

ASSEMBLY BILL NO. 107—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF MANUFACTURED HOUSING DIVISION)

FEBRUARY 4, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning manufactured housing. (BDR 43-624)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to manufactured housing; requiring dealers to comply with certain requirements concerning money held by them pending the sale or exchange of an interest in a manufactured home, mobile home or commercial coach; establishing requirements relating to the enforceability of certain brokerage agreements; requiring dealers who enter into brokerage agreements to perform certain acts relating to their clients; revising the categories of licensure as a limited serviceman; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 489 of NRS is hereby amended by adding thereto
- 2 the provisions set forth as sections 2 to 9, inclusive, of this act.
- 3 **Sec. 2. “Brokerage agreement” means a contract between a dealer**
- 4 **and a client in which the dealer agrees to accept compensation to:**
- 5 **1. Assist, solicit or negotiate the sale or exchange of an interest in a**
- 6 **manufactured home, mobile home or commercial coach; or**
- 7 **2. Induce any person to buy or exchange an interest in a**
- 8 **manufactured home, mobile home or commercial coach.**
- 9 **Sec. 3. “Client” means a person who has entered into a brokerage**
- 10 **agreement with a dealer.**
- 11 **Sec. 4. 1. Any money that a dealer receives from a client or other**
- 12 **person concerning the sale or exchange of an interest in a manufactured**
- 13 **home, mobile home or commercial coach must be accounted for by the**
- 14 **dealer when:**

1 (a) *The sale or exchange of the interest in the manufactured home,*
2 *mobile home or commercial coach is executed; or*

3 (b) *The contract for the sale or exchange of the interest in the*
4 *manufactured home, mobile home or commercial coach is rescinded by*
5 *the dealer, client or any other person,*
6 *whichever occurs earlier.*

7 2. *The dealer shall:*

8 (a) *Prepare or cause to be prepared a written itemized statement*
9 *concerning each expenditure or deduction of money made by the dealer;*

10 (b) *Deliver or cause to be delivered to each person from whom the*
11 *dealer received money a copy of the written itemized statement; and*

12 (c) *Maintain a copy of the written itemized statement at his place of*
13 *business.*

14 3. *Except as otherwise provided in an escrow agreement signed by*
15 *the parties to a sale or exchange of an interest in a manufactured home,*
16 *mobile home or commercial coach and the escrow agent or escrow*
17 *officer licensed pursuant to the provisions of chapter 645A or 692A of*
18 *NRS, no money concerning that sale or exchange held by a dealer may*
19 *be distributed to the person who is selling or exchanging an interest in*
20 *the manufactured home, mobile home or commercial coach until:*

21 (a) *An application for a certificate of ownership for the manufactured*
22 *home, mobile home or commercial coach has been submitted to the*
23 *division by the new owner;*

24 (b) *Each person who has a financial interest in the manufactured*
25 *home, mobile home or commercial coach has executed a document that*
26 *releases or waives his interest; and*

27 (c) *Each party to the sale or exchange has complied with the*
28 *requirements for the sale or exchange that are set forth in the regulations*
29 *adopted pursuant to the provisions of this chapter.*

30 **Sec. 5.** *A brokerage agreement that includes a provision that grants*
31 *a dealer the exclusive right to assist, solicit or negotiate the sale or*
32 *exchange of an interest in a manufactured home, mobile home or*
33 *commercial coach on behalf of a client is enforceable if the agreement:*

34 1. *Is in writing;*

35 2. *Sets forth the date the brokerage agreement expires;*

36 3. *Does not require the client to perform any act concerning the*
37 *brokerage agreement after the agreement expires; and*

38 4. *Is signed by the client or his representative and the dealer or his*
39 *representative.*

40 **Sec. 6.** 1. *A dealer who has entered into a brokerage agreement*
41 *with a client for the sale or exchange of an interest in a manufactured*
42 *home, mobile home or commercial coach shall:*

1 (a) Seek the price and terms for the sale or exchange that are set forth
2 in the brokerage agreement or are approved by the client;

3 (b) Present all offers made to or by the client as soon as practicable;

4 (c) Disclose to the client all the material facts known by him
5 concerning the sale or exchange;

6 (d) Advise the client to obtain advice from an expert concerning any
7 matters that are beyond the knowledge or expertise of the dealer;

8 (e) As soon as practicable, account for all money and property he
9 receives in which the client may have a financial interest; and

10 (f) As soon as practicable, deliver to each party a copy of the executed
11 contract for the sale or exchange.

12 2. A dealer shall not enter into a brokerage agreement with a client
13 for the sale or exchange of an interest in a manufactured home, mobile
14 home or commercial coach unless the dealer has determined that the
15 client will be able to deliver good title upon the execution of the sale or
16 exchange of the interest in the manufactured home, mobile home or
17 commercial coach.

18 **Sec. 7. 1.** Unless otherwise specifically waived in writing by the
19 buyer, for each sale of a manufactured home, mobile home or
20 commercial coach in which the dealer is the seller or an agent of the
21 seller, there is an implied warranty by the dealer that all the essential
22 systems are in working order upon the execution of the sale. For the
23 purposes of this subsection, the words "as is" or any similar words do not
24 constitute a waiver of the implied warranty unless the words specifically
25 refer to a specific component of an essential system.

26 2. As used in this section, "essential system" means the heating, air-
27 conditioning, electrical, plumbing and drainage systems of a
28 manufactured home, mobile home or commercial coach.

29 **Sec. 8.** The administrator shall prescribe, by regulation, the form of
30 the contract that must be used for the sale of a manufactured home,
31 mobile home or commercial coach.

32 **Sec. 9. 1.** Except as otherwise provided in subsection 2, a dealer
33 shall not obtain or attempt to obtain the signature of a buyer on a
34 contract for the sale or exchange of an interest in a mobile home,
35 manufactured home or commercial coach if any of the essential
36 provisions of the contract are not set forth in the contract.

37 2. The dealer may insert:

38 (a) The identification number or identifying marks of a manufactured
39 home, mobile home or commercial coach; and

(b) *The date the first installment payment for the sale or exchange is due from the buyer, into the blank spaces of a contract after the contract has been signed by a buyer if the manufactured home, mobile home or commercial coach was not delivered to the buyer on the date the contract was executed.*

3. *The administrator shall prescribe, by regulation, the essential provisions of a contract.*

Sec. 10. NRS 489.031 is hereby amended to read as follows:

489.031 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 489.036 to 489.155, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 11. NRS 489.076 is hereby amended to read as follows:

489.076 1. "Dealer" means any person who:

(a) For compensation, money or *any other thing* of value, sells, exchanges, buys or offers for sale, negotiates or attempts to negotiate a sale or exchange of an interest in a manufactured home, mobile home or commercial coach subject to the requirements of this chapter, or induces or attempts to induce any person to buy or exchange an interest in a manufactured home, mobile home or commercial coach;

(b) *For compensation, money or any other thing of value, leases or rents, offers for lease or rental, negotiates or attempts to negotiate the lease or rental of an interest in a manufactured home, mobile home or commercial coach subject to the requirements of this chapter, or induces or attempts to induce any person to lease or rent an interest in a manufactured home, mobile home or commercial coach;*

(c) Receives or expects to receive a commission, money, brokerage fees, profit or any other thing of value from either the seller or purchaser of any manufactured home, mobile home or commercial coach;

~~[(c)]~~ (d) Is engaged wholly or in part in the business of ~~[selling]~~ :

(1) *Selling, renting or leasing* manufactured homes, mobile homes or commercial coaches ~~[, or buying]~~ ;

(2) *Buying* or taking ~~[them]~~ *manufactured homes, mobile homes or commercial coaches* in trade for the purpose of resale, selling, or offering *them* for sale or consignment to be sold ~~[, or otherwise]~~ ;

(3) *Buying or taking manufactured homes, mobile homes or commercial coaches in trade to rent, lease or offer them for rent or lease; or*

(4) *Otherwise* dealing in manufactured homes, mobile homes or commercial coaches; or

~~[(d)]~~ (e) Acts as a reposessor or liquidator concerning manufactured homes, mobile homes or commercial coaches,

whether or not they are owned by such persons.

2. The term does not include:

- (a) Receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under the order of any court;
- (b) Public officers while performing their official duties;
- (c) Banks, savings and loan associations, credit unions, thrift companies or other financial institutions proceeding as repossessors or liquidators of their own security; ~~{or}~~
- (d) *A person who rents or leases his manufactured home, mobile home or commercial coach; or*
- (e) An owner selling his private residence.

Sec. 12. NRS 489.137 is hereby amended to read as follows:

489.137 "Salesman" means any person employed by a dealer or rebuilder, under any form of contract or arrangement to sell, *rent, lease, exchange* ~~{or}~~ buy, or offer for sale, *rental, lease* or exchange, an interest in a manufactured home, mobile home or commercial coach to any person, and who receives or expects to receive a commission, fee or any other consideration from his employer.

Sec. 13. NRS 489.325 is hereby amended to read as follows:

489.325 1. The administrator may adopt regulations which provide for the creation of a subclass of licensure for servicemen. A person licensed as a limited serviceman pursuant to this section must be limited in the scope of the work he may perform to installation or repair in one of the following categories:

- (a) Awnings, roofing or skirting;
- (b) Plumbing; ~~{or}~~
- (c) Heating *and air-conditioning systems*; or ~~{electrical}~~
- (d) *Electrical* systems.

2. The administrator shall provide in ~~{such a regulation}~~ *those regulations* for:

- (a) The imposition of reasonable fees for application, examination and licensure.
- (b) The creation and administration of a written or oral examination for each category of limited licensure.
- (c) Minimum qualifications for such a license, including, *without limitation*, the passage of the applicable examination.

3. A person who is licensed as a limited serviceman shall comply with each statute and regulation which applies to servicemen, including, *without limitation*, the ~~{required}~~ payment of a fee *required* pursuant to subparagraph 1 of paragraph (c) of subsection 2 of NRS 489.4971.

Sec. 14. NRS 489.4975 is hereby amended to read as follows:

489.4975 1. When any person obtains a final judgment in any court of competent jurisdiction against any licensee under this chapter in an action ~~described in NRS 489.4973,~~ **for fraud, misrepresentation or deceit**, the judgment creditor may, upon termination of all proceedings, including appeals in connection with any judgment, file a verified petition in the court in which the judgment was entered for an order directing payment out of the account in the amount of actual damages included in the judgment and unpaid, but not more than \$25,000 per claimant and the liability of the account may not exceed \$100,000 for any licensee.

2. A copy of the petition must be served upon the administrator and an affidavit of service filed with the court.

3. The court shall act upon the petition within 30 days after service and, upon the hearing of the petition, the judgment creditor must show that:

(a) He is not the spouse of the judgment debtor, or the personal representative of that spouse.

(b) He has complied with all the requirements of NRS 489.4971 to 489.4989, inclusive.

(c) He has obtained a judgment of the kind described in subsection 1, stating the amount of the judgment and the amount owing on it at the date of the petition.

(d) A writ of execution has been issued upon the judgment and that no assets of the judgment debtor liable to be levied upon in satisfaction of the judgment could be found, or that the amount realized on the sale of any of them as were found under the execution was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due.

(e) He and the division have made reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment.

(f) The petition has been filed ~~no~~ **not** more than 1 year after the termination of all proceedings, including reviews and appeals, in connection with the judgment.

Sec. 15. NRS 489.715 is hereby amended to read as follows:

489.715 1. Full disclosure of all terms and conditions of an offer to sell, buy or lease a used manufactured home, used mobile home or used commercial coach must be set forth in writing and signed by the seller, buyer and dealer.

2. Any offer to purchase or lease a used manufactured home, used mobile home or used commercial coach must be submitted within 5 days after the offer is made to the owner or his authorized agent for approval or disapproval. The offer must be in writing and signed and dated by the person making the offer and by the dealer.

- 1 **3.** *As used in this section, “authorized agent” does not include a*
2 *dealer or an employee or agent of the dealer.*
3 **Sec. 16.** NRS 489.4973 is hereby repealed.

TEXT OF REPEALED SECTION

489.4973 Service of copy of complaint upon administrator after action against licensee is commenced. A person who commences a civil action against a licensee under this chapter upon grounds of fraud, misrepresentation or deceit with reference to any transaction for which a license is required under this chapter must, if the cause of action arose on or after July 1, 1981, serve a copy of the complaint upon the administrator within 30 days after the action is commenced.

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