRANSACTION RECOVERY FUND  
REGULATIONS

Part I General

13 VAC 6-20-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Board" means the Virginia Manufactured Housing Board.

"Buyer" means the person who purchases at retail from a dealer, broker, or manufacturer a manufactured home for personal use as a residence or other related use.

"Claimant" means any person who has filed a verified claim under Chapter 4.2 (§§36-85.16 et seq.) of Title 36 of the Code of Virginia.

"Code" means the appropriate standards of the Virginia Uniform Statewide Building Code and the ~~Industrialized Building and~~ Manufactured Home Safety Regulations adopted by the Board of Housing and Community Development and administered by the Department of Housing and Community Development pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 for manufactured homes.

"Dealer/manufacture sales agreement" means a written contract or agreement between a manufactured housing manufacturer and a manufactured housing dealer whereby the dealer is granted the right to engage in the business of offering, selling, and servicing new manufactured homes of a particular line or make of the stated manufacturer of such line or make. The term shall include any severable part or parts of such sales agreement which separately provides for selling or servicing different lines or makes of the manufacturer.

"Defect" means any deficiency in or damage to materials or workmanship occurring in a manufactured home which has been reasonably maintained and cared for in normal use. The term also means any failure of any structural element, utility system or the inclusion of a component part of the manufactured home which fails to comply with the Code.

"Department" means the Department of Housing and Community Development.

"Director" means the Director of the Department of Housing and Community Development, or his designee.

"Fund" or "recovery fund" means the Virginia Manufactured Housing Transaction Recovery Fund.

"HUD" means the United States Department of Housing and Urban Development.

"Licensed" means the regulant has met all applicable requirements of this chapter, paid all required fees, and been authorized by the board to manufacture or offer for sale or sell manufactured homes in accordance with this chapter.

"Manufactured home" means a structure constructed to federal standards, transportable in one or more sections, which, in the traveling mode is eight feet or more in width and is 40 feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

"Manufactured home broker" or "broker" means any person, partnership, association or corporation, resident or nonresident, who, for compensation or valuable consideration, sells or offers for sale, buys or offers to buy, negotiates the purchase or sale or exchange, or leases or offers to lease used manufactured homes that are owned by a party other than the broker.

"Manufactured home dealer" or "dealer" means any person engaged in the business of buying, selling or dealing in manufactured homes or offering or displaying manufactured homes for sale in Virginia. Any person who buys, sells, or deals in three or more manufactured homes in any 12-month period shall be presumed to be a manufactured home dealer. The terms "selling" and "sale" include lease-purchase transactions. The term "manufactured home dealer" does not include banks and finance companies that acquire manufactured homes as an incident to their regular business.

"Manufactured home manufacturer" or "manufacturer" means any persons, resident or nonresident, who manufacture or assemble manufactured homes for sale in Virginia.

"Manufactured home salesperson" or "salesperson" means any person who for compensation or valuable consideration is employed either directly or indirectly by, or affiliated as an independent contractor with, a manufactured home dealer to sell or offer to sell; or to buy or offer to buy; or to negotiate the purchase, sale or exchange; or to lease or offer to lease new or used manufactured homes.

"New manufactured home" means any manufactured home which (i) has not been previously sold except in good faith for the purpose of resale, (ii) has not been previously occupied as a place of habitation, (iii) has not been previously used for commercial purposes such as offices or storage, and (iv) has not been titled by the Virginia Department of Motor Vehicles.

"Person" means any individual, natural person, firm, partnership, association, corporation, legal representative, or other recognized legal entity.

"Regulant" means any person, firm, corporation, association, partnership, joint venture, or any other legal entity required by Chapter 4.2 (§§36-85.16 et seq.) of Title 36 of the Code of Virginia to be licensed by the board.

"Regulations" or "these regulations" means the Virginia Manufactured Housing Licensing and Transaction Recovery Fund Regulations.

"Relevant market area" means the geographical area established in the dealer/manufacturer sales agreement and agreed to by both the dealer and the manufacturer in the agreement.

"Responsible party" means a manufacturer, dealer, or supplier of manufactured homes.

"Set-up" means the operations performed at the occupancy site which render a manufactured home fit for habitation. Such operations include, but are not limited to, transportation, positioning, blocking, leveling, supporting, anchoring, connecting utility systems, making minor adjustments, or assembling multiple or expandable units. Such operations do not include lawful transportation services performed by public utilities operating under certificates or permits issued by the State Corporation Commission.

"Standards" means the Federal Manufactured Home Construction and Safety Standards adopted by the U.S. Department of Housing and Urban Development.

"Statement of Compliance" means the statement that the regulant licensed by the board will comply with the Manufactured Housing Licensing and Transaction Recovery Fund Law, this chapter and the orders of the board.

"Supplier" means the original producers of completed components, including refrigerators, stoves, water heaters, dishwashers, cabinets, air conditioners, heating units, and similar components, and materials such as floor coverings, panelling, siding, trusses, and similar materials, which are furnished to a manufacturer or a dealer for installation in the manufactured home prior to sale to a buyer.

"Used manufactured home" means any manufactured home other than a new home as defined in this section.

"Warranty" means any written assurance of the manufacturer, dealer or supplier or any promise made by a regulant in connection with the sale of a manufactured home that becomes part of the basis of the sale. The term "warranty" pertains to the obligations of the regulant in relation to materials, workmanship, and fitness of a manufactured home for ordinary and reasonable use of the home for the term of the promise or assurance.

#### Article 2 Dealers

13 VAC 6-20-50. License required; annual renewal.

A. Any person located in or outside of the Commonwealth buying or selling or offering or displaying manufactured homes for sale in Virginia and meeting the definition of a dealer in 13 VAC 6-20-10 shall apply to the board for a license. The board may, after receipt of the application for license, require a designated representative of the applicant to take and pass a written examination prior to issuance of the license. The license shall be displayed to the public in the office of the business location. The license shall be issued for a term of one year from the date of issuance.

B. Each licensed dealer shall apply for license renewal annually, by application and accompanied by the required fee. Applicants for license renewal shall meet all the criteria for original licensing. Upon failure to renew, the license shall automatically expire.

C. Application for renewal of an expired license received by the board within 60 calendar days after the expiration of the license shall require payment of a \$100 penalty by the applicant. Application for renewal received by the board more than 60 calendar days but less than one year from the expiration shall be reviewed by the board. The expired license may be renewed by the board under such additional conditions, warranties or agreements by the applicant as required by the board. Application for renewal more than one year after expiration of a license shall be

considered as a new application for a license and shall require payment of all fees and assessments for a new license. When applying for renewal of an expired license, the applicant shall certify to the board that, during the time of license expiration, all activities of the regulant within the scope of this chapter were in compliance with the requirements of this chapter. Upon application and payment of the renewal fee and any penalty by a dealer, the board may renew an expired license if satisfactory evidence is presented to it that the applicant has not engaged in business as a dealer in Virginia after expiration of the license or agrees to the conditions imposed by the board, and is otherwise eligible for a license under this chapter.

D. For licensing purposes, a dealer operating more than one retail location shall have each location treated as a separate entity and shall adhere to all requirements for dealer licensing at each location.

E. Each dealer licensed under this chapter shall also obtain a certificate of dealer registration from the Virginia Department of Motor Vehicles. The certificate of registration shall be renewed annually and shall be maintained in effect with the Department of Motor Vehicles as long as the dealer is licensed under this chapter.

13 VAC 6-20-60. Application for licensing; renewal.

A. Application for license or renewal shall be on forms supplied by the department. All information required on the form shall be furnished by the applicant for the board's review.

B. Each application for original licensure shall be accompanied by the following:

1. Deposit in the Transaction Recovery Fund required by 13 VAC 6-20-420 A 2.
2. Licensing fee required by 13 VAC 6-20-200 A 3.
3. Statement of Compliance.

4. Verification of a business office with all utilities, including a business telephone, and where the required business records are maintained.

5. Verification of a permanent business sign, in view of public traffic, bearing the name of the firm. Photographs of the front of the business office and required sign may be considered as verification required by this subsection.

6. List of salespeople employed with the following biographical information for each:

Date of Birth

Sex

Weight

Height

Eye/hair color

7. Name of the owner, principal, manager, agent or other person designated as the holder of the dealer's license for the specific location and the names of other partners or principals in the dealership.

~~Photographs of the front of the business office and required sign may be considered as verification required by this subsection.~~

8. Current financial statement (not older than 90 days).

C. Each application for renewal shall be accompanied by the following:

1. Licensing fee required by 13 VAC 6-20-200 A 4.
2. Statement of Compliance.
3. Notification of any significant changes to the office or the business sign.
4. Updated list of salespeople employed.
5. Any changes of officers or directors of the company or corporation.

6. A copy of the dealer's current certificate of registration from the Department of Motor Vehicles.

D. Any change in the form of ownership of the dealer or any changes (deletions or additions) in the partners or principals of the dealer shall be submitted to the board with an application and fee for a new license. If the new owner or owners assume the liabilities of the previous owner or owners, then a new recovery fund assessment is not required. New recovery fund assessments shall be required when the new owner or owners do not assume the liabilities of the previous owner or owners. The board shall be notified immediately by the dealer of any change in the operating name of the dealer. The director shall endorse the change on the license without requiring an additional fee. The board shall be notified immediately by the dealer of any change in the location of the dealer. The dealer shall pay a fee of \$50 for the change of location on the license, but shall not be required to pay an additional assessment to the recovery fund for the change of location only.

13 VAC 6-20-80. Dealer responsibility for inspections; other items.

A. The dealer shall inspect every new manufactured home unit upon delivery from a manufacturer. If a dealer becomes aware of a noncompliance or an imminent safety hazard, as defined in ~~Section 1200.2~~13VAC 5-95-10 of the ~~Industrialized Building and~~ Manufactured Home Safety Regulations, in a manufactured home, the dealer shall contact the manufacturer, provide full information concerning the problem, and request appropriate action by the manufacturer. No dealer shall sell a new manufactured home if he becomes aware that it contains a noncompliance or an imminent safety hazard.

B. The dealer shall inspect every new manufactured home unit prior to selling to determine that all items of furniture, appliances, fixtures and devices are not damaged and are in place and operable.

C. A dealer shall not alter or cause to be altered any manufactured home to which a HUD label has been affixed if such alteration or conversion causes the manufactured home to be in violation of the standards.

D. If the dealer provides for the installation of any manufactured home he sells, the dealer shall be responsible for making sure the installation of the home meets the manufacturer's installation requirements and the Code.

E. On each home sold by the dealer, the dealer shall collect the applicable title fees and title tax for the manufactured home and forward such fees and taxes to the Virginia Department of Motor Vehicles.

#### Article 3 Brokers

13 VAC 6-20-90. License required; annual renewal.

A. Any person located in or outside of the Commonwealth buying or selling, negotiating the purchase or sale or exchange of, or leasing used manufactured homes and meeting the definition of broker in 13 VAC 6-20-10 shall apply to the board for a license. The board may, after receipt of the application for license, require a designated representative of the applicant to take and pass a written examination prior to issuance of the license. The license shall be displayed to the public in the office of the business location. The license shall be issued for a term of one year from the date of issuance.

B. Each licensed broker shall apply for license renewal annually, by application and accompanied by the required fee. Applicants for license renewal shall meet all the criteria for original licensing. Upon failure to renew, the license shall automatically expire.

C. Application for renewal of an expired license received by the board within 60 calendar days after the expiration of the license shall require payment of a \$100 penalty by the applicant. Application for renewal received by the board more than 60 calendar days but less than one year from the expiration shall be reviewed by the board. The expired license may be renewed by the board under such additional conditions, warranties or agreements by the applicant as required by the board. Application for renewal more than one year after expiration of a license shall be considered as a new application for a license and shall require payment of all fees and assessments for a new license. When applying for renewal of an expired license, the applicant shall certify to the board that, during the time of license expiration, all activities of the regulant within the scope of this chapter were in compliance with the requirements of this chapter. Upon application and payment of the renewal fee and any penalty by a broker, the board may review an expired license if satisfactory evidence is presented to it that the applicant has not engaged in business as a broker in Virginia after expiration of the license or agrees to the conditions imposed by the board, and is otherwise eligible for a license under this chapter.

D. For licensing purposes, a broker operating more than one business location shall have each location treated as a separate entity and shall adhere to all requirements for broker licensing at each location.

E. Each broker licensed under this chapter shall also obtain a certificate of dealer registration from the Virginia Department of Motor Vehicles. The certificate of registration shall be renewed

annually and shall be maintained in effect with the Department of Motor Vehicles as long as the broker is licensed under this chapter.

13 VAC 6-20-100. Application for licensing; renewal.

A. Application for license or renewal shall be on forms supplied by the department. All information required on the form shall be furnished by the applicant for the board's review.

B. Each application for original licensure shall be accompanied by the following:

1. Deposit in the Transaction Recovery Fund required by 13 VAC 6-20-420 A 3.

2. Licensing fee required by 13 VAC 6-20-200 A 5.

3. Statement of Compliance.

4. Verification of a business office with all utilities, including a business telephone, and where the required business records are maintained.

5. Verification of a permanent business sign, in view of public traffic, bearing the name of the firm. Photographs of the front of the business office and required sign may be considered as verification required by this subsection.

6. Name of the owner, principal, manager, agent or other person designated as the holder of the broker's license for the specific location and the names of the partners or principals in the broker's firm.

7. List of salespeople employed with the following biographical information for each:

Date of birth

Sex

Weight

Height

Eye/hair color

~~Photographs of the front of the business office and required sign may be considered as verification required by this subsection.~~

8. Current financial statement (not older than 90 days).

C. Each application for renewal shall be accompanied by the following:

1. Licensing fee required by 13 VAC 6-20-200 A 6.
2. Statement of Compliance.
3. Notification of any significant changes to the office or the business sign.
4. Any changes of officers or directors of the company or corporation.
5. A copy of the broker's current certificate of registration from the Department of Motor Vehicles.
6. Updated list of salespeople employed.

D. Any change in the form of ownership of the broker or any changes (deletions or additions) in the partners or principals of the broker shall be submitted to the board with an application and fee for a new license. If the new owner(s) assume the liabilities of the previous owner(s), then a new recovery fund assessment is not required. New recovery fund assessments shall be required when the new owner(s) do not assume the liabilities of the previous owner(s). The board shall be notified immediately by the broker of any change in the operating name of the broker. The director shall endorse the change on the license without requiring an additional fee. The board shall be notified immediately by the broker of any change in location of the broker. The broker shall pay a fee of \$50 for the change of location on the license, but shall not be required to pay an additional assessment to the recovery fund for the change of location only.

13 VAC 6-20-120. Broker responsibility for inspections; other items.

A. The broker shall inspect every used manufactured home unit prior to completion of sale. No broker shall sell a used manufactured home, if he becomes aware that it contains an imminent safety hazard as defined in ~~Section 1200.213~~VAC 5-95-10 of the ~~Industrialized Building and~~ Manufactured Home Safety Regulations.

Exception: A broker may sell a used manufactured home in which he is aware of an imminent safety hazard if the buyer is advised of the imminent safety hazard in writing by the broker and is further advised that building permits may be required from the local building official for repair of the imminent safety hazard.

B. A broker shall not alter or cause to be altered any manufactured home to which a HUD label has been affixed if such alteration or conversion causes the manufactured home to be in violation of the standards.

C. If the broker provides for the installation of any manufactured home he sells, the broker shall be responsible for making sure the installation of the home meets the manufacturer's installation requirements and the Code.

D. On each home sold by the broker, the broker shall collect the applicable title tax and title fees for the manufactured home and forward such fees and taxes to the Virginia Department of Motor Vehicles.

#### Article 4 Salespeople

13 VAC 6-20-130. License required; annual renewal.

A. Any person employed by a dealer, broker or manufacturer buying or selling or negotiating the purchase, sale or exchange of new or used manufactured homes and meeting the definition of a salesperson in 13 VAC 6-20-10 shall apply to the board for a license. The board may, after receipt of the application for licensing, require the applicant to take and pass a written

examination prior to issuance of the license. The minimum age for a salesperson shall be 18 years. The salesperson's license shall be displayed in the company's business office in public view. The license shall be issued for a term of one year from the date of issuance. A salesperson shall be allowed to engage in business as a licensed salesperson after applying for a license, but prior to receiving the license back from the board.

Exception: An applicant answering "yes" to any of the following questions shall not be allowed to engage in business as a salesperson until after receiving the license back from the board:

1. Have you or any company you owned or were a principle in ever been refused a license to sell manufactured homes or had a license suspended or revoked in any state?

2. Have you ever been convicted of a felony?

3. Have you ever been convicted of any fraudulent or criminal act in connection with the business of selling manufactured homes?

4. Have you ever been convicted of larceny or receipt or sale of stolen property?

Following evaluation of an applicant for licensing, the board may issue the applicant a regular license or a probationary license for a specific period of time designated by the board. The probationary license will subject the applicant to a period of testing and trial to ascertain fitness to be licensed as a salesperson. All fees shall be the same as required for a regular license.

B. Each licensed salesperson shall apply for license renewal annually, by application and accompanied by the required fee. Applicants for license renewal shall meet all criteria for original licensing. Upon failure to renew, the license shall automatically expire.

C. Application for renewal of an expired license received by the board within 60 calendar days after the expiration of the license shall require payment of a \$100 penalty by the applicant. Application for renewal received by the board more than 60 calendar days but less than one year

from the expiration shall be reviewed by the board. The expired license may be renewed by the board under such additional conditions, warranties or agreements by the applicant as required by the board. Application for renewal more than one year after expiration of a license shall be considered as a new application for a license and shall require payment of all fees and assessments for a new license. When applying for renewal of an expired license, the applicant shall certify to the board that, during the time of license expiration, all activities of the regulant within the scope of this chapter were in compliance with the requirements of this chapter. Upon application and payment of the renewal fee and any penalty by a salesperson, the board may renew an expired license if satisfactory evidence is presented to it that the applicant has not engaged in business as a salesperson in Virginia after expiration of the license and prior to application for renewal or agrees to the conditions imposed by the board, and is otherwise eligible for a license under this chapter.

D. When employed by a dealer, broker or manufacturer having more than one licensed retail location or business office, a licensed salesperson may transfer or be temporarily assigned from one location to the other as long as he is working for the same company under the same ownership. Such transfer or assignment shall not require an additional license or Transaction Recovery Fund assessment. If a salesperson works for more than one company or at locations with different owners, he shall be licensed separately for each and pay a separate Transaction Recovery Fund assessment for each such license.

#### Article 5 Special and Temporary LicenseLicenses

13 VAC 6-20-160. Special license; temporary license; applications; fees.

A. The board may approve applications from regulants for special licenses, not to exceed 10 days in duration, for a temporary place of business operated or proposed by the regulant. The

temporary location shall not be contiguous to other premises for which a license is issued, except that contiguous locations may be licensed for dealer and manufacturer product shows.

B. The application for special licenses shall be submitted on forms supplied by the department. All information required with the application shall be furnished by the applicant for the board's review. Applications shall be submitted to the board at least 30 days prior to the requested effective date of the special license.

C. The board may approve applications from regulants for temporary license for locations operated or proposed by the regulant. A temporary licensed may be issued for a period of up to 60 days and may be renewed by application from the regulant.

D. The application for a temporary license location shall be submitted on forms supplied by the department. All information required with the application shall be furnished by the applicant for the board's review. Applications shall be submitted to the board and approved prior to the requested date of the temporary license location.

E. The application for a special or temporary license shall be accompanied by the required fee in  
13 VAC 6-20-200 B.

#### Article 6 Violations and Hearings

13 VAC 6-20-180. Penalties; notice to regulant.

A. The board shall have the power to deny, suspend, revoke or refuse to renew the license of a regulant found to be engaging in prohibited conduct or otherwise failing to comply with this chapter or orders of the board.

B. The board shall have the authority to levy ~~assessments~~monetary penalties in addition to or instead of denying, suspending, revoking or refusing to renew a regulant's license. Such ~~assessments~~penalties shall include the following:

1. ~~Transaction Recovery Fund assessments~~Monetary penalties of up to \$2,500 for each violation by a manufacturer.
2. ~~Transaction Recovery Fund assessments~~Monetary penalties of up to \$2,500 for each violation by a dealer or broker.
3. ~~Transaction Recovery Fund assessments~~Monetary penalties of up to \$2,500 for each violation by a salesperson.

C. The board shall notify the regulant, in writing, of any complaint directed against him. The notice shall include the time and place of a conference or hearing on the complaint. No penalties shall be imposed by the board until after the conference or hearing.

#### Article 7 License Fees

13 VAC 6-20-200. Fee schedules.

A. The following fees are set by the board for annual licenses and renewals issued in accordance with this chapter.

1. The manufacturer's original license fee shall be \$600.
2. The manufacturer's renewal license fee shall be \$500.
3. The dealer's original license fee shall be \$150 to be submitted with the application for licensure plus \$10 per home sold by the dealer to be submitted at the completion of the sale.
4. The dealer's renewal license fee shall be \$100 to be submitted with the application for renewal plus \$10 per home sold by the dealer to be submitted at the completion of the sale.
5. The broker's original license fee shall be \$150 to be submitted with the application for licensure plus \$10 per home sold by the broker to be submitted at the completion of the sale.
6. The broker's renewal license fee shall be \$100 to be submitted with the application for renewal plus \$10 per home sold by the broker to be submitted at the completion of the sale.

7. The salesperson's original license fee shall be \$50.

8. The salesperson's renewal license fee shall be \$50.

B. The following fees apply to special and temporary licenses issued by the board in accordance with Article 5 of this part of this chapter:

1. Manufacturer's special or temporary license fee shall be \$25.

2. Dealer's special or temporary license fee shall be \$25.

3. Broker's special or temporary license fee shall be \$25.

4. Salesperson's special or temporary license fee shall be \$10.

C. If a check for a license fee is returned or not honored by the issuing financial institution, the applicant's license shall be suspended until such time as the fee is paid in full.

### Part III Dealer or Manufacturer Sales Agreements

13 VAC 6-20-210. Filing of dealer or manufacturer sales agreements; contents.

A. Dealer/manufacturer sales agreements are not required by these regulations. When dealer/manufacturer sales agreements are used, such agreements shall comply with this Part of these regulations. Each licensed manufacturer shall file with the board a true copy of each new, amended, modified, or different form of dealer/manufacturer sales agreement to be offered to a dealer or prospective dealer in the Commonwealth prior to the date the sales agreement is offered. The department shall review the form for terms inconsistent with the requirements of this chapter. Any forms found to contain inconsistent terms shall be reported to the board for review and notification. The department shall notify the manufacturer of the inconsistent terms and its report to the board.

B. The sales agreement between the manufacturer and the dealer shall not include terms that are contrary to, prohibited by, or otherwise inconsistent with the requirements of this chapter.

C. The manufacturer shall include in any sales agreement with a dealer the following language or words to that effect:

"If any provision herein contravenes the laws or regulations of Virginia, or denies access to the procedures, hearings, or remedies provided by the laws or regulations of Virginia, such provision shall be deemed to be modified to conform to those laws and regulations, and all other terms and provisions of the agreement shall remain in full force."

~~13 VAC 6-20-250. Operation of dealership by manufacturer.~~

~~A manufacturer shall not own, operate or control a dealership in the Commonwealth except under the following conditions:~~

- ~~1. A manufacturer may operate a dealership for a temporary period, not to exceed one year, during the transition from one owner or operator to another;~~
- ~~2. A manufacturer may own or control a dealership while the dealership is being sold under a bona fide contract or purchase option to the operator of the dealership; or~~
- ~~3. A manufacturer may own, operate, or control a dealership if the board determines, after a conference or hearing at the request of any party, that there is no dealer independent of the manufacturer available in the relevant market area to own and operate the dealer or manufacturer sales agreement in a manner consistent with the public interest.~~

Part V Warranty, Service and Alterations

13 VAC 6-20-320. Duration of warranties.

A. All warranties provided by ~~regulants~~dealers as required by 13 VAC 6-20-310B shall be for a period of not less than 12 months, measured from the date of delivery of the home to the buyer. The date of delivery, for purpose of this section, shall be the date on which all terms or conditions of the sales contract agreed to or required of the ~~regulant~~dealer have been completed.

B. All warranties provided by manufacturers as required by 13 VAC 6-20-310A shall be for a period of not less than 12 months, measured from the date the home is placed on the buyer's property or rental space, or constructive delivery to the buyer has taken place.

13 VAC 6-20-350. Warranty service; time limits; rejection of claim.

A. Any defect which is determined to be an imminent safety hazard as defined in Section ~~1200.2 of the Industrialized Building and~~ 13 VAC 5-95-10 of the Manufactured Home Safety Regulations to life and health shall be remedied within three days of receipt of the written notice of the warranty claim. Defects which may be considered as imminent safety hazards to life and health include, but are not limited to, any of the following:

1. Inadequate heating in freezing weather.
2. Failure of sanitary facilities.
3. Electrical shock hazards.
4. Leaking gas.
5. Major structural failure.

The board may suspend this three-day time period in the event of widespread defects or damage resulting from adverse weather conditions or other natural disasters.

B. All other defects shall be remedied within 45 days of receipt of the written notice of the warranty claim unless a bona fide reason exists for not remedying the defect within the time period. If the responsible party has a bona fide reason for not meeting the 45-day time period, he shall respond to the claimant in writing, with a copy to the board, explaining the reason or reasons and stating what further action is contemplated regarding the warranty service.

C. Department staff handling consumer complaints under the Code shall also review the complaints for warranty service obligations under this part, and shall make initial determinations

of defects and imminent safety hazards to life and health as defined by the Code. Any disagreements between department staff and regulants or responsible parties regarding these determinations shall be resolved by the board. If a regulant or responsible party disputes the determination of an imminent safety hazard to life or health by the staff and asks for a ruling by the board, the three-day time period for remedying the hazard shall not be enforced unless the board agrees to the determination. If the board determines that the defect is an imminent safety hazard, it shall immediately notify the responsible party of the determination. The responsible party shall have three days from receipt of this notice to remedy the hazard.

D. Within the time limits specified in subsections A and B of this section, the responsible party shall either resolve the claim or determine that it is not justified. Whenever a regulant determines that a claim for warranty service is not justified, in whole or in part, he shall immediately notify the claimant in writing that the claim or a part of the claim is rejected. This notice shall explain to the claimant why the claim or specific parts of the claim are rejected and that the claimant is entitled to complain or file an appeal to the board. The notice shall provide the claimant with the complete address of the board.

#### Part VI Miscellaneous Provisions

13 VAC 6-20-400. Limitation on damages retained by dealer; disclosure to buyer.

A. A dealer shall provide a written disclosure to the buyer at the time of the sale of a manufactured home alerting the buyer to the actual damages that may be assessed of the buyer by the dealer, as listed in subsection C of this section, for failure to take delivery of the manufactured home as purchased.

B. For purposes of subsection A of this section, the “time of the sale” at which the dealer shall give a written disclosure to the buyer alerting the buyer to the possible retention of actual

damages is when the buyer turns over to the dealer any funds or other goods or property in the transaction to purchase a manufactured home or at the time the contract papers are signed, whichever occurs first.

C. If a buyer fails to accept delivery of a manufactured home, the dealer may retain actual damages from the buyer's deposit according to the following terms:

1. If the manufactured home is in the dealer's stock and is not specially ordered from the manufacturer for the buyer, the maximum retention shall be \$500.
2. If the manufactured home is a single section unit and is specially ordered from the manufacturer for the buyer, the maximum retention shall be \$1,000.
3. If the manufactured home is a multi-section home (two or more sections) and is specially ordered from the manufacturer for the buyer, the maximum retention shall be \$5,000.

D. For purposes of subsection C of this section, “accepting or taking delivery of a manufactured home” by a buyer shall mean the following:

1. In the case of a manufactured home in stock on the dealer's lot, the buyer accepts the delivery of the manufactured home when the buyer has inspected the home, has affirmed to the dealer in writing that the home is acceptable, and has signed the contract and financial papers or paid for the home; or
2. In the case of a manufactured home specially ordered from the manufacturer after a contract and/or financial papers have been signed by the buyer, the buyer accepts the delivery of the manufactured home when the buyer has inspected the home either at the dealer’s location or the buyer’s site and has affirmed to the dealer in writing that the home is acceptable.

~~B. A dealer shall provide a written disclosure to the buyer at the time of the sale of a manufactured home alerting the buyer to the actual damages that may be assessed of the buyer~~

~~by the dealer, as listed in subsection A of this section, for failure to take delivery of the manufactured home as purchased.~~

#### Part VII Transaction Recovery Fund

13 VAC 6-20-420. Recovery fund established; assessments.

A. In accordance with §36-85.31 of the Code of Virginia, the board shall establish a Manufactured Housing Transaction Recovery Fund. Any manufacturer, dealer, broker or salesperson licensed by the board under this chapter to operate in the Commonwealth of Virginia shall pay an initial assessment fee of the following amount into the fund:

1. Manufacturer -- \$4,000 for each separate manufacturing facility payable in one installment or \$4,400 payable at \$2,200 per year with the second payment due one year after initial licensing.
2. Dealer -- \$500 per retail location.
3. Broker -- \$500 per sales office.
4. Salesperson -- \$50 per individual.

B. After the initial assessments have been paid, the board shall review the balance in the fund. In accordance with §36-85.31 of the Code of Virginia, the minimum balance of the fund shall be \$250,000. If the initial assessments fail to achieve this minimum balance, or if future payments from the fund deplete the fund below this minimum balance, the board shall set and collect reassessment fees to achieve and maintain this minimum balance. Before setting any reassessments, the board shall notify all regulants at least 30 days prior to any meeting to set reassessment fees, advising the regulants of the purpose of the meeting and the regulants' opportunity to provide comments and suggestions prior to and at the meeting. Failure to pay any reassessment fees assessed by the board shall result in suspension of the regulant's license until such time as the regulant pays the reassessment fee.

C. All initial assessments and reassessments collected by the board under this chapter shall be deposited in an interest earning, special fund account by the State Treasurer in accordance with §36-85.31 of the Code of Virginia. The board shall make appropriations from the fund in accordance with the express purposes set forth in Chapter 4.2 (§§36-85.16 et seq.) of Title 36 of the Code of Virginia and this chapter. Interest earned on the deposits of the fund shall accrue to the fund ~~and~~ may be used by the board to pay damages awarded to claimants or to provide educational programs about manufactured homes to consumers.

13 VAC 6-20-430. Filing claims; investigations; conference or hearing on claim.

A. Any person who suffers any loss or damage by an act of a regulant that constitutes a violation of this law or this chapter shall have the right to file a claim for recovery from the fund. The department shall provide forms for filing claims. As a minimum, the following information shall be furnished with the claim:

1. The names and addresses of the regulants involved in the claim.
2. The identification of the home including the serial number, HUD label number or numbers, and model designations.
3. A complete explanation of the issues or actions which constitute the basis for the claim, along with copies of pertinent documents.
4. The name, address and telephone number of the claimant and the location of the home if different from the claimant's address.

B. Upon receipt of a claim, the board shall review the claim and may conduct, or cause to be conducted, an on-site inspection of the home. All regulants involved in a claim shall be notified of any on-site inspections by the board or the department under this chapter and shall be requested to have a representative present during the inspection. The person or persons

conducting the inspection for the board or the department shall prepare a written report of the findings of the inspection, citing any defects or violations of the Code or this chapter with a reference to the specific section of the Code or regulation which serves as the basis for the violation, and identifying the regulant responsible for the defect or violation. Copies of this report shall be provided to the regulants, the claimant, and the board.

C. The board shall hold a conference or hearing on a claim for damages. The board, or the department acting on the board's behalf, shall send written notice of the conference or hearing to all involved regulants, stating the purpose of the conference or hearing and the time and place of the conference or hearing. The notice shall be sent to the regulant or regulants at least 15 calendar days prior to the date of the conference or hearing. The notice shall be sent by certified mail to the address of the regulant or regulants, as shown on the license or other record or information in possession of the board. The conference or hearing shall be conducted by the board according to the applicable provisions of the Administrative Process Act and shall be open to the public. The regulant or regulants shall have the right to be heard in person or by counsel, and to provide evidence and witnesses on his behalf.

D. After the conference or hearing, if the board finds that the person has suffered a loss or damages due to the acts of a regulant that constitute a violation of this chapter, the board shall determine the amount of damages to be awarded to the claimant. The amount of damages awarded by the board shall be limited to actual compensatory damages and shall not include attorney's fees ~~for representation before the board~~. The board shall order the responsible manufacturer, dealer, broker, or salesperson to pay the awarded amount to the claimant. The board's written order shall be sent by certified mail to the regulant responsible for paying the

awarded amount. Within 30 days of receipt of the board's decision, the responsible regulant shall pay the awarded amount to the claimant, unless an appeal is pending.