

**TITLE 765. OKLAHOMA USED MOTOR VEHICLE DISMANTLER, AND  
MANUFACTURED HOUSING COMMISSION  
CHAPTER 36. MANUFACTURED HOME MANUFACTURERS**

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. Licensing Qualifications, Procedures and Fees

765:36-3-7 [AMENDED]

Subchapter 5. Operation

765:36-5-2 [AMENDED]

Subchapter 6. Manufactured Home Inspection Fees

765:36-6-1 [AMENDED]

Subchapter 7. Assessment of Fine or Denial, Suspension, or Revocation of License

765:36-7-2 [AMENDED]

**SUMMARY:**

The proposed rule amendments clarifies the process of change of condition requirements, adds report of manufactured homes shipped or sited in the State of Oklahoma, address the sale of manufactured home sells to unlicensed individuals, parks, or other entities, and modifies the agency name from Oklahoma Used Motor Vehicle and Parts Commission to Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission.

**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 13<sup>th</sup>, Suite 330, Oklahoma City, Oklahoma 73103, by February 17<sup>th</sup>, 2023.

**PUBLIC HEARING:**

The public hearing will be held on Tuesday, March 14<sup>th</sup>, 2023, at 10:30 AM, at the office of the Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13<sup>th</sup>, 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 17<sup>th</sup>, 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 1<sup>st</sup>, 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 13<sup>th</sup>, Suite 330, Oklahoma City, Oklahoma 73103 (405)521-3600.

## **CHAPTER 36. MANUFACTURED HOME MANUFACTURERS**

### **SUBCHAPTER 1. GENERAL PROVISIONS**

#### **765:36-1-1. 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 manufacturer's license, operation under the license and the grounds for denial, suspension, or revocation of a manufactured home manufacturer's license.

### **SUBCHAPTER 3. LICENSING QUALIFICATIONS, PROCEDURES AND FEES**

#### **765:36-3-1. Fees**

The fees required for an initial application, renewal, and additional location for a manufactured home manufacturer'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.

#### **765:36-3-2. Facility**

An applicant must have a manufactured home manufacturing facility. A manufactured home manufacturing facility means a facility which builds manufactured homes, some of which homes are shipped into the State of Oklahoma for sale. Each manufactured home manufacturing facility shall be required to have a separate license.

#### **765:36-3-3. Applicant information; applications**

An applicant shall provide sufficient information on the application or otherwise to enable the Commission to determine whether the applicant should be granted a license. Applications for license shall 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 contain such information as the Commission deems necessary to enable it to fully determine the qualifications and eligibility of the applicant for the license.

#### **765:36-3-4. Bond**

Each applicant for a manufactured home manufacturer'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. In addition, the bond shall be conditioned upon the manufacturer providing prompt and full warranty service to comply with all warranties, express or implied, in connection with the sale of each home in the State of Oklahoma. 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.

**765:36-3-5. Issuance of license**

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

(b) **Certificate.** A manufactured home manufacturer'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 manufacturer number, which shall be posted in a conspicuous place in the manufacturer's place or places of business. The manufactured home manufacturer's license number will be prefixed with M, followed by a five digit number and then the current year of license (M-00000-00).

(c) **Beginning business.** No applicant for a manufactured home manufacturer's license shall conduct business in the State of Oklahoma until such time as the Commission has issued it a license.

**765:36-3-6. 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 the 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 the following year. If application has not been made for renewal of license, such license shall expire on December 31st, and it shall be illegal for any person to represent itself and act as a manufacturer thereafter.

**765:36-3-7. 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 manufacturer 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. ~~The Commission may endorse changes on the license without charge.~~

**SUBCHAPTER 5. OPERATION**

**765:36-5-1. Manufactured home sales agreement required**

(a) **Agreement.** A manufactured home sales agreement shall be required in the sale

of manufactured homes to a manufactured home dealer. The agreement shall set forth the respective rights, duties and obligations of each party.

(b) **Content.** The manufactured home sales agreement shall:

- (1) Be in writing;
- (2) Provide that the manufactured home dealer shall have authority to sell the manufacturer's product;
- (3) Provide that the manufactured home manufacturer shall have sufficient personnel and materials to service any of its manufactured homes sold in this state within a reasonable time which shall not exceed 60 days from the date the purchaser requests service in writing from either the dealer or manufacturer.
- (4) Provide parts to the dealer to do warranty work at no cost, and parts for nonwarranty work at normal dealer cost within the warranty period.
- (5) Set forth the agreement of the parties by which the amount of compensation paid to the dealer for performing warranty work for the manufacturer is to be determined;
- (6) Provide for such continuing compensation to the dealer for performing warranty work on the manufacturer's product sold by the dealer, if such work is performed after termination, cancellation or nonrenewal of the sales agreement and during any period that the manufacturer's warranty extends to the product;
- (7) Provide that either party shall give the other at least 30 days' written notice of its intent to terminate, cancel or not renew the sales agreement; and
- (8) Set forth the terms by which the repurchase of the dealer's inventory by the manufacturer who supplied such inventory in the event of termination, cancellation or nonrenewal of the sales agreement.

#### **765:36-5-2. Reports and Records**

(a) Each manufacturer will send to the Commission a monthly report of the manufactured homes to be shipped into or sited in the State of Oklahoma with the appropriate fees. A manufacturer who is aware that an out of state dealer or distributor has sold or will sell a new manufactured home to be shipped into or sited in Oklahoma shall file a supplemental monthly report for those homes with the appropriate fees.

(b) Each manufacturer 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 manufacture and sale of each manufactured home it shipped into this state, which shall show the name of the buyer and a complete description of the manufactured home purchased or sold, and such other information as the Commission may prescribe. The records shall be available upon request to authorized agents or employees of the Commission or any law enforcement officer of the State of Oklahoma.

### **SUBCHAPTER 6. MANUFACTURED HOME INSPECTION FEES**

### **765:36-6-1 Manufacturer's Fees**

(a) Any manufactured home manufacturer who sells a new manufactured home to be shipped into or sited in the State of Oklahoma shall pay an installation inspection fee to The Commission of Seventy-Five Dollars (\$75.00) for each new single wide manufactured home and One Hundred Twenty Five Dollars (\$125.00) for each new multi floor manufactured home.

(b) The fees to be paid by a manufactured home manufacturer shall be due on the fifteenth (15th) day of the month subsequent to the month in which a home is shipped to a manufactured home dealer, or sited in, the State of Oklahoma, whichever comes first.

(c) The fees paid shall be used for the purpose of inspecting installations of new manufactured homes. The inspection may be conducted by a representative of the Oklahoma Used Motor Vehicle, Dismantler, and Parts Manufactured Housing Commission or its designee. The decision to inspect an installation shall be made by Commission staff. The decision to inspect an installation may be made by random selection, pursuant to a complaint as part of an audit or review of a particular installer or as part of an investigation.

(d) A manufactured home manufacturer, dealer, or installer shall co-operate with the Commission's employee or designee as needed to conduct an inspection of an installation for which the manufacturer, dealer, or installer may bear some responsibility for assuring that the installation was properly performed.

(e) Any fees not used for inspection of installations may be used for any other purposes of the Commission, but primarily for the education of manufactured home dealers and installers, investigation of manufactured home complaints and administration of the regulatory laws relating to the manufactured home industry.

(f) The Commission may assess a fine not to exceed One Thousand Dollars (\$1,000.00) per violation for violations of this section.

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

### **765:36-7-1. Grounds for assessment of fines or denial, suspension, or revocation**

(a) **Grounds.** The Commission may assess a fine or 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 (5) or for violation of any statute or regulation relating to the sale or transfer of a manufactured home.

(b) **Rules violations.** In addition to the grounds set forth in subparagraph (a) above, it shall be grounds for assessment of fines or denial, revocation or suspension of a license if the manufacturer:

- (1) Defrauds any dealer or retail buyer;
- (2) Fails to perform under the terms of any written agreement with any dealer or retail buyer;
- (3) Knowingly engages in false or misleading advertising;
- (4) Being a manufactured home manufacturer or any representative acting on the manufacturer's behalf, who has:

A) Without just cause has terminated or failed to renew a manufactured home sales agreement with any new manufactured home dealer. Just cause for termination may constitute any legitimate business reason and may be specifically set forth in the manufactured home sales agreement.

B) Unfairly, without due regard to the equities of the dealer, and without just provocation, canceled, terminated or failed to renew a manufactured home sales agreement with any new manufactured home dealer;

C) Induced, or has attempted to induce, by coercion, intimidation or discrimination, any dealer to involuntarily enter into any manufactured home sales agreement with such manufacturer, or any representative thereof, or to do any other act to a dealer which may be deemed a violation of the act, or the rules and regulations adopted or orders promulgated under authority of this act, by threatening to cancel or not renew a manufactured home sales agreement existing between two parties.

D) Being a manufactured home manufacturer who fails to supply a new manufactured home dealer with a reasonable quantity of new manufactured homes, parts and accessories, in accordance with the manufactured home sales agreement. It shall not be deemed a violation of the act, if such failure is attributable to factors reasonably beyond the control of such manufacturer.

#### **765:36-7-2. Prohibition**

(a) A manufacturer may not sell a new manufactured home directly or indirectly to an unlicensed individual, park or other entity. A manufacturer shall be deemed to be selling a new home to an unlicensed individual, park or other entity if the manufacturer directly or through a third party solicits the purchase of a new home by any medium or method that indicates that the home may be purchased from the manufacturer directly or through a wholly or partially owned subsidiary, even if that subsidiary is licensed as a retailer of manufactured homes. An offer by the manufacturer to finance the purchase of the home if the purchaser buys the manufactured home from the manufacturer or its subsidiary is prima facie evidence that the sale was made by the manufacturer.

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