

FIRST REGULAR SESSION

SENATE BILL NO. 279

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Read 1st time January 16, 2003, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0834S.01I

AN ACT

To amend chapter 700, RSMo, by adding thereto eighteen new sections relating to setup contractors for manufactured housing, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 700, RSMo, is amended by adding thereto eighteen new sections, to be known as sections 700.250, 700.252, 700.254, 700.256, 700.258, 700.260, 700.262, 700.264, 700.266, 700.268, 700.270, 700.272, 700.274, 700.276, 700.278, 700.280, 700.282, and 700.284, to read as follows:

700.250. As used in sections 700.250 to 700.284, the following terms shall mean:

(1) "Applicant", any person who seeks to become licensed as a setup contractor or independent setup contractor;

(2) "Commission", the public service commission;

(3) "Contractor", an independent setup contractor and setup contractor as defined by this section;

(4) "Independent setup contractor", a person who engages in the business of performing setup or installation operations and is not an agent of a dealer or manufacturer as defined in this chapter;

(5) "Person", any individual, partnership, corporation, or other legal entity;

(6) "Setup" or "installation", the operations performed at the occupancy site which renders a manufactured home as defined in section 700.010 fit for habitation, which operations include, but are not limited to, moving, blocking, leveling, supporting, and assembling multiple or expandable units;

(7) "Setup contractor", a person who engages in the business of performing

setup or installation operations as defined in subdivision (6) of this section in this state and is an agent of a manufacturer or dealer.

700.252. No person shall act as a setup contractor or engage in the business of setup or installation of a manufactured home as defined in this chapter without first obtaining a license pursuant to sections 700.250 to 700.284. Such license of a setup contractor shall be effective for one year beginning July first of each year.

700.254. The commission shall provide all necessary personnel to carry out the provisions of sections 700.250 to 700.284. The commission shall:

- (1) Establish, by rule, application and licensure fees and shall collect such fees;
- (2) Deposit all fees collected pursuant to section 700.262, by transmitting such funds to the department of revenue for deposit to the state treasury to the credit of the manufactured housing fund as provided in section 700.262; and
- (3) Process applications and notify licensees when the licensee's license is to expire.

700.256. An applicant applying for a license as a contractor shall file a written application provided by the commission, showing to the satisfaction of the commission that the applicant meets the following requirements:

- (1) An applicant shall be of good moral character;
- (2) An applicant shall present evidence satisfactory to the public service commission of having successfully completed the academic requirements of an education program in manufactured home setup as recognized by the commission;
- (3) An applicant for licensure as a contractor shall pass an examination as provided in sections 700.250 to 700.284;
- (4) An applicant for licensure as a contractor must be at least eighteen years of age;
- (5) An applicant for licensure as an independent setup contractor will be required to obtain or show proof of a certificate of insurance for workers' compensation coverage;
- (6) An applicant for licensure as a contractor must continue to carry general liability insurance in an amount determined by commission rule, in a minimum amount of three hundred thousand dollars and provide proof of such upon application for licensure;
- (7) An applicant for licensure as a contractor must complete a minimum eight hour training course approved by the commission and shall pass an approved examination designed to test the skills necessary to properly perform as a contractor and to ascertain that the applicant has adequate knowledge of federal, state and local laws applicable to manufactured home setup or installation; and

(8) The commission shall establish what constitutes a passing score for examinations.

700.258. 1. A direct agent of a licensed contractor working under the supervision of the licensee and within the job scope of the licensee is not required to be licensed as a contractor. The licensed contractor is responsible for supervising all such agents and for the proper and competent performance of all employees working under his or her supervision.

2. In the case of a corporation, partnership or other legal entity, at least one supervising agent shall be required to be licensed as a contractor and shall follow the provisions as stated in subsection 1 of this section.

3. Manufactured home dealers and manufactured home manufacturers, as defined in section 700.010, that do not subcontract with a licensed contractor and that perform their own setup, either themselves or through direct agents/employees, shall have at least one agent/employee who has completed the requirements as provided in sections 700.250 to 700.284 and shall follow the provisions as stated in subsection 1 of this section.

700.260. The commission may waive the examination, education or experience requirements and grant a license upon payment of fees to any applicant who presents proof of current licensure, registration or certification as a contractor in another state, the District of Columbia or territory of the United States which requires standards for licensure, registration, or certification considered by the commission to be equivalent to or exceed the requirements for licensure in sections 700.250 to 700.284. The applicant shall not have any violations, suspensions or revocation of such license, registration or certification. Within the limits of this section, the commission may negotiate reciprocal contracts with licensing boards of other states for the admission of licensed practitioners from Missouri in other states.

700.262. 1. All fees authorized pursuant to sections 700.250 to 700.284 shall be collected by the commission and shall be transmitted to the department of revenue for the deposit in the state treasury to the credit of the "Manufactured Housing Fund" which is created pursuant to section 700.040.

2. The commission shall establish, by rule, fees to be charged for applications, examination, licensure, licensure renewal, limited permits, and inactive status. The fees shall be set at an amount not to exceed seventy-five dollars and which shall not substantially exceed the cost of administering sections 700.250 to 700.284.

700.264. 1. The commission may issue a limited permit, upon the payment of a fee, to a person who has completed the experience requirements of subdivision (3) of section 700.256 and who has not taken the examination. The permit shall be

effective for a period of time not to exceed the time when the results of the next examination are announced. The limited permit shall allow the person to practice manufactured home setup or installation under the supervision of a person currently licensed pursuant to sections 700.250 to 700.284. A permit issued pursuant to this section shall expire when the person is issued a license pursuant to section 700.256. The commission may renew a limited permit issued pursuant to this section one time.

2. Notwithstanding the provisions of section 700.256, any person who submits evidence that he or she has been engaged in the business of manufactured home setup or installation on August 28, 2003, shall be exempt until December 31, 2004, from the requirements for completing training and for passing an examination in order to be licensed by the commission as a manufactured home setup contractor. Such person shall be licensed upon application, provided he or she has complied with all other requirements of section 700.256, except the training and examination requirements. No person shall be licensed or remain licensed as a manufactured home setup contractor after December 31, 2004, who has not taken and passed the commission approved manufactured home contractor's examination unless such person is exempted from taking such examination pursuant to section 700.260.

700.266. 1. A license issued pursuant to sections 700.250 to 700.284 shall be renewed annually, except as provided in section 700.264. The commission may establish additional requirements for license renewal which provide evidence of continued competence. The commission, by rule, may establish requirements for renewal of licensure and conditions and fees for the reissuing of licenses which have lapsed, expired or have been suspended, revoked, or placed on inactive status; except that no such late renewal of a license may be granted more than two years after its expiration. The commission shall reissue a license to any licensee who, before the expiration date of the license and within a period of time and pursuant to procedures established by the commission, submits the required renewal application and fee.

2. Upon request in writing, the commission may grant inactive status to a licensee who meets the requirements for licensure pursuant to sections 700.250 to 700.284, if the person:

- (1) Does not practice as a contractor;
- (2) Does not hold himself or herself out as a contractor;
- (3) Maintains any continuing competency requirements established by the commission; and
- (4) Remits any fee that may be required by the commission.

3. The commission shall deny renewal of a license if the person does not meet

the requirements for renewal.

4. A licensee shall notify the commission in writing of the cancellation, termination, or nonrenewal of any workers compensation coverage or general liability insurance required by section 700.256 at which time the commission may suspend such license until such time as the applicant provides proof of compliance with subdivisions (5) and (6) of section 700.256.

700.268. 1. The commission may refuse to issue or renew, suspend or revoke a license or permit, or place a licensee or permit holder on probation or otherwise reprimand a licensee or permit holder, when the licensee, permit holder or applicant has been found guilty of unprofessional conduct which has endangered, or is likely to endanger, the health, welfare, or safety of any person, as provided in sections 700.250 to 700.284 or by any rule or regulation promulgated by the commission.

2. If the commission refuses to issue or renew a license or permit, the commission shall notify the person in writing of the reasons for refusal and of the person's right to resolve the matter through the commission's alternative dispute resolution process before filing a complaint with the administrative hearing commission as provided in chapter 621, RSMo, notwithstanding the provisions of 386.500 and 386.510, RSMo.

3. Any complaint received by the commission concerning a person who is the holder of a license or permit issued pursuant to sections 700.250 to 700.284 or any complaint regarding any professional practice regulated by sections 700.250 to 700.284 shall be recorded as received and the date received. The commission:

(1) Shall investigate all complaints concerning alleged violations of the provisions of sections 700.250 to 700.284 or if there are grounds for the suspension, revocation, or refusal to issue any license or permit;

(2) May issue subpoena duces tecum in order to cause any licensee, permit holder or any other person to produce records or to appear as a witness pursuant to any investigation or proceeding conducted pursuant to the provisions of sections 700.250 to 700.284;

(3) May, in lieu of or in addition to any remedy provided in this section, file a petition in the name of the state asking a court to issue a restraining order, an injunction or a writ of mandamus against any person who is, or had been violating any of the provisions of sections 700.250 to 700.284 or any rule, order, or subpoena of the public service commission.

700.270. Notwithstanding any provision of law to the contrary, the commission may discipline or sanction any holder of a license or permit or unlicensed person pursuant to sections 700.250 to 700.284 for any one or any combination of violations

pursuant to sections 700.272 to 700.282.

700.272. 1. No person shall:

- (1) **Falsely hold himself or herself or a business organization out as a licensed contractor;**
- (2) **Falsely impersonate a licensed contractor;**
- (3) **Present as his or her own the contractor's license of another;**
- (4) **Knowingly give false or forged evidence to the commission;**
- (5) **Use or attempt to use a contractor's license which has been suspended or revoked; or**
- (6) **Engage in the business or act in the capacity of a licensed contractor or advertise himself or herself or a business organization as available to engage in the business or act in the capacity of a contractor without being duly licensed.**

2. Any person who violates any provision of this section is guilty of a misdemeanor.

700.274. No licensed person nor licensed applicant shall:

- (1) **Obtain a contractor's license by fraud or misrepresentation;**
- (2) **Be convicted or found guilty of, or enter a plea of nolo contendere, regardless of adjudication, to a crime in any jurisdiction which directly relates to the practice of contractor or the ability to practice;**
- (3) **Violate any lawful order of the commission;**
- (4) **Commit fraud or deceit in the practice of contracting;**
- (5) **Commit incompetence or misconduct in the practice of contracting;**
- (6) **Commit gross negligence, repeated negligence, or negligence resulting in a significant danger to life or property;**
- (7) **Commit violations of the setup standards for manufactured homes contained in sections 700.010 to 700.500.**

700.276. The commission may discipline any person licensed pursuant to sections 700.250 to 700.284 or any person applying for a license pursuant to sections 700.250 to 700.284 who violates any provision of section 700.274 as follows:

- (1) **Revoke the person's license;**
- (2) **Suspend the person's license;**
- (3) **Require the person to take and pass, or retake and pass, the approved examination;**
- (4) **Place the person on probation;**
- (5) **Send a notice of noncompliance; or**
- (6) **Refuse to issue a license.**

700.278. The regulation of contractors is preempted and no person may perform

setup unless licensed pursuant to sections 700.250 to 700.284, regardless of whether that person holds a local setup license.

700.280. No political subdivision of this state may require additional manufactured home setup licensing of a person licensed pursuant to sections 700.250 to 700.284 who performs setup of a manufactured home.

700.282. All setup contractors shall purchase setup decals from the commission for a fee established by the commission. A setup decal shall be affixed to the manufactured home upon setup. This decal shall denote the date of setup, the name of the setup contractor, and the number of the setup contractor's license or the dealer or manufacturer license number. Such decal shall be positioned and permanently affixed next to the manufactured home data plate and such setup contractor shall provide notification that such setup was performed in accordance with appropriate standards.

700.284. 1. The commission may promulgate any rules necessary and convenient to effectuate the purposes of sections 700.250 to 700.284 and may promulgate necessary rules compatible with the provisions of sections 700.250 to 700.284, including, but not limited to, rules relating to professional conduct, continuing education requirements for renewal of licenses, approval or sanction of continuing education programs, the amount of continuing education hours required and to the establishment of ethical standards of practice for persons holding a license to practice manufactured home setup in this state.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void.