

1 **UNIFORM BUILDING STANDARDS**

2 **AMENDMENTS**

3 1999 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Lloyd W. Frandsen**

6 AN ACT RELATING TO OCCUPATIONS AND PROFESSIONS; REVISING THE  
7 REGISTRATION REQUIREMENTS FOR DEALERS OF FACTORY BUILT HOUSING;  
8 CREATING THE FACTORY BUILT HOUSING DEALER BOARD; AND MAKING  
9 TECHNICAL CHANGES.

10 This act affects sections of Utah Code Annotated 1953 as follows:

11 AMENDS:

12 **58-56-3**, as last amended by Chapter 218, Laws of Utah 1995

13 **58-56-16**, as last amended by Chapter 252, Laws of Utah 1993

14 **58-56-17**, as last amended by Chapter 385, Laws of Utah 1997

15 ENACTS:

16 **58-56-16.5**, Utah Code Annotated 1953

17 *Be it enacted by the Legislature of the state of Utah:*

18 Section 1. Section **58-56-3** is amended to read:

19 **58-56-3. Definitions.**

20 In addition to the definitions in Section 58-1-102, as used in this chapter:

21 (1) "ANSI" means American National Standards Institute, Inc.

22 (2) "Code(s)" means the NEC, building code, mechanical code, or plumbing code as  
23 defined in this section and as applied in context.

24 (3) "Commission" means the Uniform Building Code Commission created under this  
25 chapter.

26 (4) "Compliance agency" means an agency of the state or any of its political subdivisions  
27 which issue permits for construction regulated under the codes, or any other agency of the state or

28 its political subdivisions specifically empowered to enforce compliance with the codes.

29 (5) "Factory built housing" means manufactured homes or mobile homes.

30 (6) "HUD code" means the Federal Manufactured Housing Construction and Safety  
31 Standards Act.

32 (7) "Installation standard" means the standard adopted and published by the National  
33 Conference of States on Building Codes and Standards (NCSBCS), for the installation of  
34 manufactured homes titled "The Standard for Manufactured Home Installations," the  
35 accompanying manufacturer's instructions for the installation of the manufactured home, or such  
36 equivalent standard as adopted by rule.

37 (8) "Local regulator" means each political subdivision of the state which is empowered to  
38 engage in the regulation of construction, alteration, remodeling, building, repair, and other  
39 activities subject to the codes adopted pursuant to this chapter.

40 (9) "Manufactured home" means a transportable factory built housing unit constructed on  
41 or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of  
42 1974 (HUD Code), in one or more sections, which, in the traveling mode, is eight body feet or  
43 more in width or 40 body feet or more in length, or when erected on site, is 400 or more square  
44 feet, and which is built on a permanent chassis and designed to be used as a dwelling with or  
45 without a permanent foundation when connected to the required utilities, and includes the  
46 plumbing, heating, air-conditioning, and electrical systems. All manufactured homes constructed  
47 on or after June 15, 1976, shall be identifiable by the manufacturer's data plate bearing the date the  
48 unit was manufactured and a HUD label attached to the exterior of the home certifying the home  
49 was manufactured to HUD standards.

50 (10) "Factory built housing set-up contractor" means an individual licensed by the division  
51 to set up or install factory built housing on a temporary or permanent basis. The scope of the work  
52 included under the license includes the placement and or securing of the factory built housing on  
53 a permanent or temporary foundation, securing the units together if required, and connection of  
54 the utilities to the factory built housing unit, but does not include site preparation, construction of  
55 a permanent foundation, and construction of utility services to the near proximity of the factory  
56 built housing unit. If a dealer is not licensed as a factory built housing set up contractor, that  
57 individual must subcontract the connection services to individuals who are licensed by the division  
58 to perform those specific functions under Title 58, Chapter 55, Utah Construction Trades

59 Licensing Act.

60 (11) "Mobile home" means a transportable factory built housing unit built prior to June  
61 15, 1976, in accordance with a state mobile home code which existed prior to the Federal  
62 Manufactured Housing and Safety Standards Act (HUD Code).

63 (12) "Modular unit" means a structure built from sections which are manufactured in  
64 accordance with the construction standards adopted pursuant to Section 58-56-4 and transported  
65 to a building site, the purpose of which is for human habitation, occupancy, or use.

66 (13) "NEC" means the National Electrical Code.

67 (14) "Opinion" means a written, nonbinding, and advisory statement issued by the  
68 commission concerning an interpretation of the meaning of the codes or the application of the  
69 codes in a specific circumstance issued in response to a specific request by a party to the issue.

70 (15) "State regulator" means an agency of the state which is empowered to engage in the  
71 regulation of construction, alteration, remodeling, building, repair, and other activities subject to  
72 the codes adopted pursuant to this chapter.

73 (16) "Unlawful conduct" is as defined in [Section] Subsection 58-1-501(1) and includes:

74 (a) engaging in the sale of factory built housing without being registered with the division  
75 as a dealer, unless the sale is exempt under Section 58-56-16; and

76 (b) selling factory built housing within the state as a dealer without collecting and  
77 remitting to the division the fee required by Section 58-56-17.

78 (17) "Unprofessional conduct" is as defined in Subsection 58-1-501(2) and includes:

79 (a) any nondelivery of goods or services by a registered dealer which constitutes a breach  
80 of contract by the dealer;

81 (b) the failure of a registered dealer to pay a subcontractor or supplier any amounts to  
82 which that subcontractor or supplier is legally entitled; and

83 (c) any other activity which is defined as unprofessional conduct by division rule in  
84 collaboration with the Factory Built Housing Dealer Board in accordance with the provisions of  
85 Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

86 Section 2. Section **58-56-16** is amended to read:

87 **58-56-16. Registration of dealers -- Bonding requirements -- Renewal -- Exemptions**  
88 **-- Discipline.**

89 (1) Each person engaged in the sale of factory built housing in the state, except as provided

90 in Subsection (4), shall [annually] register with the division as a dealer [and shall pay an annual  
91 registration fee of \$15].

92 (2) Each applicant for registration under this section shall:

93 (a) submit an application in a form prescribed by the division;

94 (b) pay a fee determined by the department under Section 63-38-3.2; and

95 (c) provide the division with a registration bond in accordance with rules established by  
96 the division in collaboration with the Factory Built Housing Dealer Board.

97 (3) (a) The division shall issue each registration under this section in accordance with a  
98 two-year renewal cycle established by rule.

99 (b) The division may by rule extend or shorten a renewal cycle by as much as one year to  
100 stagger the renewal cycles it administers.

101 (c) Each registration under this section automatically expires on the expiration date on the  
102 certificate of registration unless the registrant renews it in accordance with Section 58-1-308.

103 [~~(2)~~] (4) Subsection (1) does not apply to:

104 (a) a person not regularly engaged in the sale of factory built housing who is selling a unit  
105 he owns for his own account;

106 (b) a principal broker licensed under Title 61, Chapter 2, Division of Real Estate; or

107 (c) a sales agent or associate broker licensed under Title 61, Chapter 2, Division of Real  
108 Estate, who sells factory built housing as an agent for, and under the supervision, of the licensed  
109 principal broker with whom he is affiliated.

110 (5) Grounds for refusing to issue a registration, for refusing to renew a registration, for  
111 revoking, suspending, restricting, or placing on probation a registration, for issuing a public or  
112 private reprimand to a registrant, and for issuing a cease and desist order shall be in accordance  
113 with Section 58-1-401.

114 Section 3. Section **58-56-16.5** is enacted to read:

115 **58-56-16.5. Factory Built Housing Dealer Board.**

116 (1) There is created the Factory Built Housing Dealer Board, consisting of:

117 (a) three dealers registered under Section 58-56-16;

118 (b) one representative of a financial institution with experience in lending for factory built  
119 housing; and

120 (c) one member of the general public.

121 (2) The board shall be appointed and serve in accordance with Section 58-1-201.

122 (3) The duties and responsibilities of the board shall be in accordance with Sections  
123 58-1-202 and 58-1-203. In addition, the board shall designate one of its members on a permanent  
124 or rotating basis to:

125 (a) assist the division in reviewing complaints concerning unlawful or unprofessional  
126 conduct of a licensee; and

127 (b) advise the division in its investigation of these complaints.

128 (4) A board member who has, under Subsection (3), reviewed a complaint or advised in  
129 its investigation may be disqualified from participating with the board when the board serves as  
130 a presiding officer of an administrative proceeding concerning the complaint.

131 Section 4. Section **58-56-17** is amended to read:

132 **58-56-17. Fees on sale -- Escrow agents -- Sales tax.**

133 (1) Each dealer shall collect and remit a fee of \$75 to the division for each factory built  
134 home the dealer sells that has not been permanently affixed to real property. The fee shall be  
135 payable within 30 days following the close of each calendar quarter for all units sold during that  
136 calendar quarter. The fee shall be deposited in a restricted account as provided in Section  
137 58-56-17.5.

138 (2) Any principal real estate broker, associate broker, or sales agent exempt from  
139 registration as a dealer under Section 58-56-16 who sells a factory built home that has not been  
140 permanently affixed to real property shall close the sale only through a qualified escrow agent in  
141 this state registered with the Insurance Department or the Department of Financial Institutions.

142 (3) Each escrow agent through which a sale is closed under Subsection (2) shall remit all  
143 required sales tax to the state.

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**Legislative Review Note**  
**as of 1-13-99 4:04 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**