

CHAPTER 122

GOVERNMENT - STATE

HOUSE BILL 21-1019

BY REPRESENTATIVE(S) Hooton, Arndt, Bernett, Duran, Froelich, Gonzales-Gutierrez, Gray, Kipp, McCluskie, Ricks, Sirota;
also SENATOR(S) Ginal and Woodward, Cooke, Fenberg, Hisey, Kirkmeyer, Kolker, Lundeen, Moreno, Priola.

AN ACT**CONCERNING MODIFICATIONS TO THE REGULATIONS OF FACTORY-BUILT STRUCTURES.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 24-32-3301, **amend** (1) introductory portion, (1)(a), (1)(b), (1)(c)(II), (1)(e), (2)(a), (2)(d), and (3); and **add** (4) as follows:

24-32-3301. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that MOBILE HOMES, MANUFACTURED HOUSING, AND FACTORY-BUILT HOUSING ARE IMPORTANT AND EFFECTIVE WAYS TO MEET COLORADO'S AFFORDABLE HOUSING NEEDS. THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT, BECAUSE OF THE HOUSING CRISIS IN COLORADO, THERE IS A NEED TO PROMOTE THE AFFORDABILITY AND ACCESSIBILITY OF NEW MANUFACTURED AND FACTORY-BUILT HOUSING. THE GENERAL ASSEMBLY ENCOURAGES LOCAL GOVERNMENTS TO ENACT ORDINANCES AND RULES THAT EFFECTIVELY TREAT FACTORY-BUILT HOUSING CERTIFIED THROUGH THE STATE PROGRAM AND MANUFACTURED HOUSING CERTIFIED THROUGH THE FEDERAL PROGRAM THE SAME AS SITE-BUILT HOMES. THE GENERAL ASSEMBLY FURTHER FINDS, DETERMINES, AND DECLARES THAT:

(a) The comprehensive regulation of the ~~manufacture~~ CONSTRUCTION of factory-built structures to ensure safety, AFFORDABILITY, EFFICIENCY, AND PERFORMANCE is a matter of statewide concern.

(b) The comprehensive regulation of the installation of manufactured homes to ensure safety, affordability, EFFICIENCY, and performance is a matter of statewide and local concern.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(c) The protection of Colorado consumers who purchase manufactured homes from fraud and other unfair business practices is a matter of statewide concern and consumers can best be protected by:

(II) Imposing ~~uniform~~ escrow and bonding requirements upon persons engaged in the business of selling manufactured homes; and

(e) The ~~uniform~~ registration, escrow and bonding, and contract requirements imposed on sellers of manufactured homes by this part 33 are exclusive and no political subdivision of the state ~~shall~~ MAY impose any additional registration, escrow, and bonding, or contract requirements on the sellers.

(2) The general assembly further declares that in enacting this part 33, it is the intent of the general assembly that the division establish through the board rules as it deems necessary to ensure:

(a) The safety, AFFORDABILITY, EFFICIENCY, AND PERFORMANCE of factory-built structures;

(d) The safety, AFFORDABILITY, AND PERFORMANCE of hotels, motels, and multi-family structures in areas of the state where no construction standards for hotels, motels, and multi-family structures exist.

(3) The general assembly further declares that the factory-built structure programs administered and rules adopted pursuant to this part 33 ~~shall~~ apply only to work performed in a factory or completed at a site using components shipped with the factory-built structure as reflected in the approved plans for the factory-built structure.

(4) THE GENERAL ASSEMBLY FURTHER DECLARES THAT THE REGULATIONS IN THIS PART 33 ARE SEPARATE AND DISTINCT FROM THE "MOBILE HOME PARK ACT" AND THE "MOBILE HOME PARK ACT DISPUTE RESOLUTION AND ENFORCEMENT PROGRAM" UNDER PARTS 2 AND 11 OF ARTICLE 12 OF TITLE 38.

SECTION 2. In Colorado Revised Statutes, 24-32-3302, **amend** (4), (9), (10), (15), (17), (18), (20) introductory portion, (20)(c), (30), and (31); **repeal** (5) and (7); and **add** (6.5) and (32.5) as follows:

24-32-3302. Definitions. As used in this part 33, unless the context otherwise requires:

(4) "Certified installer" means an installer of manufactured homes who is registered with the division and who has installed at least five manufactured homes in compliance with the manufacturer's instructions or standards created by the division pursuant to this part 33 AND HAS BEEN APPROVED BY THE DIVISION FOR CERTIFIED STATUS.

(5) ~~"Dealer" means any person engaged in the sale, leasing, or distribution of new manufactured homes primarily to persons who in good faith purchase or lease a manufactured home for purposes other than resale.~~

(6.5) "DELIVERY" MEANS, FOR PURPOSES OF SECTION 24-32-3325, AT A LOCATION AGREED TO BY THE SELLER AND PURCHASER.

~~(7) "Distributor" means any person engaged in the sale and distribution of manufactured homes for resale.~~

(9) "Factory-built nonresidential structure" means any structure or component, ~~thereof~~ INCLUDING ANY CLOSED PANEL SYSTEM, designed primarily for commercial, industrial, or other nonresidential use, either permanent or temporary, including a manufactured unit that is wholly or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation on a permanent or temporary foundation at the building site.

(10) "Factory-built residential structure" means a manufactured home, INCLUDING ANY CLOSED PANEL SYSTEM, constructed to the building codes adopted by the board and designed to be installed on a permanent foundation, except for homes constructed to a federal manufactured home construction and safety standard and any home designated as a mobile home.

(15) "Independent contractor" means a local ~~jurisdiction~~ GOVERNMENT, individual, private firm, housing inspector, or engineer who has been approved by the division to perform or enforce installation inspections.

(17) "Installer" means any person who performs the installation of a manufactured home, WHICH INCLUDES MULTI-FAMILY STRUCTURES FOR THOSE WITH KNOWLEDGE, EXPERIENCE, AND SKILLS TO DO SO.

(18) "Local government" means the government of a town, city, county, or city and county THAT IS THE DESIGNATED AUTHORITY CHARGED WITH THE ADMINISTRATION AND ENFORCEMENT OF LOCAL BUILDING CODES.

(20) "Manufactured home" means any preconstructed building unit or combination of preconstructed building units OR CLOSED PANEL SYSTEMS that:

(c) Is constructed in compliance with the federal act, factory-built residential requirements, INCLUDING THOSE FOR MULTI-FAMILY STRUCTURES, or mobile home standards;

(30) "Quality assurance representative" means any state, firm, corporation, or other entity that proposes to conduct production reviews, evaluate a manufacturer's quality control procedures, and perform design evaluations for ~~manufactured housing units~~ FACTORY-BUILT STRUCTURES.

(31) "Registered installer" means an installer who has registered with the division, but who has not ~~yet installed five manufactured homes that have been inspected by the division for compliance with the manufacturer's instructions or standards created by the division pursuant to this part 33~~ APPLIED FOR AND BEEN APPROVED BY THE DIVISION FOR CERTIFIED STATUS.

(32.5) "SELLER" MEANS ANY PERSON ENGAGED IN THE BUSINESS OF SELLING MANUFACTURED HOMES TO BE INSTALLED IN COLORADO.

SECTION 3. In Colorado Revised Statutes, 24-32-3303, **amend** (1) introductory portion, (1)(a), (1)(c), and (1)(d); and **add** (1)(e), (1)(f), and (1)(g) as follows:

24-32-3303. Division of housing - powers and duties - rules. (1) The division ~~shall have~~ HAS the following powers and duties pursuant to this part 33:

(a) To administer and enforce ~~uniform~~ construction and maintenance standards adopted by the board pursuant to this ~~part 33~~; PART 33, INCLUDING THE REGISTRATION STATUS OF MANUFACTURERS;

(c) To review and approve quality assurance representatives that intend to perform inspections and issue insignia of approval pursuant to this part 33; ~~and~~

(d) To promulgate rules in accordance with article 4 of this ~~title~~ TITLE 24 to implement and specify the installer and inspector education and testing requirements set forth in this part 33 and to oversee such education and testing;

(e) TO ENFORCE REQUIREMENTS CONCERNING THE INSTALLATION OF MANUFACTURED HOMES, INCLUDING THE REGISTRATION AND CERTIFICATION STATUS OF INSTALLERS;

(f) TO ENFORCE REQUIREMENTS CONCERNING THE SALE OF MANUFACTURED HOMES, INCLUDING THE REGISTRATION STATUS OF SELLERS; AND

(g) TO ENFORCE REQUIREMENTS CONCERNING THE SAFETY OF HOTELS, MOTELS, AND MULTI-FAMILY STRUCTURES IN AREAS OF THE STATE WHERE NO CONSTRUCTION STANDARDS FOR HOTELS, MOTELS, AND MULTI-FAMILY STRUCTURES EXIST.

SECTION 4. In Colorado Revised Statutes, 24-32-3304, **amend** (1) introductory portion, (1)(c), and (1)(e) as follows:

24-32-3304. State housing board - powers and duties. (1) The board ~~shall have~~ HAS the following powers and duties pursuant to this part 33:

(c) To develop and submit to the general assembly and local ~~government units~~ GOVERNMENTS recommendations for uniform housing standards and building codes;

(e) To promulgate rules establishing specific standards for the use of private inspection and certification entities to perform the division's certification and inspection functions with respect to in-state and out-of-state inspections of ~~manufactured housing units~~ FACTORY-BUILT STRUCTURES. The standards ~~shall~~ MUST allow, consistent with section 13 of article XII of the state constitution, the provisions of part 5 of article 50 of this ~~title~~ TITLE 24, and the rules of the state personnel board, for the use of private inspection and certification entities when the entities are available at a reasonable cost. The standards ~~shall not~~ CANNOT prohibit a manufacturer from having the option to contract with the division or an authorized quality assurance representative to perform inspection and certification functions.

SECTION 5. In Colorado Revised Statutes, 24-32-3305, **amend** (1) introductory portion, (2), (3), (4), and (5) as follows:

24-32-3305. Rules - advisory committee - enforcement. (1) The board ~~shall~~ MUST promulgate rules as it deems necessary to ensure:

(2) Rules promulgated by the board ~~shall~~ MUST include provisions imposing requirements reasonably consistent with recognized and accepted standards adopted by ~~the international conference of building officials; the international code council, the international association of plumbing and mechanical officials; the national fire protection association, AND the Colorado state plumbing and electrical codes, and the structural engineers association of Colorado,~~ or a combination thereof, except to the extent that the board finds that the standards and codes are inconsistent with this part 33. All rules promulgated by the board ~~shall~~ MUST be adopted pursuant to article 4 of this ~~title~~ TITLE 24.

(3) The board ~~shall~~ MUST consult with and obtain the advice of an advisory committee on residential and nonresidential structures in the drafting and promulgation of rules. The committee ~~shall consist~~ CONSISTS of twelve members appointed by the ~~state director of housing~~ DIVISION from the following professional and technical disciplines: One from architecture, one from structural engineering, three from building code enforcement, one from mechanical engineering or contracting, one from electrical engineering or contracting, one from the plumbing industry, ~~one from the mobile home industry,~~ one from the construction design or producer industry, ~~one~~ TWO from manufactured housing, and one from organized labor. Committee members shall be reimbursed for actual and necessary expenses incurred while engaged in official duties.

(4) The division ~~shall~~ MUST enforce the provisions of this part 33 and the rules adopted pursuant thereto.

(5) The division may act as agent for the federal government for the enforcement of ~~mobile~~ MANUFACTURED home safety and construction standards relating to any issue with respect to which a federal standard has been established under the federal act.

SECTION 6. In Colorado Revised Statutes, **amend** 24-32-3306 as follows:

24-32-3306. Recognition of similar standards - compliance with standards.

(1) If the ~~board~~ DIVISION determines that standards for factory-built OR MANUFACTURED housing prescribed by statute or rule of another state or by the United States department of housing and urban development are reasonably consistent with, or equal to, standards required by this part 33, it may provide by rule that factory-built OR MANUFACTURED housing approved by the other state or by the department meets the standards required by this part 33.

(2) No person, partnership, firm, corporation, or other entity may manufacture, sell, or offer for sale within this state any ~~new~~ factory-built structure that is not manufactured in compliance with the applicable provisions of the construction standards adopted by the board.

SECTION 7. In Colorado Revised Statutes, **amend** 24-32-3307 as follows:

24-32-3307. Noncompliance with standards. (1) The ~~state director of housing~~

DIVISION may obtain injunctive relief from the appropriate court to enjoin the manufacture, sale, delivery, or installation of factory-built housing by filing an affidavit specifying the manner in which the housing does not conform to the requirements of this part 33 or to rules promulgated pursuant to section 24-32-3305. The ~~director or the director's designee~~ DIVISION may suspend the issuance of insignias of approval while injunctive relief is being sought.

(2) If the division, acting as agent for the federal government, determines that any manufactured home does not conform to applicable state or federal manufactured home construction and safety standards or that it contains a defect that constitutes an imminent safety hazard after the sale of the manufactured home by a manufacturer to a ~~distributor or dealer~~ SELLER and prior to the sale of the manufactured home by the ~~distributor or dealer~~ SELLER to a purchaser, the manufacturer ~~shall~~ MUST provide for parts replacement and installation reimbursement as required under the federal act or rules adopted pursuant thereto.

SECTION 8. In Colorado Revised Statutes, **amend** 24-32-3308 as follows:

24-32-3308. Violation - penalty. (1) A ~~person~~ MANUFACTURER who violates any of the provisions of this part 33 or any rule promulgated pursuant to section 24-32-3305 ~~shall be~~ IS subject to a ~~civil penalty~~ REVOCATION OR SUSPENSION OF THE MANUFACTURER'S REGISTRATION, FINES, OR ANY OTHER MEASURES AS PRESCRIBED BY RULE PROMULGATED BY THE DIVISION OR OTHER APPLICABLE STATE LAW. THE DIVISION MAY ISSUE A FINE of up to one thousand dollars ~~as determined by the board~~ FOR EACH VIOLATION. MULTIPLE VIOLATIONS OF THIS PART 33 COMMITTED DURING THE CONSTRUCTION OF A SINGLE FACTORY-BUILT STRUCTURE CONSTITUTE ONE VIOLATION. A separate violation ~~shall be~~ IS deemed to have occurred with respect to each ~~housing unit~~ FACTORY-BUILT STRUCTURE involved. A civil penalty collected pursuant to this section ~~shall~~ MUST be transmitted to the state treasurer who ~~shall~~ MUST credit the same to the building regulation fund created in section 24-32-3309.

(2) In the case of any unit certified under the federal act, civil and criminal penalties provided for in the federal act ~~shall~~ MUST be imposed. Any civil penalty collected pursuant to this section ~~shall~~ MUST be transmitted to the state treasurer, who ~~shall~~ MUST credit the same to the building regulation fund.

SECTION 9. In Colorado Revised Statutes, **amend** 24-32-3309 as follows:

24-32-3309. Fees - building regulation fund. (1) (a) The board, by rule, ~~shall~~ MUST establish a schedule of fees designed to pay all direct and indirect costs incurred by the division in carrying out and enforcing the provisions of this part 33; except that the amount of the registration fee for installers of manufactured homes is the amount specified in section 24-32-3315 (5) and the amount of the registration fee for sellers of manufactured homes is the amount specified in section 24-32-3323 (3). Before establishing the schedule of fees, the ~~board shall~~ DIVISION MUST gather information regarding the fees charged by Colorado local governments for the inspection and certification of improvements to residential real property that are not manufactured homes and the fees charged by governmental entities outside of Colorado for the inspection and certification of manufactured homes FOR THE BOARD'S CONSIDERATION. The fees ~~shall~~ MUST be paid to the division and transmitted to the state treasurer, who ~~shall~~ MUST credit the fees to the building

regulation fund, which fund is hereby created in the state treasury and referred to in this section as the "fund". All interest derived from the deposit and investment of ~~moneys~~ MONEY in the fund ~~shall~~ MUST be credited to the fund. Except as otherwise provided in subsection (2) of this section, at the end of any fiscal year, all unexpended and unencumbered ~~moneys~~ MONEY in the fund ~~shall~~ MUST remain in the fund and ~~shall~~ MUST not be credited or transferred to the general fund or any other fund or used for any other purpose other than to offset the costs of implementing and administering and enforcing the provisions of this part 33.

(b) Notwithstanding any provision of this section to the contrary:

(I) On June 1, 2009, the state treasurer ~~shall~~ MUST deduct one million one hundred one thousand three hundred forty-nine dollars from the fund and transfer such sum to the general fund;

(II) On April 1, 2015, the state treasurer ~~shall~~ MUST deduct three hundred thousand dollars from the general fund and transfer such sum to the fund; and

(III) On July 1, 2016, the state treasurer ~~shall~~ MUST deduct two hundred thousand dollars from the general fund and transfer such sum to the fund.

(2) In addition to being used to offset the costs of implementing and administering ~~the provisions of~~ this part 33 as specified in subsection (1) of this section, ~~moneys~~ MONEY in the fund may be expended:

(a) To provide education and training to manufacturers, ~~dealers~~, SELLERS, installers, building department employees, elected officials, and, as appropriate, other persons affected by the mobile, manufactured, and factory-built structures industry regarding the building codes and state program requirements applicable to mobile, manufactured, and factory-built structures within the state;

(b) To provide consumer training throughout the state that will help a consumer ~~to~~ make informed decisions when purchasing or considering the purchase of a mobile home, manufactured home, or factory-built structure; and

(c) To provide education and grants that will help manufacturers, ~~dealers~~, SELLERS, installers, owners, and, as appropriate, other parties affected by the mobile, manufactured, and factory-built structures industry address safety issues that affect mobile, manufactured, and factory-built structures.

SECTION 10. In Colorado Revised Statutes, **amend** 24-32-3310 as follows:

24-32-3310. Local enforcement. Nothing in this part 33 ~~shall~~ MAY interfere with the right of local governments to enforce local rules governing the installation of factory-built housing ~~approved pursuant to this part 33~~ PURSUANT TO SECTION 24-32-3318 THAT BEAR THE INSIGNIA OF APPROVAL ISSUED BY THE DIVISION PURSUANT TO SECTION 24-32-3311 (1)(a) if the local rules are not inconsistent with state rules adopted pursuant to section 24-32-3305.

SECTION 11. In Colorado Revised Statutes, **amend** 24-32-3311 as follows:

24-32-3311. Certification of factory-built residential and nonresidential structures. (1) (a) Factory-built structures ~~manufactured~~, CONSTRUCTED, sold, or offered for sale within this state after the effective date of the rules promulgated pursuant to this part 33 ~~shall~~ MUST bear an insignia of approval issued by the division and affixed by the division or an authorized quality assurance representative.

(a.3) MANUFACTURERS OF FACTORY-BUILT STRUCTURES TO BE INSTALLED IN THE STATE MUST REGISTER WITH THE DIVISION AS PROVIDED IN BOARD RULES AND ARE SUBJECT TO ENFORCEMENT ACTION, INCLUDING SUSPENSION OR REVOCATION OF THEIR REGISTRATION FOR FAILING TO COMPLY WITH REQUIREMENTS CONTAINED IN THIS PART 33 AND BOARD RULES.

(a.5) Factory-built structures ~~manufactured~~ CONSTRUCTED or sold for transportation to and installation in another state need not bear an insignia of approval issued by the division.

(a.7) THE DIVISION MUST CONDUCT A FULL DESIGN AND PLAN REVIEW AND INSPECTION OF THE CONSTRUCTION OF FACTORY-BUILT STRUCTURES TO THE EXTENT THE DESIGN AND CONSTRUCTION RELATES TO WORK PERFORMED OFFSITE OR WORK THAT IS COMPLETED ONSITE USING COMPONENTS SHIPPED WITH THE FACTORY-BUILT STRUCTURE AS REFLECTED IN THE APPROVED PLANS FOR THE FACTORY-BUILT STRUCTURE. A LOCAL GOVERNMENT MAY NOT DUPLICATE EFFORTS TO REVIEW OR APPROVE THE CONSTRUCTION OF A FACTORY-BUILT STRUCTURE THAT IS UNDER REVIEW OR APPROVED BY THE DIVISION NOR MAY IT CHARGE BUILDING PERMIT FEES TO COVER THE COST OF PLAN REVIEWS OR INSPECTIONS PERFORMED BY THE DIVISION. A LOCAL GOVERNMENT'S JURISDICTION IS LIMITED TO WORK DONE ONSITE IN COMPLIANCE WITH SECTION 24-32-3311 (6) AND INCLUDES ASSOCIATED PLAN REVIEW, PERMITS, INSPECTIONS, AND FEES. THE DIVISION MAY AUTHORIZE A LOCAL GOVERNMENT TO INSPECT AND APPROVE WORK THAT IS COMPLETED ONSITE USING COMPONENTS SHIPPED WITH THE FACTORY-BUILT STRUCTURE AS REFLECTED IN THE APPROVED PLANS FOR THE FACTORY-BUILT STRUCTURE. A LOCAL GOVERNMENT MAY CHARGE INSPECTION FEES IF AUTHORIZED TO ASSIST THE DIVISION TO INSPECT AND APPROVE WORK THAT IS COMPLETED ONSITE USING COMPONENTS SHIPPED WITH THE FACTORY-BUILT STRUCTURE AS REFLECTED IN THE APPROVED PLANS FOR THE FACTORY-BUILT STRUCTURE.

(b) Rented or leased factory-built structures that are occupied on or after March 1, 2009, ~~shall~~ MUST bear an insignia of approval issued by the division and affixed by the division or an authorized quality assurance representative.

(2) Factory-built residential structures ~~manufactured~~ CONSTRUCTED prior to March 31, 1971, ~~shall be~~ ARE subject to any existing state or local government rules relating to the ~~manufacture~~ CONSTRUCTION of the structures.

(3) Factory-built nonresidential structures ~~manufactured~~ CONSTRUCTED prior to ~~June 31~~, JULY 1, 1991, ~~shall be~~ ARE subject to any existing state or local government rules relating to the ~~manufacture~~ CONSTRUCTION of the structures.

(4) A factory-built structure bearing an insignia of approval issued by the division and affixed by the division or an authorized quality assurance representative

pursuant to this part 33 ~~shall be~~ is deemed to be designed and constructed in compliance with the requirements of all ~~ordinances or rules, including those for electrical and plumbing,~~ CODES AND STANDARDS enacted or adopted by the state ~~or by any local government~~ AND ACCOUNTING FOR ANY LOCAL GOVERNMENT INSTALLATION REQUIREMENTS ADOPTED IN COMPLIANCE WITH SECTIONS 24-32-3310 AND 24-32-3318 that are applicable to the ~~manufacture~~ CONSTRUCTION of factory-built structures to the extent that the design and construction relates to work performed in a factory or work that is completed at a site using components shipped with the factory-built structure as reflected in the approved plans for the factory-built structure. The determination by the ~~board~~ DIVISION of the scope of such approval is final. AN INSIGNIA OF APPROVAL AFFIXED TO THE FACTORY-BUILT STRUCTURE DOES NOT EXPIRE UNLESS THE DESIGN AND CONSTRUCTION OF THE FACTORY-BUILT STRUCTURE HAS BEEN MODIFIED FROM APPROVED PLANS.

(5) No factory-built structures bearing an insignia of approval issued by the division and affixed by the division or an authorized quality assurance representative pursuant to this part 33 ~~shall~~ MAY be in any way modified contrary to the rules promulgated pursuant to section 24-32-3305 prior to or during installation unless approval is first obtained from the division.

(6) All work at a site that is unrelated to the installation of a factory-built structure or components shipped with the factory-built structure, including additions, modifications, and repairs to a factory-built structure, ~~shall be~~ ARE subject to applicable local government rules.

SECTION 12. In Colorado Revised Statutes, **amend** 24-32-3312 as follows:

24-32-3312. Notification and correction of defects. A manufacturer to be certified as meeting federal standards ~~shall~~ MUST furnish notification of any defect in a manufactured home produced by the manufacturer that the manufacturer determines, in good faith, relates to a manufactured home construction or safety standard or constitutes an imminent safety hazard to the purchaser of the manufactured home within a reasonable time after the manufacturer has discovered the defect in accordance with the provisions under the federal act or any board rule.

SECTION 13. In Colorado Revised Statutes, **amend** 24-32-3313 as follows:

24-32-3313. Injunctive relief. The ~~state director of housing~~ DIVISION may request the appropriate court to enjoin the sale or delivery of any factory-built structure upon an affidavit, specifying the manner in which the factory-built structure does not conform to the requirements of this part 33 or the rules promulgated pursuant to this part 33. The ~~director~~ DIVISION may suspend the authority of a manufacturer to affix insignias while injunctive relief is being sought.

SECTION 14. In Colorado Revised Statutes, **amend** 24-32-3314 as follows:

24-32-3314. Cooperation with department of revenue. The division ~~shall~~ MAY cooperate with the department of revenue in any manner feasible to ensure that the provisions of this part 33 are carried out.

SECTION 15. In Colorado Revised Statutes, 24-32-3315, **amend** (1), (2), (3),

(4) introductory portion, (4)(c), (5), (6), and (7) as follows:

24-32-3315. Installers of manufactured homes - registration - educational requirements. (1) (a) Any installer in this state ~~shall~~ MUST first register with the division. A registered installer ~~shall be~~ is responsible for supervising all employees and for the proper and competent performance of all employees working under ~~his or her~~ THEIR supervision.

(b) Persons who ~~shall~~ ARE not ~~be~~ required to register as an installer with the division include:

(I) A person employed by a registered or certified installer, as well as a person employed by a legal or commercial entity employing a registered or certified installer when performing installation functions under the direct on-site supervision of the registered or certified installer. ~~and~~

(II) ~~A person who installs one manufactured home in a twelve-month period on real property owned by the person.~~

(c) A homeowner who installs the owner's own manufactured home THAT IS A ONE- OR TWO-FAMILY DWELLING INTENDED FOR THEIR OWN PERSONAL USE is not required to register as an installer with the division but ~~shall~~ MUST comply with all provisions of this part 33 other than registration provisions. A HOMEOWNER IS LIMITED TO THE INSTALLATION OF ONE MANUFACTURED HOME IN ANY TWELVE-MONTH PERIOD AND A TOTAL OF NO MORE THAN FIVE DURING THEIR LIFETIME. A HOMEOWNER INSTALLING THEIR OWN HOME IS REQUIRED TO DO THEIR OWN INSTALLATION WORK. IF THE HOMEOWNER HAS ANOTHER PERSON PERFORM INSTALLATION WORK ON THEIR MANUFACTURED HOME, THAT PERSON IS REQUIRED TO BE A REGISTERED OR CERTIFIED INSTALLER.

(2) Each registered installer ~~shall~~ MUST file with the division a letter of credit, certificate of deposit issued by a licensed financial institution, or surety bond issued by an authorized insurer in ~~the amount of ten thousand dollars~~ AN AMOUNT AND PROCESS ESTABLISHED BY THE BOARD THROUGH RULE-MAKING for the performance of an installation pursuant to the manufacturer's instructions or standards promulgated by the division. The letter of credit, certificate of deposit, or surety bond ~~shall~~ MUST be filed with the division at the same time the initial application for registration is filed.

(3) An application for registration or certification as a manufactured home installer, whether initial or renewal, ~~shall~~ MUST be submitted on a form provided by the division and ~~shall be notarized and~~ verified by a declaration DATED AND signed under penalty of perjury by the applicant. The application ~~shall~~ MUST contain, in addition to any other information the division may reasonably require, the name, address, and telephone number of the applicant. The division shall make the application and declaration available for public inspection.

(4) On and after July 1, 2008, in order to be registered initially as a manufactured home installer, an applicant ~~shall~~ MUST:

(c) Carry and provide proof of liability insurance in an amount ~~set by the division~~

~~but not less than one million dollars~~ AND PROCESS ESTABLISHED BY THE BOARD THROUGH RULEMAKING.

(5) A registration issued pursuant to this section ~~shall be~~ IS valid for one year from the date of issuance and ~~shall not~~ CANNOT be transferred or assigned to another person. The amount of the registration fee ~~shall~~ MUST be no more than two hundred fifty dollars. If any of the application information for the registered installer changes after the issuance of a registration, the registered installer ~~shall~~ MUST notify the division in writing within thirty days from the date of the change. The division may suspend, revoke, or deny renewal of a registration if the registered installer fails to notify the division of any change in the application.

(6) Any registered installer seeking to renew registration ~~shall~~ MUST, at the time of applying for renewal, provide proof of liability insurance, proof of completion of ~~eight hours of division-approved installation education within the past twelve months~~ AS ESTABLISHED BY THE BOARD THROUGH RULE-MAKING, and a letter of credit, certificate of deposit, or surety bond for the registration term in compliance with subsections (2) and (4) of this section.

(7) (a) Any registered installer who has performed five installations that have passed inspection by the division may apply to the division for certification. The division ~~shall~~ WILL issue certification to qualified registered installers. The division ~~shall not~~ CANNOT charge a fee for certification of installers.

~~(b) Installations performed by certified installers shall only be inspected by the division or an independent contractor upon the written request of the owner, installer, manufacturer, or retailer. The owner, installer, manufacturer, or retailer shall have the right to be present at any inspection.~~

SECTION 16. In Colorado Revised Statutes, **add** 24-32-3315.5 as follows:

24-32-3315.5. Contract for the installation of manufactured homes - requirements. (1) A REGISTERED OR CERTIFIED INSTALLER MUST PROVIDE A CONTRACT FOR THE INSTALLATION OF EACH MANUFACTURED HOME AND MAKE THE FOLLOWING DISCLOSURES IN ANY CONTRACT FOR THE INSTALLATION OF A MANUFACTURED HOME:

(a) THAT THE INSTALLER HAS A LETTER OF CREDIT, CERTIFICATE OF DEPOSIT, OR SURETY BOND FILED WITH THE DIVISION FOR THE PERFORMANCE OF THE INSTALLATION OF THE MANUFACTURED HOME;

(b) THAT AN AGGRIEVED PERSON MAY FILE A COMPLAINT WITH THE DIVISION CONCERNING THE PERFORMANCE OF THE INSTALLATION OF THE MANUFACTURED HOME, INCLUDING MAKING A CLAIM AGAINST THE LETTER OF CREDIT, CERTIFICATE OF DEPOSIT, OR SURETY BOND FILED WITH THE DIVISION; AND

(c) THAT AN AGGRIEVED PERSON MAY BRING A CIVIL ACTION PURSUANT TO THE "COLORADO CONSUMER PROTECTION ACT", SECTION 6-1-105 (1)(ss), TO REMEDY VIOLATIONS OF THE INSTALLATION REQUIREMENTS IN THIS PART 33. HOWEVER, DAMAGES ARE LIMITED IN ACCORDANCE WITH SECTION 6-1-113 (2.7).

(2) ANY INSTALLER WHO FAILS TO PROVIDE A CONTRACT AS REQUIRED BY THIS SECTION, INCLUDING ALL DISCLOSURES IS SUBJECT TO THE SUSPENSION OR REVOCATION OF THE REGISTRATION BY THE DIVISION.

SECTION 17. In Colorado Revised Statutes, **amend** 24-32-3316 as follows:

24-32-3316. Compliance with manufacturer's installation instructions.

(1) EXCEPT AS PROVIDED BY SUBSECTION (2) OR (3) OF THIS SECTION, any installation of a manufactured home in this state shall be performed in strict accordance with the applicable manufacturer's installation instructions. A COPY OF THE MANUFACTURER'S INSTRUCTIONS OR THE STANDARDS PROMULGATED BY THE DIVISION MUST BE AVAILABLE AT THE TIME OF INSTALLATION AND INSPECTION.

(2) IF, IN THE EXERCISE OF REASONABLE PROFESSIONAL JUDGMENT, THE INSTALLER IDENTIFIES ANY REASON WHY STRICT COMPLIANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS WOULD CAUSE HARM OR WOULD OTHERWISE BE UNSUITED TO THE PARTICULAR CIRCUMSTANCES, THE INSTALLER MUST CONTACT THE DIVISION ABOUT HOW TO PROCEED.

(3) ~~Where the~~ IF A manufacturer's INSTALLATION instructions are not AVAILABLE OR applicable TO A PARTICULAR INSTALLATION, THE installation ~~shall be in accordance~~ MUST PROCEED IN COMPLIANCE with standards promulgated by the division. ~~A copy of the manufacturer's instructions or the standards promulgated by the division shall be available at the time of installation and inspection.~~

SECTION 18. In Colorado Revised Statutes, **amend** 24-32-3317 as follows:

24-32-3317. Installation of manufactured homes - certificates - inspections - inspector qualification and education requirements - rules. (1) Before beginning the installation of a manufactured home, the owner or registered installer of a manufactured home ~~shall make an application for an installer's certificate~~ MUST SUBMIT A REQUEST TO THE DIVISION AND RECEIVE AN INSTALLATION AUTHORIZATION from the division ON A DIVISION-APPROVED FORM, UNLESS THE INSTALLATION IS OCCURRING IN A JURISDICTION WHERE A LOCAL GOVERNMENT IS PARTICIPATING AS AN INDEPENDENT CONTRACTOR, IN WHICH CASE THE OWNER OR REGISTERED INSTALLER IS TO FOLLOW THE LOCAL GOVERNMENT'S PROCESS FOR RECEIVING AUTHORIZATION TO INSTALL A MANUFACTURED HOME.

(2) The division may certify any installer who provides evidence of five or more installations of manufactured homes performed by the installer for which ~~certificates~~ INSTALLATION AUTHORIZATIONS have previously been issued pursuant to this section when, in the judgment of the division, the installer has demonstrated the ability to successfully complete installations of manufactured homes in accordance with the requirements of this part 33.

(2.3) An installer certified by the division ~~may, at the time of obtaining~~ IS NOT REQUIRED TO OBTAIN an installation ~~certificate required by subsection (1) of this section;~~ AUTHORIZATION FROM THE DIVISION, BUT IS REQUIRED TO obtain a ~~standard form of certificate of installation to be completed by the certified installer~~ AUTHORIZATION TO INSTALL A MANUFACTURED HOME FROM ANY LOCAL GOVERNMENT PARTICIPATING AS AN INDEPENDENT CONTRACTOR. AN INSTALLATION

INSIGNIA ISSUED BY THE DIVISION IS TO BE AFFIXED ON THE MANUFACTURED HOME BY THE CERTIFIED INSTALLER upon completion of the installation of the manufactured home in accordance with the requirements of this part 33 ~~The certified installer shall, upon attachment of the certificate of installation to the manufactured home, transmit a report of the certificate to the division.~~ AND BOARD RULES IN ANY JURISDICTION NOT PARTICIPATING AS AN INDEPENDENT CONTRACTOR.

(2.5) THE DIVISION OR INDEPENDENT CONTRACTOR WILL AFFIX AN INSTALLATION INSIGNIA UPON PASSING AN INSPECTION OF AN INSTALLATION THAT WAS COMPLETED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS PART 33 AND BOARD RULES. A LOCAL GOVERNMENT PARTICIPATING AS AN INDEPENDENT CONTRACTOR IS TO AUTHORIZE, INSPECT, AND CERTIFY ALL INSTALLATIONS OCCURRING IN ITS JURISDICTION ON BEHALF OF THE DIVISION, INCLUDING ANY PERFORMED BY A CERTIFIED INSTALLER.

(2.7) ANY INSTALLATIONS CERTIFIED ON BEHALF OF THE DIVISION BY A CERTIFIED INSTALLER OR INDEPENDENT CONTRACTOR MUST BE REPORTED TO THE DIVISION IN A MANNER SPECIFIED BY THE DIVISION.

(2.9) The division or independent contractor at the request of the division may, at the division's sole discretion, inspect the installation of any manufactured home performed by a certified installer pursuant to this ~~subsection (2)~~ SUBSECTION (2.9) and may require the certified installer to correct, within a period established by rule promulgated by the board, any defects or deficiencies in the installation. The division may revoke the certification of any installer certified pursuant to this ~~subsection (2)~~ SUBSECTION (2.9) when, in the judgment of the division, the installer has performed installations of a manufactured home in violation of the requirements of this part 33. Any installer whose certification has been so revoked may apply for recertification in accordance with rules promulgated by the division.

(3) (a) The division may FINE, suspend, or revoke the registration of a registered installer if the installer fails to:

- (I) Comply with the registration requirements of section 24-32-3315; or
- (II) Otherwise pay to the owner or occupant of a manufactured home:

(A) The cost of an inspection that fails to meet the requirements of the manufacturer's instructions or the standards promulgated by the division OR ANY SUBSEQUENT REQUIRED INSPECTION;

(B) The cost of any subsequent repairs that are necessary to bring the installation into compliance with the manufacturer's instructions or the standards promulgated by the division; or

(C) ~~The cost of subsequent required inspections~~ A REFUND OF ANY MONEY PAID UP FRONT THAT DID NOT RESULT IN A COMPLETE INSTALLATION OF THE MANUFACTURED HOME OR THE COST OF COMPLETING THE INSTALLATION BY A DIFFERENT REGISTERED INSTALLER.

- (b) ~~The division may execute a performance bond on behalf of an owner~~ A

FINANCIAL INSTITUTION OR AUTHORIZED INSURER IS REQUIRED TO MAKE PAYMENT TO THE DIVISION MAKING A CLAIM AGAINST THE LETTER OF CREDIT, CERTIFICATE OF DEPOSIT, OR SURETY BOND IF A COURT OF COMPETENT JURISDICTION HAS RENDERED A FINAL JUDGMENT IN FAVOR OF THE DIVISION BASED ON A FINDING THAT THE REGISTERED INSTALLER FAILED TO PERFORM ON THE INSTALLATION OF THE MANUFACTURED HOME AS REQUIRED BY THIS PART 33 OR BOARD RULES OR UPON A CEASING OF BUSINESS OPERATIONS OR A BANKRUPTCY FILING BY THE REGISTERED INSTALLER. ANY INSTALLER WHO FAILS TO PROVIDE A LETTER OF CREDIT, CERTIFICATE OF DEPOSIT, OR SURETY BOND AS REQUIRED BY SECTION 24-32-3315(2) AND (6) OR WHO OTHERWISE FAILS TO PAY ANY JUDGMENT BY A COURT OF COMPETENT JURISDICTION IN FAVOR OF THE DIVISION IS SUBJECT TO THE SUSPENSION OR REVOCATION OF THE REGISTRATION BY THE DIVISION.

(c) THE DIVISION MAY ALSO TAKE ENFORCEMENT ACTION ON THE REGISTRATION OF AN INSTALLER FOR FAILING TO COMPLY WITH ANY OTHER INSTALLATION REQUIREMENTS CONTAINED IN THIS PART 33 AND ANY BOARD RULES.

(4) An owner ~~and~~ OR a registered installer ~~shall~~ MUST display an ~~installer's certificate~~ INSTALLATION AUTHORIZATION at the site of a manufactured home to be installed until a ~~certificate of installation~~ AN INSTALLATION INSIGNIA is issued by the division OR INDEPENDENT CONTRACTOR, UNLESS THE INSTALLATION IS OCCURRING IN A JURISDICTION WHERE A LOCAL GOVERNMENT IS PARTICIPATING AS AN INDEPENDENT CONTRACTOR, IN WHICH CASE THE OWNER OR REGISTERED INSTALLER IS TO FOLLOW THE LOCAL GOVERNMENT'S PROCESS FOR IDENTIFYING A MANUFACTURED HOME TO BE INSTALLED UNTIL THE DIVISION'S INSTALLATION INSIGNIA IS ISSUED BY THE LOCAL GOVERNMENT.

(5) (a) The division shall adopt rules that specify a standard form to be used statewide by the division or an independent contractor as a certificate of installation certifying that a manufactured home was installed in compliance with the provisions of this part 33. However, the certificate of installation applies only to installation of a manufactured home built in a factory and components shipped with the manufactured home as reflected in the approved plans for the manufactured home. The certificate of installation ~~shall~~ MUST include but not be limited to the following:

(I) The name, address, and telephone number of the division;

(II) The date the installation was completed; and

(III) The name, address, telephone number, and registration number of the registered installer who performed the installation.

(b) If a vacant manufactured home fails an installation inspection because of conditions that endanger the health or safety of the occupant, the manufactured home ~~shall not~~ CANNOT be occupied. If a manufactured home fails an installation inspection because of conditions that do not endanger the health or safety of the occupant, the manufactured home may be occupied pending the correction of those defects or deficiencies that served as the basis of the failed inspection.

(6) In addition to inspections performed pursuant to ~~subsection (2)~~ SUBSECTION (2.9) of this section, the division or the independent contractor that performs

inspections and enforcement of proper installation of manufactured homes may inspect the installation of a manufactured home upon request filed by the owner, installer, manufacturer, or ~~retailer~~SELLER of the manufactured home. The inspection ~~shall~~ MUST be paid for by the party that requested the inspection.

(7) If the installation of a manufactured home by an installer has failed the inspection conducted by the division or the independent contractor and it is determined by the division or the independent contractor that the installer has violated any of the installation standards promulgated by the division, the installer ~~shall~~ MUST reimburse the party requesting the inspection for the cost of the failed inspection and ~~shall~~ MUST pay for any subsequent repairs necessary to bring the installation into compliance with the manufacturer's instructions or standards promulgated by the division. The installer ~~shall~~ MUST also pay for any subsequent inspections required by the division or the independent contractor. Failure of the installer to pay for any inspections or subsequent repairs deemed necessary by the division or the independent contractor shall result in the forfeiture of the installer's performance bond on behalf of the owner of the manufactured home.

(8) The division may authorize an independent contractor to perform inspections and enforcement of proper installation of manufactured homes. The division may provide training for independent contractors. Independent contractors ~~shall~~ MUST be certified by the division to perform installation inspections. The division ~~shall~~ MUST establish by rule the qualifications of an inspector and the areas of expertise necessary for inspecting manufactured homes. On and after July 1, 2008, a new inspector must pass a division-approved installation test. The qualifications for an inspector include but are not limited to those of a professional civil engineer or local housing inspector or independent contractor. Commencing in 2009, inspectors ~~shall~~ MUST also complete, and maintain records of the completion of, ~~either:~~ OF DIVISION-APPROVED EDUCATION AS ESTABLISHED BY THE BOARD THROUGH RULEMAKING.

~~(a) Twelve hours of division-approved education and twelve hours of international code council education every three calendar years; or~~

~~(b) Twenty-four hours of division-approved education every three calendar years.~~

(9) If an installation or subsequent repair of an installation by an installer fails to meet the standards promulgated by the division within a period determined by the division, the division ~~shall~~ MUST investigate the actions of the installer. The division may revoke, suspend, or refuse to renew the registration or certification of the installer for failing to comply with the division's standards regarding installation of a manufactured home. Any independent contractor that knows of an installer whose installations fail inspection and have not been cured by subsequent repair ~~shall~~ MUST request that the division investigate the installer.

(10) The ~~division shall~~ BOARD MUST adopt rules concerning:

(a) A standard installer inspection form to be used statewide by the division or an independent contractor that performs manufactured home installation inspection and enforcement activities;

(b) Certification requirements for independent contractors to use to inspect installations;

(c) Proper installation inspection and enforcement standards;

(d) A standard certificate of installation to be used statewide by the division; and

(e) Any other rule necessary for the implementation of manufactured home installation requirements in this part 33.

SECTION 19. In Colorado Revised Statutes, **amend** 24-32-3318 as follows:

24-32-3318. Local installation standards preempted. A local government ~~unit~~ may not adopt less stringent standards for the installation of a manufactured home than those promulgated by the division. A local government ~~unit~~ may not, without express consent by the division, adopt different standards than the standards for the installation of a manufactured home promulgated by the division. Nothing in this section ~~shall~~ MAY preclude a local government ~~unit~~ from enacting standards for ~~manufactured~~ MOBILE OR MODULAR homes concerning unique public safety requirements RELATED TO GEOGRAPHIC OR CLIMATIC CONDITIONS, such as weight restrictions for ROOF SNOW LOADS OR WIND SHEAR FACTORS, as otherwise permitted by law. A LOCAL GOVERNMENT MAY NOT IMPOSE WEIGHT RESTRICTIONS FOR ROOF SNOW LOADS OR WIND SHEAR FACTORS ON A MANUFACTURED HOME BUILT TO THE FEDERAL MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS THAT ARE DIFFERENT FROM WHAT HAS BEEN ZONED FOR THE STATE OF COLORADO BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PURSUANT TO THE FEDERAL ACT OR IMPOSE ANY OTHER REQUIREMENTS THAT WOULD IMPACT THE DESIGN AND CONSTRUCTION OF THE HOME, UNLESS AN EXEMPTION HAS BEEN GRANTED FOR THAT JURISDICTION BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT. NOTHING IN THIS SECTION PROHIBITS A LOCAL GOVERNMENT FROM REQUIRING ONSITE MITIGATION TO ADDRESS UNIQUE PUBLIC SAFETY REQUIREMENTS RELATED TO GEOGRAPHIC AND CLIMATIC CONDITIONS, SUCH AS WEIGHT RESTRICTIONS FOR ROOF SNOW LOADS AND WIND SHEAR FACTORS, ON A MANUFACTURED HOME BUILT TO THE FEDERAL MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS, SO LONG AS THERE IS NO INTERFERENCE WITH THE FEDERAL STANDARDS FOR THE DESIGN AND CONSTRUCTION OF THE MANUFACTURED HOME.

SECTION 20. In Colorado Revised Statutes, **amend** 24-32-3319 as follows:

24-32-3319. Prohibited acts. It shall be unlawful for any person to perform an installation without regard to whether the person receives compensation, except as provided in this part 33. Any intentional violation of the installation provisions of this part 33 constitutes a deceptive trade practice subject to ~~the provisions of article 1 of title 6, C.R.S. SECTION 6-1-105 (1)(ss) AND THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1 OF TITLE 6. However, damages shall~~ MUST be limited in accordance with ~~the provisions of section 6-1-113 (2.7). C.R.S.~~

SECTION 21. In Colorado Revised Statutes, **amend** 24-32-3320 as follows:

24-32-3320. Penalty for violation. Any person found to have performed an

installation in a manner contrary to the requirements of this part 33 ~~shall be~~ is subject to revocation or suspension of an installer's registration, fines, or any other measures as prescribed by rule promulgated by the division or other applicable Colorado law. THE DIVISION MAY ISSUE A FINE OF UP TO ONE THOUSAND DOLLARS FOR EACH VIOLATION. Multiple violations of this part 33 committed during a single installation ~~shall constitute~~ CONSTITUTES one violation. Each installation performed in violation of this part 33 ~~shall~~ WILL constitute a separate violation. Fines ~~shall~~ MUST be paid to the division and transmitted to the state treasurer who ~~shall~~ MUST credit the fees to the building regulation fund created in section 24-32-3309.

SECTION 22. In Colorado Revised Statutes, **amend** 24-32-3321 as follows:

24-32-3321. Investigations of consumer complaints. The division may investigate complaints filed by owners, occupants, or other consumers relating to the CONSTRUCTION OF FACTORY-BUILT STRUCTURES AND MANUFACTURED HOMES, AND THE SALE OR installation of manufactured homes as necessary to enforce and administer this part 33.

SECTION 23. In Colorado Revised Statutes, **amend** 24-32-3322 as follows:

24-32-3322. Training of inspectors - acceptance of gifts, grants, and donations. (1) On and after July 1, 2000, the division ~~shall~~ MUST train independent contractors to perform installation inspections for manufactured homes. The training ~~shall~~ MUST enable independent contractors who successfully complete the training to become certified by the division.

(2) On and after July 1, 2000, the division may accept gifts, grants, or donations for the training of independent contractors. The gifts, grants, or donations received ~~shall~~ MUST be transmitted to the state treasurer who ~~shall~~ MUST credit the ~~moneys~~ MONEY to the building regulation fund created in section 24-32-3309.

SECTION 24. In Colorado Revised Statutes, 24-32-3323, **amend** (1), (2), (3), (4) introductory portion, (4)(c), and (4)(d); and **add** (4)(e) as follows:

24-32-3323. Sellers of manufactured homes - registration. (1) Any ~~person whose business involves the sale of manufactured homes shall be~~ SELLER IS required to register with the division before engaging in the business of selling manufactured homes TO BE INSTALLED in Colorado. ~~Any person who wishes to engage in the business of selling manufactured homes in Colorado through advertising or sales activities but who does not operate a retail location in Colorado shall obtain a single registration. Any person who wishes to engage in the business of selling manufactured homes from one or more retail locations in Colorado shall obtain a separate registration for each location. The registration requirements of this section shall not apply to any individual who, for a salary, commission, or compensation of any kind, is employed directly or indirectly by any registered manufactured home seller to sell or negotiate for the sale of manufactured homes.~~

(2) An application for a registration or renewal required by this section ~~shall~~ MUST be submitted on a form provided by the division and ~~shall~~ MUST be verified by a declaration signed AND DATED, under penalty of perjury, by a principal of the manufactured home seller. The application ~~shall~~ MUST contain, in addition to such

other information regarding the conduct of the manufactured home seller's business as the division may reasonably require, the name, address, and position of each principal of the manufactured home seller and each person who exercises management responsibilities as part of the manufactured home seller's business activities. The application ~~shall~~ MUST also contain the address and telephone number of each retail location operated by the applicant as well as the location and account number of the separate fiduciary account required by section 24-32-3324 (1) AND ANY BOARD RULES. ~~The declaration shall specify the date and location of the signing, and the division shall~~ MUST preserve the application and declaration and make them available for public inspection.

(3) A registration issued pursuant to subsection (2) of this section ~~shall be~~ is valid for one year after the date of issuance. The amount of the registration fee ~~shall~~ CANNOT be ~~no~~ more than two hundred dollars. If, after issuance of a registration, any of the required information submitted with the application for the registration pursuant to subsection (2) of this section becomes inaccurate, a principal of the manufactured home seller ~~shall~~ MUST notify the division in writing of the inaccuracy within thirty days and provide the division with accurate updated information.

(4) For purposes of this section, a person is not ~~engaged in the business of selling manufactured homes~~ A SELLER if the person:

(c) Sells a manufactured home for salvage or nonresidential use; ~~or~~

(d) Directly or indirectly sells, in any calendar year, three or fewer previously occupied manufactured homes that are owned by a manufactured home park owner and are located within one or more manufactured home parks in Colorado; ~~OR~~

(e) FOR A SALARY, COMMISSION, OR COMPENSATION OF ANY KIND, IS EMPLOYED DIRECTLY OR INDIRECTLY BY ANY REGISTERED MANUFACTURED HOME SELLER TO SELL OR NEGOTIATE FOR THE SALE OF MANUFACTURED HOMES.

SECTION 25. In Colorado Revised Statutes, **amend** 24-32-3324 as follows:

24-32-3324. Escrow and bonding requirements. (1) Any person required to register with the division pursuant to section 24-32-3323 ~~shall~~ MUST COMPLY WITH ANY escrow ~~all manufactured home sale down payments in a separate fiduciary account in a bank or trust company that does business in the state of Colorado until the manufactured home is delivered to the purchaser~~ REQUIREMENTS AS ESTABLISHED BY THE BOARD THROUGH RULEMAKING.

(2) A person required to register with the division pursuant to section ~~24-32-3323~~ ~~shall~~ SELLER MUST provide a letter of credit, certificate of deposit issued by a licensed financial institution, or surety bond issued by an authorized insurer in ~~the~~ AN amount of fifty thousand dollars and conditioned upon the person's refund of any home sale down payment in accordance with the terms of the contract pursuant to which the payment was received. A person required to register with the division pursuant to section 24-32-3323 who wishes to engage in the business of selling ~~manufactured homes from one or more retail locations in Colorado need not provide a separate letter of credit, certificate of deposit, or surety bond for each retail location, but may meet the requirements of this section by providing a single letter~~

of credit, certificate of deposit, or surety bond. The letter of credit, certificate of deposit, or surety bond shall be filed with the division at the same time as the initial application for registration and shall be drawn in favor of the attorney general for the use of the people of Colorado. At least once per month, the division shall send the attorney general an updated list of all persons registered and bonded pursuant to the requirements of this part 33. The letter of credit, certificate of deposit, or surety bond shall be revocable only upon the written consent of the attorney general. However, a AND PROCESS ESTABLISHED BY THE BOARD THROUGH RULEMAKING. A financial institution or authorized insurer shall only be required to make payment to a person THE DIVISION making a claim against the letter of credit, certificate of deposit, or surety bond if a court of competent jurisdiction has rendered a final judgment in favor of such person THE DIVISION based on a finding that the registered person SELLER failed to DELIVER THE MANUFACTURED HOME OR refund a manufactured home down payment PAYMENTS MADE TOWARD THE PURCHASE OF THE MANUFACTURED HOME PURSUANT TO THIS PART 33 OR BOARD RULES or provide a reasonable per diem living expense in violation of the contractual provisions required by section 24-32-3325 or upon a ceasing of business operations or a bankruptcy filing by the registered person. SELLER. Any person who is required to register with the division pursuant to section 24-32-3323 and SELLER who fails to provide a letter of credit, certificate of deposit, or surety bond as required by this subsection (2) or who otherwise fails to pay any judgment by a court of competent jurisdiction in favor of a purchaser of a manufactured home shall be THE DIVISION IS subject to the suspension or revocation of the registration by the division.

SECTION 26. In Colorado Revised Statutes, amend 24-32-3325 as follows:

24-32-3325. Contract for sale of manufactured home - requirements. (1) A seller who is required to register with the division pursuant to section 24-32-3323 shall MUST PROVIDE A CONTRACT WITH THE SALE OF EACH MANUFACTURED HOME AND make the following disclosures in any contract for the sale of a manufactured home:

(a) That the buyer PURCHASER may have no legal right to rescind the contract absent delinquent delivery of the manufactured home or the existence of a specific right of rescission set forth in the contract;

(b) That IF REQUIRED TO MAINTAIN AN ESCROW ACCOUNT BY THE DIVISION, the seller has a separate fiduciary account for the escrow of home sale down payments pending delivery of the manufactured home IN COMPLIANCE WITH BOARD RULES and a letter of credit, certificate of deposit, or surety bond filed with the division for the repayment of home sale down payments pending delivery of manufactured homes IN AN AMOUNT REQUIRED IN BOARD RULES;

(c) That an aggrieved person may file a complaint for a refund of a down payment held in escrow by a seller of manufactured homes against the seller with the attorney general or with the district attorney for the district in which the sale occurs DIVISION; and

(d) That an aggrieved person may bring a civil action pursuant to the provisions of the "Colorado Consumer Protection Act", article 1 of title 6, C.R.S., SECTION 6-1-709 to remedy violations of manufactured home seller requirements in this part

33. HOWEVER, DAMAGES ARE LIMITED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 6-1-113 (2.5).

(2) A contract for the sale of a manufactured home by a ~~person who is required to register with the division pursuant to section 24-32-3323 shall~~ SELLER MUST ALSO contain the following provisions:

(a) A date certain for the delivery of the manufactured home or a listing of specified delivery preconditions that must occur before a date certain for delivery can be determined; ~~and~~

(b) A statement that if delivery of the manufactured home is delayed by more than sixty days after the delivery date specified in the contract of sale or by more than sixty days after the delivery preconditions set forth in the contract of sale have been met if no date certain for delivery has been set, the seller will either refund the manufactured home sale down payment or provide a reasonable per diem living expense to the buyer for the days between the delivery date specified in the contract or the sixty-first day after the delivery preconditions set forth in the contract have been met, whichever is applicable, and the actual date of delivery, unless the delay in delivery is unavoidable or caused by the buyer; AND

(c) AN AGREED UPON LOCATION FOR DELIVERY OF THE MANUFACTURED HOME TO THE PURCHASER.

(3) ANY SELLER WHO FAILS TO PROVIDE A CONTRACT AS REQUIRED BY THIS SECTION, INCLUDING ALL DISCLOSURES AND PROVISIONS IS SUBJECT TO THE SUSPENSION OR REVOCATION OF THE REGISTRATION BY THE DIVISION.

SECTION 27. In Colorado Revised Statutes, 24-32-3326, **amend** (1) introductory portion, (1)(b), (1)(c), and (1)(d); and **add** (2) as follows:

24-32-3326. Unlawful manufactured home sale practices. (1) ~~Any person who is required to register with the division pursuant to section 24-32-3323~~ A SELLER engages in an unlawful manufactured home sale practice when the person:

(b) Fails to comply with the escrow and bonding requirements of ~~section~~ SECTIONS 24-32-3323 (2.5), 24-32-3324, OR BOARD RULES;

(c) Fails to ~~PROVIDE AND~~ include in any contract for the sale of a manufactured home any of the disclosures or contract provisions required by section 24-32-3325; or

(d) Fails to refund ~~a manufactured home down payment~~ ANY PAYMENTS MADE TOWARD THE PURCHASE OF THE HOME or provide a reasonable per diem living expense in violation of the contractual provisions required by section 24-32-3325 (2)(b).

(2) ANY PERSON FOUND TO BE SELLING OR HAVE SOLD A MANUFACTURED HOME IN A MANNER CONTRARY TO THE REQUIREMENTS OF THIS PART 33 IS SUBJECT TO REVOCATION OR SUSPENSION OF A SELLER'S REGISTRATION, FINES, OR ANY OTHER MEASURES AS PRESCRIBED BY RULE PROMULGATED BY THE DIVISION OR OTHER

APPLICABLE COLORADO LAW. THE DIVISION MAY ISSUE A FINE OF UP TO TEN THOUSAND DOLLARS FOR EACH VIOLATION. MULTIPLE VIOLATIONS OF THIS PART 33 COMMITTED DURING A SINGLE SALE CONSTITUTE ONE VIOLATION. EACH SALE PERFORMED IN VIOLATION OF THIS PART 33 CONSTITUTES A SEPARATE VIOLATION. FINES MUST BE PAID TO THE DIVISION AND TRANSMITTED TO THE STATE TREASURER WHO MUST CREDIT THE FEES TO THE BUILDING REGULATION FUND CREATED IN SECTION 24-32-3309.

SECTION 28. In Colorado Revised Statutes, 24-32-3327, **amend** (1) introductory portion, (1)(b), (1)(c), (1)(d), (2), and (3) as follows:

24-32-3327. Inspections. (1) For the purposes of enforcement of this part 33, persons duly designated by the ~~state director of housing~~ DIVISION, upon presenting appropriate credentials to the owner, operator, or agent in charge, are authorized:

(b) To inspect at reasonable times, within reasonable limits, and in a reasonable manner, any factory, warehouse, or establishment in which manufactured homes or factory-built structures are manufactured, stored, or held for sale and to inspect any books, papers, records, and documents that relate to the safety of manufactured homes or factory-built structures. Each inspection ~~shall~~ MUST be commenced and completed with reasonable promptness;

(c) To enter AND INSPECT, at reasonable times and without advance notice any site on which manufactured housing is or has been installed ~~for the first time for residential use~~ OR REINSTALLED AT OR NEAR THE TIME OF INSTALLATION OR REINSTALLATION; and

(d) To inspect ~~at reasonable times, within reasonable limits, and in a reasonable manner any initial residential use installation and~~ inspect any books, papers, records, and documents that relate to the proper installation of manufactured housing.

(2) In addition to any other inspection responsibilities, the division ~~shall have~~ HAS the responsibility for the electrical inspections of any factory-built structures in plants that are certified by the division pursuant to this part 33.

(3) When acting as agent for the federal government, the division is authorized to conduct inspections and investigations pursuant to this section as may be necessary to promulgate or enforce federal manufactured home construction and safety standards established under the federal act or otherwise to carry out its duties under its agreement as agent. The division ~~shall~~ MUST furnish the secretary any information obtained indicating noncompliance with the standards for appropriate action.

SECTION 29. In Colorado Revised Statutes, 30-28-115, **amend** (3)(b)(I) and (3)(b)(III); and **repeal** (3)(a)(I) as follows:

30-28-115. Public welfare to be promoted - legislative declaration - construction. (3) (a) As used in this subsection (3), unless the context otherwise requires:

(I) "Manufactured home" means a single family dwelling which:

~~(A) Is partially or entirely manufactured in a factory;~~

~~(B) Is not less than twenty-four feet in width and thirty-six feet in length;~~

~~(C) Is installed on an engineered permanent foundation;~~

~~(D) Has brick, wood, or cosmetically equivalent exterior siding and a pitched roof; and~~

~~(E) Is certified pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974", 42 U.S.C. 5401 et seq., as amended.~~

(b) (I) No county ~~shall~~ MAY have or enact zoning regulations, subdivision regulations, or any other regulation affecting development which exclude or have the effect of excluding ~~manufactured~~ homes from the county ~~if such homes~~ THAT ARE:

(A) HOMES CERTIFIED BY THE DIVISION OF HOUSING CREATED IN SECTION 24-32-704 OR A PARTY AUTHORIZED TO ACT ON ITS BEHALF;

(B) HOMES CERTIFIED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT THROUGH ITS OFFICE OF MANUFACTURED HOUSING PROGRAMS, A SUCCESSOR AGENCY, OR A PARTY AUTHORIZED TO ACT ON ITS BEHALF; OR

(C) HOMES THAT meet or exceed, on an equivalent performance engineering basis, standards established by the county building code.

(III) Nothing in this subsection (3) shall preclude any county from enacting county building code provisions for unique public safety requirements such as snow load roof, wind shear, and energy conservation factors, UNLESS THE HOME IS CERTIFIED BY THE DIVISION OF HOUSING CREATED IN SECTION 24-32-704 OR A PARTY AUTHORIZED TO ACT ON ITS BEHALF OR THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT THROUGH ITS OFFICE OF MANUFACTURED HOUSING PROGRAMS, A SUCCESSOR AGENCY, OR A PARTY AUTHORIZED TO ACT ON ITS BEHALF. A COUNTY MUST COMPLY WITH SECTION 24-32-3318 WHEN ENACTING BUILDING CODE PROVISIONS FOR A MANUFACTURED HOME AS DEFINED IN SECTION 24-32-3302 (20).

SECTION 30. In Colorado Revised Statutes, 31-23-301, **amend** (5)(b)(I) and (5)(b)(III); and **repeal** (5)(a)(I) as follows:

31-23-301. Grant of power. (5) (a) As used in this subsection (5), unless the context otherwise requires:

(I) "Manufactured home" means a single family dwelling which:

~~(A) Is partially or entirely manufactured in a factory;~~

~~(B) Is not less than twenty-four feet in width and thirty-six feet in length;~~

~~(C) Is installed on an engineered permanent foundation;~~

~~(D) Has brick, wood, or cosmetically equivalent exterior siding and a pitched roof; and~~

~~(E) Is certified pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974", 42 U.S.C. 5401 et seq., as amended.~~

(b) (I) No municipality ~~shall~~ MAY have or enact zoning regulations, subdivision regulations, or any other regulation affecting development ~~which~~ THAT exclude or have the effect of excluding ~~manufactured~~ homes from the municipality ~~if such homes~~ THAT ARE:

(A) HOMES CERTIFIED BY THE DIVISION OF HOUSING CREATED IN SECTION 24-32-703 OR A PARTY AUTHORIZED TO ACT ON ITS BEHALF;

(B) HOMES CERTIFIED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT THROUGH ITS OFFICE OF MANUFACTURED HOUSING PROGRAMS, A SUCCESSOR AGENCY, OR A PARTY AUTHORIZED TO ACT ON ITS BEHALF; OR

(C) HOMES THAT meet or exceed, on an equivalent performance engineering basis, standards established by the municipal building code.

(III) Nothing in this subsection (5) shall preclude any municipality from enacting municipal building code provisions for unique public safety requirements such as snow load roof, wind shear, and energy conservation factors, UNLESS THE HOME IS CERTIFIED BY THE DIVISION OF HOUSING CREATED IN SECTION 24-32-704 OR A PARTY AUTHORIZED TO ACT ON ITS BEHALF OR THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT THROUGH ITS OFFICE OF MANUFACTURED HOUSING PROGRAMS, A SUCCESSOR AGENCY, OR A PARTY AUTHORIZED TO ACT ON ITS BEHALF. A MUNICIPALITY MUST COMPLY WITH SECTION 24-32-3318 WHEN ENACTING BUILDING CODE PROVISIONS FOR A MANUFACTURED HOME AS DEFINED IN SECTION 24-32-3302 (20).

SECTION 31. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 10, 2021