

TITLE 44
LABOR

CHAPTER 21
MANUFACTURED HOME DEALER AND INSTALLER LICENSING

44-2101. PURPOSE -- LICENSE REQUIRED -- REINSTATEMENT. (1) The legislature finds that the regulation and control of those persons engaged in the business of manufacturing, selling or installing manufactured and mobile homes is necessary to protect the health and safety of the citizens of Idaho. To that end, it shall be unlawful for any person to engage in business as a manufacturer, retailer, resale broker, installer, salesman or responsible managing employee without being duly licensed as provided in this chapter.

(2) All applicants for original retailer or resale broker licenses are required to submit to a fingerprint-based criminal history background check of the Idaho central criminal database and the federal bureau of investigation criminal history database. Each applicant for original licensure must submit a full set of the applicant's fingerprints and the fees to cover the cost of the criminal history background check for such person along with the completed application.

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

[44-2101, added 1993, ch. 372, sec. 1, p. 1340; am. 2004, ch. 313, sec. 2, p. 879; am. 2007, ch. 112, sec. 1, p. 321; am. 2013, ch. 57, sec. 1, p. 131.]

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

(1) "Administrator" means the administrator of the division of building safety of the state of Idaho.

(2) "Board" means the factory built structures advisory board established in section [39-4302](#), Idaho Code.

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

(4) "Installer" means a person who owns a business that installs a manufactured home or mobile home at the site where it is to be used for occupancy.

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

(6) "Manufacturer" means any person engaged in the business of manufacturing manufactured homes that are offered for sale, lease or exchange in the state of Idaho.

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

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

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

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

(11) "Responsible managing employee" or "RME" means the person designated by the retailer, installer, manufacturer or resale broker to supervise other employees, either personally or through others.

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

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

[44-2101A, added 2007, ch. 112, sec. 3, p. 322; am. 2008, ch. 380, sec. 1, p. 1050; am. 2013, ch. 57, sec. 2, p. 132; am. 2016, ch. 342, sec. 8, p. 971.]

44-2102. ADMINISTRATION -- POWERS AND DUTIES. The administrator is charged with the administration of the provisions of this chapter and shall:

(1) In accordance with the provisions of [chapter 52, title 67](#), Idaho Code, promulgate, adopt, amend, and repeal rules for the establishment of a mandatory statewide manufactured home setup code. The administrator shall also define and prohibit any practice which is found to be deceptive.

(2) Prescribe the form and content of a new manufactured home buyer's information and disclosure form. Unless otherwise provided by the administrator, the form shall be presented by the retailer to each purchaser of a new manufactured home, and shall be executed by the retailer and purchaser at the time the initial purchase order is signed for the sale of a new manufactured home.

(3) (a) A used unit which has been determined to be or declared by the owner to be real property under the provisions of section [63-304](#), Idaho Code, may be offered for sale, listed, bought for resale, negotiated for, either directly or indirectly, by a licensed real estate broker or a real estate salesman representing a licensed real estate broker, but not a retailer, resale broker or salesman.

(b) A used unit which has been determined to be and is carried on the tax rolls as personal property may be offered for sale, listed, bought for resale, negotiated for, either directly or indirectly, by a licensed real estate broker or a real estate salesman, pursuant to [chapter 20, title 54](#), Idaho Code, or by a licensed retailer, resale broker or salesman, but with respect to a licensed retailer, resale broker or salesman only to the extent such sale does not involve the purchase or sale of an interest in real estate.

(c) A licensed real estate broker or real estate salesman representing a licensed real estate broker pursuant to [chapter 20, title 54](#), Idaho Code, may participate in new manufactured home sales that include real estate if the real estate broker or salesman has a valid, written agreement with a licensed retailer to represent the interests of the retailer in this type of transaction.

(4) Promulgate rules establishing a program for the timely resolution of disputes between manufacturers, retailers, resale brokers and installers of manufactured homes. The rules shall be consistent with the United States department of housing and urban development's procedural and enforcement authority in 42 U.S.C. 5422(c)(12), and shall include identifying the respective responsibilities of manufacturers, retailers, resale brokers and installers; providing for the issuance of appropriate orders for the correction or repair of defects in manufactured homes that are reported during the one (1) year period following the date of installation; and may include an appropriate schedule of fees.

[44-2102, added 1988, ch. 264, sec. 1, p. 520; am. 1990, ch. 165, sec. 1, p. 362; am. 1996, ch. 322, sec. 43, p. 1074; am. 1996, ch. 421, sec. 29, p. 1426; am. 1997, ch. 107, sec. 1, p. 251; am. 1999, ch. 171, sec. 1, p. 461; am. 2000, ch. 439, sec. 1, p. 1399; am. 2004, ch. 243, sec. 1, p. 708; am. 2004, ch. 313, sec. 4, p. 880; am. 2007, ch. 112, sec. 4, p. 323.]

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

- (a) Retailer or resale broker license \$500.00
- (b) Manufacturer license \$500.00
- (c) Installer license \$300.00
- (d) Salesman license \$50.00
- (e) RME license \$50.00

(2) All license fees collected by the division of building safety under the provisions of this chapter shall be paid into the factory built structures account established in section [39-4303](#), Idaho Code. The expenses incurred in administering and enforcing the provisions of this chapter shall be paid from the account.

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

- (a) Manufacturer \$20,000 bond
- (b) Retailer \$40,000 bond
- (c) Resale broker \$30,000 bond
- (d) Installer \$5,000 bond

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

(5) Fees and bond requirements of this section shall be the exclusive fee and bond requirements for retailers, resale brokers, installers, manufacturers and salesmen governed by the provisions of this chapter, and shall supersede any program of any political subdivision of the state which sets fee or bond requirements for the same services.

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

[44-2103, added 1988, ch. 264, sec. 1, p. 520; am. 1993, ch. 372, sec. 3, p. 1341; am. 1995, ch. 202, sec. 1, p. 695; am. 1996, ch. 171, sec. 1, p. 555; am. 1996, ch. 421, sec. 30, p. 1426; am. 2004, ch. 313, sec. 5, p.

881; am. 2007, ch. 112, sec. 5, p. 324; am. 2013, ch. 57, sec. 3, p. 133; am. 2016, ch. 342, sec. 9, p. 972.]

44-2104. FACTORY BUILT STRUCTURES ADVISORY BOARD. (1) The factory built structures advisory board, established in the division of building safety in accordance with the provisions of section [39-4302](#), Idaho Code, shall advise the administrator in the administration and enforcement of the provisions of this chapter.

(2) The board shall have the authority to promulgate rules in accordance with [chapter 52, title 67](#), Idaho Code.

[44-2104, added 1988, ch. 264, sec. 1, p. 521; am. 1996, ch. 334, sec. 1, p. 1131; am. 1996, ch. 421, sec. 31, p. 1427; am. 2000, ch. 439, sec. 2, p. 1400; am. 2001, ch. 151, sec. 2, p. 547; am. 2007, ch. 112, sec. 6, p. 324; am. 2016, ch. 342, sec. 10, p. 973.]

44-2105. DISCIPLINE -- HEARING -- JUDICIAL REVIEW -- REAPPLICATION. (1) The administrator may refuse to issue, renew, or reinstate or may suspend, revoke or take other disciplinary action against any license, if the license was obtained through error or fraud, or if the holder thereof is shown to be grossly incompetent, or has willfully violated any provision of this chapter or the rules adopted thereunder, or has been convicted of conduct constituting a felony or any theft or fraud offense, or has ever had a business license revoked in this or any other state or territory of the United States.

(2) The administrator shall have the power to appoint, by an order in writing, any competent person to take testimony at any disciplinary hearing. The administrator, and any hearing officer appointed by the administrator, shall have the power to administer oaths, issue subpoenas and compel the attendance of witnesses and the production of documents and records.

(3) Before any license shall be suspended, revoked or otherwise disciplined, the holder thereof shall be served with written notice enumerating the charges against him, and shall be afforded an opportunity for an appropriate contested case in accordance with the provisions of [chapter 52, title 67](#), Idaho Code. The notice shall specify the time and place for hearing, which time shall not be less than five (5) days after the service thereof.

(4) Any party aggrieved by an order of the administrator disciplining a license shall be entitled to judicial review thereof in accordance with the provisions of [chapter 52, title 67](#), Idaho Code.

(5) Any person whose license has been revoked may not apply for a new license until the expiration of one (1) year from the date of such revocation.

[44-2105, added 1993, ch. 372, sec. 5, p. 1342; am. 1996, ch. 421, sec. 32, p. 1428; am. 2007, ch. 112, sec. 7, p. 325.]

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

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

- (a) Intentionally publish or circulate any advertising which is misleading or inaccurate in any material particular or which misrepresents any of the products or services sold or provided by a manufacturer, retailer, resale broker, installer, salesman or RME;
- (b) Violate any of the provisions of this chapter or any rule adopted by the division of building safety pursuant to this chapter;
- (c) Knowingly purchase, sell or otherwise acquire or dispose of a stolen manufactured or mobile home;
- (d) With respect only to a retailer or resale broker, to engage in the business for which such retailer or resale broker is licensed without at all times maintaining a principal place of business located within the state.

[44-2106, added 1993, ch. 372, sec. 6, p. 1342; am. 1996, ch. 421, sec. 33, p. 1428; am. 2004, ch. 313, sec. 6, p. 881; am. 2007, ch. 112, sec. 8, p. 326; am. 2013, ch. 57, sec. 4, p. 133.]

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

- (a) Each day of such violation shall constitute a separate offense. A violation will be considered a second or additional offense only if it occurs within one (1) year from the first violation.
- (b) The same penalties shall apply, upon conviction, to any member of a copartnership, or to any construction, managing or directing officer of any corporation, limited liability company or limited liability partnership or other such organization consenting to, participating in, or aiding or abetting any such violation of this chapter.
- (c) Proceedings related to the imposition of civil penalties shall be governed by the provisions of [chapter 52, title 67](#), Idaho Code.

(2) In addition to any other penalties specified in this section, whenever any person violates the provisions of this chapter by acting as a retailer, resale broker, installer or RME, without a license, the administrator may maintain an action in the name of the state of Idaho to enjoin the person from any further violations in accordance with the following:

- (a) Such action may be brought either in the county in which the acts are claimed to have been or are being committed, in the county where the defendant resides, or in Ada county.
- (b) Upon the filing of a verified complaint in the district court, the court, if satisfied that the acts complained of have been or probably are being or may be committed, may issue a temporary restraining order and/or preliminary injunction, without bond, enjoining the defendant from the commission of any such act or acts constituting the violation.
- (c) A copy of the complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other similar civil actions. If the commission of the act or acts is established, the court shall enter a decree permanently enjoining the defendant from committing such act or acts. If an injunction issued under this section is vi-

olated, the court, or the judge thereof at chambers, may summarily try and punish the offender for contempt of court.

[(44-2107) 44-2106, added 1988, ch. 264, sec. 1, p. 522; am. and redesign. 1993, ch. 372, sec. 7, p. 1343; am. 2007, ch. 112, sec. 9, p. 326; am. 2013, ch. 57, sec. 5, p. 134; am. 2016, ch. 342, sec. 11, p. 973.]

44-2108. RETAILER AND RESALE BROKER -- ADDITIONAL LICENSURE REQUIREMENTS. (1) Each business office or retail sales location shall be owned or leased by the retailer or resale broker and shall comply with all local building codes, zoning, and other applicable land use regulatory ordinances, and:

(a) If the location is on leased property, the retailer or resale broker must provide written confirmation of the term and existence of the lease, signed by the lessor; and

(b) An exterior sign that identifies the retailer or resale broker by the name shown on the license must be prominently affixed to the location or the office building and be clearly visible and easily readable from the nearest major avenue of traffic; and

(c) The retailer or resale broker must prominently display his license, or a true and correct copy of that license, in each location; and

(d) The licensee must post, in a clearly visible and readily accessible location, written information concerning regular hours of business and emergency contact information.

(2) Regardless of the number of locations at which a retailer or resale broker engages in business, he must maintain a principal place of business that complies with the requirements set forth in subsection (1) (a) of this section, and at which the records of the business are maintained on a permanent basis.

(3) The retailer or resale broker must promptly notify the division of building safety, in writing, of any change in ownership, business name, location of business, mailing address or telephone numbers.

(4) For each new product sold, the retailer must provide proof, satisfactory to the board, of the retailer's current authority to sell that manufacturer's products.

(5) Failure to adhere to the requirements of this section, or any other requirement pertaining to licensure as set forth in law or rule, shall constitute grounds for the imposition of discipline up to and including revocation of licensure.

[44-2108, added 2007, ch. 112, sec. 10, p. 327.]