

2013 Manufactured Housing Legislation

Makes changes in SC law impacting

- ★ **Financial standards for licensing**
- ★ **Sale of Foreclosures**
- ★ **Dealer ID Number on Advertising**

Approved by the SC General Assembly during the 2013 legislative session

Here is the complete text of S310. Important note: much of the legislation contains wording that was already a part of state law. Some of the most important changes are highlighted. You'll find a summary of the highlights immediately below the legislation.

Financial responsibility requirements

SECTION 1. Chapter 29, Title 40 of the 1976 Code is amended by adding:

"Section [40-29-95](#). (A) The board shall consider the financial responsibility of an applicant as determined by this section and regulations promulgated by the board.

(B) A retail dealer applicant who fails to possess **cash or cash equivalency in an amount equal to or greater than one hundred fifty thousand dollars or a credit score of less than seven hundred** must appear before the board.

(C) Should the board license an applicant who is unable to meet the financial responsibility guidelines of this section or the regulations of the board, then the board may modify or restrict the activities of the licensee."

Dealer license number required in certain advertisements

SECTION 2. Chapter 29, Title 40 of the 1976 Code is amended by adding:

"Section [40-29-325](#). **Licensed manufactured housing retail dealers shall include their dealer license number on any print, Internet, or email advertisement by the retail dealer for the sale of a manufactured home located in South Carolina.**"

Application requirements, certain lienholder conveyance exempt

SECTION 3. Section [40-29-200](#) of the 1976 Code is amended to read:

"Section [40-29-200](#). (A) All licenses expire June thirtieth of each even-numbered year following the date of issue, unless sooner revoked or suspended.

(B) An applicant for licensure shall:

- (1) demonstrate financial responsibility as required by Section [40-29-95](#);
- (2) for a retail dealer, provide a financial statement reviewed by a licensed certified public accountant;
- (3) not have engaged illegally in the licensed classification;
- (4) demonstrate familiarity with the regulations adopted by the board concerning the classification for which application is made;
- (5) if a corporation, have complied with the laws of South Carolina regarding qualification for doing business in this State or have been incorporated in South Carolina and have and maintain a registered agent and a registered office in this State;
- (6) submit proof of registration with the Department of Revenue and submit a current tax identification number;
- (7) where applicable, pass an examination administered by the board or its designated test provider in the license classification for which application is made;
- (8) where applicable, complete training as prescribed by the board.

(C) A manufactured housing license is not required for a licensed real estate salesman or licensed real estate broker who negotiates or attempts to negotiate for any legal entity the listing, sale, purchase, exchange, lease, or other disposition of a used manufactured or mobile home in conjunction with the listing, sale, purchase, exchange, lease, or other disposition of real estate upon which the used manufactured or mobile home is located.

(D) The holder of a lien on a manufactured home who sells, exchanges, or transfers by lease-purchase a repossessed manufactured home subject to the lien is not subject to the provisions of this chapter if the sale, exchange, or transfer is through a licensed manufactured home retail dealer. A sale by a lienholder conducted through the foreclosure process of Section [29-3-610](#), et seq. may not be subject to the provisions of this chapter.

(E) A license must be issued in only one person's name who may be the individual owner, stockholder, copartner, manufactured home retail salesman or other representative of a manufactured home manufacturer, manufactured home retail dealer, or other entity required to be licensed. It is the duty of a manufactured home retail dealer and manufactured home manufacturer to conspicuously display the licenses in the established place of business. Manufactured home retail salesmen and manufactured home contractors, installers, and repairers are required to carry their licenses on their persons at all times when they are doing business in this State, and they must be shown upon request.

(F) The board may deny a license to an applicant who submits an application meeting the requirements of this chapter if the applicant has been convicted in a court of competent jurisdiction of a violent crime as defined in Section [16-1-60](#), a felony directly related to any aspect of the business of manufactured housing, or a felony, an essential element of which is dishonesty, reasonably related to any aspect of the business of manufactured housing.

(G) No person may be issued a license as a manufactured home retail dealer unless the person can show proof satisfactory to the board of two years' experience in the manufactured home industry or other relevant experience acceptable to the board.

(H) Notwithstanding any other provision of law, the board may not grant reciprocity or issue a license to an applicant:

(1) whose license in another state is currently restricted in any way, including probationary or other conditions, or was surrendered in lieu of disciplinary action or was revoked;

(2) who has disciplinary action pending against him in another state; or

(3) who is currently under sentence, including probation or parole, for a violation of Section [16-1-60](#), a felony directly related to any aspect of the business of manufactured housing, or a felony, an essential element of which is dishonesty, reasonably related to any aspect of the business of manufactured housing.

(I)(1) An applicant may be granted an apprentice salesperson license for up to one hundred twenty days. An apprentice salesperson license may not be issued to an applicant if the applicant has ever been:

(a) denied any type of license issued pursuant to this chapter;

(b) subject to suspension or revocation of a license issued pursuant to this chapter; or

(c) subject to any disciplinary action taken in accordance with this chapter.

(2) An applicant is subject to all of the requirements of this chapter and regulations promulgated pursuant to this chapter, except that an applicant is not required to complete the training, testing, and bond requirements established for a regular retail salesperson license."

Surety bonds and other required security

SECTION 4. Section [40-29-230](#)(B)(3) of the 1976 Code is amended to read:

"(3) The board, upon a finding of a violation by a licensee or that an applicant is unable to meet the financial responsibility guidelines, may further require the licensee to increase the amount of a surety bond or other approved security. An increase must be proportioned to the seriousness of the offense, the repeat nature of the licensee's violations, or related to the financial condition of an applicant. The total amount may not exceed an additional seventy-five thousand dollars for

manufacturers, fifty thousand dollars for dealers, twenty thousand dollars for salespersons, and ten thousand dollars for manufactured home contractors, installers, and repairers. The board, after one year, may reduce an increased surety bond or other approved security when satisfied that violations have been cured by appropriate corrective action and that the licensee is otherwise in good standing. The bonds cannot be reduced below amounts provided in this section."

Time effective

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 19th day of June, 2013.

Approved the 20th day of June, 2013.

Overview: New SC Licensing Board Legislation

The SC General Assembly approved legislation that is designed to curb unlicensed sales and to insure that dealer applicants get a proper background review. Key feature of S310 include.

Dealer Number Required on Advertising

“Licensed manufactured housing retail dealers shall include their dealer license number on any print, Internet, or email advertisement by the retail dealer for the sale of a manufactured home located in South Carolina.”

Purpose: This requirement gives the state an effective way to detect unlicensed sales. Advertising which does not contain a dealer ID will be investigated. The Manufactured Housing Board will bring action against any unlicensed seller detected. The seller will face penalties and will not be allowed to sell houses until they obtain a license. Large penalties can be assessed.

Lenders Can Sell Repos Through Licensed Dealers

“The holder of a lien on a manufactured home who sells, exchanges, or transfers by lease-purchase a repossessed manufactured home subject to the lien is not subject to the provisions of this chapter if the sale, exchange, or transfer is through a licensed manufactured home retail dealer. “

Purpose: The provision solves a problem that existed for lenders in SC law. Until passage of S310, the only legal way a lender could sell repossessed homes was to get a dealer’s license and directly sell the homes.

Now the lender can dispose of homes through a **licensed** dealer without getting a license. It has always been the case that lenders can only sell their homes to or through a person who held a dealer's license.

Financial Responsibility Levels for “Automatic” License Approval Increased

If a dealer applicant meets specific net worth and credit standards he or she can get a license without a review by the SC Manufactured Housing Board. The license can be approved by the agency staff without going through the SCMHB (unless they have other problems.) The new standards are a minimum net worth of \$150,000 and a 700 credit score. A person who doesn't meet the standards can still get a license, but they must come before the board so the agency can determine that they have the resources and track record to avoid a blow-out.

Purpose: The change in standards will mean that the licensing board will have the opportunity to review the background and business plan of a higher percentage of applicants for a dealers license.

Important: this summary is designed to draw your attention to some of the highlights of S310 and is not a complete description of all aspects of the legislation. This overview is not intended as legal advice. To determine how the changes in S310 may affect your individual business operations please contact your company's legal counsel.