

**TITLE 765. OKLAHOMA USED MOTOR VEHICLE DISMANTLER, AND
MANUFACTURED HOUSING COMMISSION
CHAPTER 35. MANUFACTURED HOME DEALERS**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Licensing Qualifications, Procedures and Fees

765:35-3-1 [AMENDED]

765:35-3-2 [AMENDED]

765:35-3-3 [AMENDED]

765:35-3-5 [AMENDED]

Subchapter 5. Operation

765:35-5-1 [AMENDED]

765:35-5-2 [AMENDED]

SUMMARY:

The proposed rule amendments remove the term "shall", change the number of digits of license numbers, and address vehicle safety standards.

AUTHORITY:

Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission;

47 O.S. Section 582(E)(1);

75 O.S. Section 583 B.3.;

75 O.S. Section 302 et.seq

COMMENT PERIOD:

Persons wishing to present their views regarding this action may do so by delivering or mailing their written comments to the Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13th, Suite 330, Oklahoma City, Oklahoma 73103, by February 17th, 2023.

PUBLIC HEARING:

The public hearing will be held on Tuesday, March 14th, 2023, at 10:30 AM, at the office of the Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13th, Suite 100, Oklahoma City, Oklahoma.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The Used Motor Vehicle Dismantler, and Manufactured Housing Commission requests that business entities affected by these proposed rules provide the Commission, within the comment period, in dollar amounts, if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to John W. Maile, at the above address, before the close of the comment period on February 17th, 2023.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review at the office of the Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13th, Suite 330, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and be available after February 1st, 2023, at the office of the Used Motor Vehicle Dismantler, and Manufactured Housing Commission.

CONTACT PERSON:

John W. Maile, Director, Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421, NW 13th, Suite 330, Oklahoma City, Oklahoma 73103 (405)521-3600.

**TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION
CHAPTER 35. MANUFACTURED HOME DEALERS**

SUBCHAPTER 1. GENERAL PROVISIONS

765:35-1-1. Purpose

The rules of this Chapter have been adopted for the purpose of complying with the provisions of the Administrative Procedures Act, 75 O.S. Section 250 et seq. and 47 O.S. Section 582 (E). This Chapter will provide a description of the qualifications for obtaining a manufactured home dealer's license, operation under the license and the grounds and procedures for denial, suspension, or revocation of a manufactured home dealer's license.

SUBCHAPTER 3. LICENSING QUALIFICATIONS, PROCEDURES AND FEES

765:35-3-1. Fees

The fees ~~required~~ for an initial application, renewal, and additional location for a manufactured home dealer's license are recited in 47 O.S. Section 583. A fee will be returned to the applicant in the event the license applied for is denied.

765:35-3-2. Place of business

(a) An applicant must have an established place of business. An established place of business means a location which includes at a minimum:

- (1) a display area for manufactured home(s) that is easily accessible,
- (2) sufficient parking for the public,
- (3) an office for conducting business where the books, records and files are kept,
- (4) an office which is a building or is a separate room within a building on the premises that is considered a permanent structure with access to a restroom for the public. Such place of business ~~shall~~ does not include the use of vacant lots, tents, temporary stands, or other temporary office facilities.
- (5) ~~it shall be~~ separate and apart from any other manufactured home dealer's location,
- (6) place of business ~~shall~~ that meets all zoning, occupancy, and other requirements of the appropriate local government, and ~~shall be~~ regularly occupied by a person, firm, or corporation engaged in the business of selling manufactured homes,
- (7) a sign, reflecting the name of the business, visible from the roadway nearest to the entrance of the place of business, and
- (8) a listed and usable telephone at the place of business.

765:35-3-3. Applicant information; applications

(a) Information ~~required~~ needed. An applicant ~~shall~~ will provide sufficient information on the application or otherwise to enable the Commission to determine whether the applicant should be granted a license. The information ~~shall~~ will include:

- (1) Information relating to the applicant's financial standing,

- (2) Information relating to the applicant's business integrity, the applicant's experience in the same or similar businesses, and his business history,
- (3) Whether the applicant will be engaged in the pursuit, avocation, or business for which a license is applied,
- (4) Whether the applicant will devote full or part time to the business,
- (5) Whether the applicant is able to properly conduct the business for which the license is applied,
- (6) A valid franchise letter as proof of authorization to sell any new manufactured home, and
- (7) Any other pertinent information consistent with the safeguarding of the public interest and welfare.

(b) Application ~~required~~. Applications for license ~~shall~~ are to be verified by the oath or affirmation of the applicant and shall be on forms prescribed by the Commission and furnished to such applicants. The applications ~~shall~~ will contain such information as the Commission deems necessary to enable it to fully determine the qualifications and eligibility of the applicant for the license.

765:35-3-4. Bond and insurance

(a) **Dealer bond.** Each applicant for a manufactured home dealer's license shall procure and file with the Commission a good and sufficient bond in the amount of Thirty Thousand Dollars (\$30,000). Said bond shall be filed on a form approved by the State Attorney General and provided by the Commission. The conditions of the bond shall be that the applicant not practice fraud, make any fraudulent representations, or violate any of the provisions of the Commission's enabling act while conducting the business for which he is licensed. The bonds as required by this section shall be maintained throughout the period of licensure. Should the bond be cancelled for any reason, the license shall be revoked as of the date of cancellation unless a new bond is furnished prior to such date.

(b) **Liability insurance.** Each applicant for a manufactured home dealer's license shall be required to furnish and in the event a license is issued, keep in force, a minimum of One Hundred Thousand Dollars (\$100,000) single limit garage liability and completed operations insurance coverage on all manufactured homes offered for sale or transported utilizing the streets and roadways of Oklahoma in accordance with the financial responsibility laws of the State of Oklahoma. The insurance as required by this section shall be maintained throughout the period of licensure. Should the insurance be cancelled or expire for any reason, the license shall be revoked as of the date of cancellation or expiration unless new insurance is furnished prior to such date.

765:35-3-5. Issuance of license

(a) **Name.** A manufactured home dealer's license will be issued in the legal name of the individual proprietorship, partnership, or corporation as identified on the application for dealer license.

(b) **Certificate.** A manufactured home dealer's license shall consist of a signed certificate bearing the official seal of the Commission and shall specify the name and location of the place of business and assigned dealer number, which shall be posted in a conspicuous

place in the dealer's place or places of business. The manufactured home dealer's license number will be prefixed with MH, followed by a ~~four~~ five digit number and then the current year of license (MH-00000-9200).

(c) Titles. The valid manufactured home dealer's license permits the dealer to transfer, assign and reassign titles and purchase and sell manufactured homes without paying excise tax.

(d) Beginning business. No applicant for a manufactured home dealer's license shall conduct business until such time as the Commission has issued him a license.

765:35-3-6. Renewal of license

All bonds and licenses issued under the provisions of the Commission's enabling legislation shall expire on the 31st day of December of each odd numbered year, following the date of issue and shall be nontransferable. All applications for renewal should be submitted by the 1st day of November of each odd numbered year, and licenses shall be issued by January 10th of each even numbered year. If application has not been made for renewal of license, such license shall expire on December 31st of the odd numbered year, and it shall be illegal for any person to represent himself and act as a dealer thereafter.

765:35-3-7. Changes

(a) Ownership. A change of ownership, including a change in a primary stockholder in the case of a corporation, or membership in the case of a limited liability company, shall require a new application and approval by the Commission before the business may begin operation.

(b) Notification. A change of ownership or any other change, such as change of name or address, which makes Commission records no longer accurate must be reported to the Commission immediately in writing on forms prescribed by the Commission for approval by the Commission. The dealership must meet all the requirements as prescribed for licensing. The Commission may revoke or suspend a license after it has been granted for change of condition resulting in failure to maintain the qualifications for license.

SUBCHAPTER 5. OPERATION

765:35-5-1. Forms required

(a) Forms. The following forms shall be required in the sale of a manufactured home by a manufactured home dealer:

- (1) Sales contract, bill of sale or buyer's order,
- (2) Written notice of thirty (30) day title-transfer requirement and receipt for delivery of certificate of title to buyer,
- (3) Condition of sale:
 - (A) warranty, or
 - (B) service contract, or
 - (C) warranty disclaimer,
- (4) Finance or security agreement, if applicable, and

(5) Consignment agreement, if applicable.

(6.) A completed copy of the I-Form from the installer who installed the manufactured home

(b) **Approval.** All forms must be approved by the Commission. The content and forms to be used shall be filed ten (10) days prior to use, and if not rejected in ten (10) days from the filing date, the forms will be conditionally approved.

(c) **Standards.** The forms required shall contain substantially the following information:

(1) Sales contract, bill of sale, or buyer's order. The sales contract, bill of sale, or buyer's order shall state the names of the parties, the make, model, tag number and serial number of the manufactured home subject to the transaction, if available, a statement of the selling amount, a description of the manufactured home traded in, if any, and the consideration given therefore, and

(2) Title and tax transfer notice requirement. It shall be the duty of every person licensed to sell manufactured homes to advise each purchaser in writing about his title requirements and payment of any taxes due.

(3) If a prospective purchaser makes a deposit of anything of value to obtain the option to complete a purchase (of a manufactured home) in the future, the dealer shall acknowledge the deposit in writing, the time period for which the option to purchase is valid, whether the deposit is refundable in whole or in part, and the conditions, if any under which the deposit may be refunded. The deposit shall be deemed refundable unless it is clearly stated in writing that the deposit or a portion thereof is non-refundable.

765:35-5-2. Consignment sales

(a) **Consignment.** A manufactured home dealer, whether acting as principal or agent, or by power of attorney, shall be responsible for complying with 765:35-3-1 et seq. with regard to all manufactured homes purchased, sold, or transferred by the dealer whether or not any other party has any interest in the ~~vehicle~~ manufactured home being purchased, sold, or transferred. The certificate of title of a manufactured home owned by an individual consigned to a manufactured home dealer for sale by that dealer need not be assigned by the individual to the dealer provided a consignment form approved by this Commission is used in the consignment transaction, and all other state and federal forms required are properly executed at the time of sale by the dealer as agent for the consignor. The consignee shall not be responsible for the truthfulness of the information provided to him by the consignor unless consignee willfully, knowingly, or negligently with reckless disregard of the true facts, misrepresents or misstates the information on the forms and/or certificate of title.

(b) **Title.**

(1) The certificate of title of a manufactured home consigned to a dealer to be sold from the consignee's (agent-dealer's) location licensed by this Commission may be assigned directly from the consigning owner to the purchaser. Transfer of certificates of title in every instance must comply with the provisions of 47 O.S. Sections 1105 and 1107. However, it shall be the responsibility of the consignee (agent-dealer) to ~~insure~~ ensure that all forms and state and federal laws and

regulations are complied with in the transaction.

(2) The certificate of title of a manufactured home must be in the name of the dealer (whether by record of title, assignment, or re-assignment) who is offering the manufactured home to a prospective buyer if that dealer has the sole discretion in determining the selling price and in determining the amount of profit he will receive from the sale, whether or not any other party has any interest in the manufactured home.

765:35-5-3. Records

(a) Each dealer shall keep for a period of five (5) years from the date of sale (or as required by any other federal, state, or local regulations), a record of the purchase and sale of each manufactured home he buys or sells, which shall show the name of the seller or buyer as the case may be, and a complete description of the manufactured home purchased or sold, and such other information as the Commission may prescribe. The records and title of manufactured homes shall be available upon request to authorized agents or employees of the Commission or any law enforcement officer of the State of Oklahoma. If it is determined that a licensee has knowingly provided false or misleading information when requested to provide records, the licensee may be subject to any appropriate sanction authorized by rule or statute.

(b) In addition to copies of all forms used in a sales transaction, the dealers shall keep a copy of the completely assigned manufacturer's statement of origin or equivalent document, certificate of title, as the case may be.

(c) If a dealer contracts for the installation of a manufactured home as a part of the sales contract, the dealer shall include in its records a copy of the written contract or copy of paid invoice with the installer if the installer is a third party, which copy shall include the license number of the installer.

SUBCHAPTER 7. ASSESSMENT OF FINE OR DENIAL, SUSPENSION, OR REVOCATION OF LICENSE

765:35-7-1. Grounds

(a) The Commission may deny an application for a license, or revoke or suspend a license after it has been granted for any of the reasons listed in 47 O.S. Sections 584 (A)(1) through (6), (8), or (B) or for violation of any statute or regulation relating to the purchase, sale, display for sale, or transfer of a manufactured home.

(b) The Commission may in addition to any other sanction or penalty assessed, impose a fine as authorized by law.

765:35-7-2. Prohibition

A person whose license has been revoked shall not have a financial interest of any kind in a manufactured home business, nor shall that person participate in any way, including in an advisory position, in the operation of a manufactured home business.