

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 § 16-1-101 **CREATING THE FACTORY BUILT HOUSING DEALER BOARD;** 16-1-102 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 199513 **58-56-16**, as last amended by Chapter 252, Laws of Utah 199314 **58-56-17**, as last amended by Chapter 385, Laws of Utah 199715 § 16-1-101 **ENACTS:**16 **58-56-16.5**, Utah Code Annotated 1953 16-1-101 §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

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

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

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

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

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

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

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

Licensing Act.

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

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

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

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

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

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

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

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

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

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

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

(c) any other activity which is defined as unprofessional conduct by division rule § 16-1-1 in collaboration with the Factory Built Housing Dealer Board [16-1-1] § in accordance with the provisions of Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

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

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

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

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

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

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

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

(c) provide the division with a registration bond in accordance with rules established by the division ~~§ 1-1-1 in collaboration with the Factory Built Housing Dealer Board~~ ~~1-1-1~~ § 1.

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

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

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

~~{2}~~ (4) Subsection (1) does not apply to:

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

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

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

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

§ 1-1-1 Section 3. Section 58-56-16.5 is enacted to read:

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

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

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

(b) one representative of a financial institution with experience in lending for factory built

housing; and

(c) one member of the general public. ~~1-1-1~~ § 1

§ 10 [1] (2) The board shall be appointed and serve in accordance with Section 58-1-201.

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

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

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

(4) A board member who has, under Subsection (3), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer of an administrative proceeding concerning the complaint. [1] 10 §

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

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

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

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

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

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