

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 28

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO MANUFACTURED HOME DEALER AND INSTALLER LICENSING; AMENDING
2 SECTION 44-2101, IDAHO CODE, TO REVISE LEGISLATIVE FINDINGS, TO RE-
3 VISE PROVISIONS RELATING TO CERTAIN LICENSE REQUIREMENTS AND TO REVISE
4 PROVISIONS RELATING TO FEES FOR CRIMINAL HISTORY BACKGROUND CHECKS;
5 AMENDING SECTION 44-2101A, IDAHO CODE, TO REMOVE A DEFINITION AND TO RE-
6 MOVE A TERM; AMENDING SECTION 44-2103, IDAHO CODE, TO REMOVE REFERENCES
7 TO SERVICE COMPANIES; AMENDING SECTION 44-2106, IDAHO CODE, TO REMOVE
8 REFERENCES TO A SERVICE COMPANY; AND AMENDING SECTION 44-2107, IDAHO
9 CODE, TO REMOVE A REFERENCE TO SERVICE COMPANY.
10

11 Be It Enacted by the Legislature of the State of Idaho:

12 SECTION 1. That Section 44-2101, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 44-2101. PURPOSE -- LICENSE REQUIRED -- REINSTATEMENT. (1) The legis-
15 lature finds that the regulation and control of those persons engaged in the
16 business of manufacturing, selling, ~~or installing or servicing of~~ manufac-
17 tured and mobile homes is necessary to protect the health and safety of the
18 citizens of Idaho. To that end, it shall be unlawful for any person to engage
19 in business as a manufacturer, retailer, resale broker, installer, ~~service~~
20 ~~company,~~ salesman or responsible managing employee without being duly li-
21 censed as provided in this chapter.

22 (2) ~~On and after July 1, 2007, a~~ All applicants for original retailer or
23 resale broker ~~original licensure will be~~ licenses are required to submit to
24 a fingerprint-based criminal history background check of the Idaho central
25 criminal database and the federal bureau of investigation criminal history
26 database. Each applicant for original licensure must submit a full set of
27 the applicant's fingerprints and any relevant the fees directly to the Idaho
28 ~~state police and the federal bureau of investigation identification divi-~~
29 ~~sion for this purpose~~ cover the cost of the criminal history background check
30 for such person along with the completed application.

31 (3) If the licensee fails to submit a completed application for renewal
32 or to pay the renewal fee on or before the expiration date, the administrator
33 may accept a later application for reinstatement subject to such conditions
34 as the board may require by rule including, but not limited to, the assess-
35 ment of a late fee; provided that between the license expiration date and the
36 date of reinstatement of the license, the rights of the licensee under such
37 license shall be expired, and during such period of expiration it shall be
38 unlawful for such licensee to do or attempt to offer to do any of the acts of
39 the kind and nature described in the definitions in section 44-2101A, Idaho
40 Code, in consideration of compensation of any kind or expectation thereof.
41 An expired license that is not reinstated within six (6) months of the expi-

1 ration date shall be automatically terminated by the administrator and may
2 not be reinstated.

3 SECTION 2. That Section 44-2101A, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 44-2101A. DEFINITIONS. As used in this chapter:

6 (1) "Administrator" means the administrator of the division of build-
7 ing safety of the state of Idaho.

8 (2) "Board" means the manufactured housing board established in sec-
9 tion 44-2104, Idaho Code.

10 (3) "Engaged in the business" means the individual or entity buys,
11 sells, brokers, trades, or offers for resale a manufactured or mobile home.

12 (4) "Installer" means a person who owns a business that installs ~~or ser-~~
13 ~~vice~~s a manufactured home or mobile home at the site where it is to be used for
14 occupancy.

15 (5) "Manufactured home" or "manufactured house" means a structure as
16 defined in section 39-4105, Idaho Code.

17 (6) "Manufacturer" means any person engaged in the business of manufac-
18 turing manufactured homes that are offered for sale, lease or exchange in the
19 state of Idaho.

20 (7) "Mobile home" means a structure as defined in section 39-4105,
21 Idaho Code.

22 (8) "Person" means a natural person, corporation, partnership, trust,
23 society, club, association or other organization.

24 (9) "Place of business" refers to any physical location at which the
25 business is lawfully conducted.

26 (10) "Resale broker" means any person engaged in the business of selling
27 broker-owned, used, third-party owned, or other resale of manufactured or
28 mobile homes.

29 (11) "Responsible managing employee" or "RME" means the person desig-
30 nated by the retailer, installer, manufacturer, ~~service company~~ or resale
31 broker to supervise other employees, either personally or through others.

32 (12) "Retailer" means any person engaged in the business of selling or
33 exchanging new, used, resale or brokered manufactured or mobile homes.

34 (13) "Salesman" means any person employed by a retailer or resale broker
35 for a salary, commission or compensation of any kind to sell, list, purchase
36 or exchange or to negotiate for the sale, listing, purchase or exchange of
37 new, used, brokered or third-party owned units, except as otherwise provided
38 in this chapter.

39 ~~(14) "Service company" means any person other than an installer who pro-~~
40 ~~vides service, repair or tear down of manufactured or mobile homes.~~

41 SECTION 3. That Section 44-2103, Idaho Code, be, and the same is hereby
42 amended to read as follows:

43 44-2103. FEES -- DEPOSIT OF FEES. (1) Fees for licensing of retailers,
44 resale brokers, installers, manufacturers, salesmen, and RMEs ~~and service~~
45 ~~companies~~ shall not exceed:

- 46 (a) Retailer or resale broker license \$500.00
- 47 (b) Manufacturer license \$500.00

- 1 (c) ~~Service company or i~~Installer license \$300.00
- 2 (d) Salesman license \$ 50.00
- 3 (e) RME license \$ 50.00

4 (2) All license fees collected by the division of building safety un-
 5 der the provisions of this chapter shall be paid into the manufactured hous-
 6 ing account, which is hereby created in the dedicated fund. The expenses in-
 7 curred in administering and enforcing the provisions of this chapter shall
 8 be paid from the account.

9 (3) The following performance bonding requirements shall be met before
 10 the issuance of these licenses:

- 11 (a) Manufacturer \$20,000 bond
- 12 (b) Retailer \$40,000 bond
- 13 (c) Resale broker \$30,000 bond
- 14 (d) ~~Service company or i~~Installer \$ 5,000 bond

15 (4) The administrator is authorized to provide by rule, in accordance
 16 with the provisions of section 44-2102, Idaho Code, for the acceptance of a
 17 deposit of cash or securities in lieu of a bond in satisfaction of the bonding
 18 requirements of this section.

19 (5) Fees and bond requirements of this section shall be the exclusive
 20 fee and bond requirements for retailers, resale brokers, installers, manu-
 21 facturers, and salesmen and service companies governed by the provisions of
 22 this chapter, and shall supersede any program of any political subdivision
 23 of the state which sets fee or bond requirements for the same services.

24 (6) A retailer or resale broker must obtain a separate ~~service company~~
 25 ~~or~~ installer license, pay the license fee set forth in subsection (1) (c) of
 26 this section and meet the bonding requirements of subsection (3) (d) of this
 27 section in order to provide the services covered by ~~a service company or an~~
 28 installer license.

29 SECTION 4. That Section 44-2106, Idaho Code, be, and the same is hereby
 30 amended to read as follows:

31 44-2106. VIOLATIONS. (1) It shall be unlawful to engage in business as
 32 a manufacturer, retailer, resale broker, installer, salesman, ~~service com-~~
 33 ~~pany~~ or RME without being duly licensed by the division of building safety
 34 pursuant to this chapter, except that an individual may buy, sell, broker,
 35 trade or offer for resale up to two (2) manufactured or mobile homes, or a
 36 combination thereof, in any one (1) calendar year without being licensed un-
 37 der this chapter if all of the units have been properly titled in the name of
 38 that individual.

39 (2) It shall be unlawful for a manufacturer, retailer, resale broker,
 40 installer, salesman, ~~service company~~ or RME to:

- 41 (a) Intentionally publish or circulate any advertising which is mis-
 42 leading or inaccurate in any material particular or which misrepresents
 43 any of the products or services sold or provided by a manufacturer, re-
 44 tailer, resale broker, installer, salesman, ~~service company~~ or RME;
- 45 (b) Violate any of the provisions of this chapter or any rule adopted by
 46 the division of building safety pursuant to this chapter;
- 47 (c) Knowingly purchase, sell or otherwise acquire or dispose of a
 48 stolen manufactured or mobile home;

1 (d) With respect only to a retailer or resale broker, to engage in the
2 business for which such retailer or resale broker is licensed without at
3 all times maintaining a principal place of business located within the
4 state.

5 SECTION 5. That Section 44-2107, Idaho Code, be, and the same is hereby
6 amended to read as follows:

7 44-2107. PENALTY PROVISIONS. (1) Whoever shall violate any of the
8 provisions of this chapter, or any laws or rules adopted pursuant to this
9 chapter, or who shall refuse to perform any duty lawfully enjoined upon him
10 by the administrator within the prescribed time, or who shall fail, neglect,
11 or refuse to obey any lawful order given or made by the administrator, shall
12 be guilty of a misdemeanor and shall be subject to the civil penalties es-
13 tablished by administrative rule but not to exceed one thousand dollars
14 (\$1,000) in accordance with the following:

15 (a) Each day of such violation shall constitute a separate offense. A
16 violation will be considered a second or additional offense only if it
17 occurs within one (1) year from the first violation.

18 (b) The same penalties shall apply, upon conviction, to any member of a
19 copartnership, or to any construction, managing or directing officer of
20 any corporation, limited liability company or limited liability part-
21 nership or other such organization consenting to, participating in, or
22 aiding or abetting any such violation of this chapter.

23 (2) In addition to any other penalties specified in this section, when-
24 ever any person violates the provisions of this chapter by acting as a re-
25 tailer, resale broker, installer, ~~service company~~ or RME, without a license,
26 the administrator may maintain an action in the name of the state of Idaho to
27 enjoin the person from any further violations in accordance with the follow-
28 ing:

29 (a) Such action may be brought either in the county in which the acts
30 are claimed to have been or are being committed, in the county where the
31 defendant resides, or in Ada county.

32 (b) Upon the filing of a verified complaint in the district court, the
33 court, if satisfied that the acts complained of have been or probably
34 are being or may be committed, may issue a temporary restraining order
35 and/or preliminary injunction, without bond, enjoining the defendant
36 from the commission of any such act or acts constituting the violation.

37 (c) A copy of the complaint shall be served upon the defendant and the
38 proceedings shall thereafter be conducted as in other similar civil ac-
39 tions. If the commission of the act or acts is established, the court
40 shall enter a decree permanently enjoining the defendant from commit-
41 ting such act or acts. If an injunction issued under this section is vi-
42 olated, the court, or the judge thereof at chambers, may summarily try
43 and punish the offender for contempt of court.