

MANUFACTURED HOMES REGULATIONS AND MANUFACTURER'S SALES RESPONSIBILITY

The New York State Department of State has received reports alleging that one or more Manufacturers have sold manufactured homes to developers or operators of manufactured home community operators, or to other purchasers, who are not certified as Retailers, but who routinely sell the homes to third parties. Please be advised that a Manufacturer that engages in such activity is in violation of Article 21-B of the Executive Law and Title 19 NYCRR Part 1210.

19 NYCRR Section 1210.03(a) provides that no person or business entity shall sell any manufactured home in the State of New York unless (1) the person or business entity selling the manufactured home is certified as a Retailer, or (2) the sale is a "non-retail sale." The term "non-retail sale" is defined in 19 NYCRR Section 1210.02(u), and includes the sale of a manufactured home to a certified Retailer for the purpose of resale by such certified Retailer. Therefore, a Manufacturer is permitted to sell a manufactured home to a *certified* Retailer. However, the sale of a manufactured home to a person who or business entity which is not certified as a Retailer is *not* a "non-retail sale," and these provisions do *not* authorize a Manufacturer to sell a manufactured home to any such noncertified person or business entity.

Of course, a Manufacturer certified as both a Manufacturer and a Retailer may, as a certified Retailer, sell a manufactured home to a person who, in good faith, purchases such a home for such person's residential use. However, this does not mean that a Manufacturer certified as both a Manufacturer and a Retailer may sell manufactured homes to any purchaser, without regard to what the purchaser does or intends to do with the homes. A Manufacturer, whether certified as a Manufacturer only or as both a Manufacturer and a Retailer, must not knowingly aid and abet the wrongful actions of a third party. The Department of State takes the position that if a Manufacturer (1) sells manufactured homes to a purchaser, (2) knows that the purchaser is not certified as a Retailer, and (3) knows that the purchaser routinely sells such homes to third parties, the Manufacturer is knowingly aiding and abetting the wrongful actions of that purchaser and, by doing so, the Manufacturer has demonstrated incompetency and untrustworthiness. Such a Manufacturer is subject to suspension or revocation of its certification(s) and to civil penalties under Part 1210.

To summarize, when a Manufacturer sells a manufactured home, it is the Manufacturer's responsibility to ensure (1) that the Manufacturer is authorized to make the sale and (2) that the purchaser does not plan to deal with the home in a manner that violates Article 21-B or Part 1210. A Manufacturer is authorized to sell a manufactured home to a *certified* Retailer. A Manufacturer certified as both a Manufacturer and a Retailer is authorized (as a certified Retailer) to sell a home to a person who intends to use the home as his or her residence. In either case, however, the Manufacturer must not sell a home to a purchaser if the Manufacturer knows that the purchaser is not certified as a Retailer and that the purchaser routinely sells homes to third parties.

To download Part 1210, find a training opportunity, or obtain a certification application, or for more information on Manufacturers Home regulations, visit the Department of State, Manufactured Housing Unit website at: www.dos.state.ny.us/code/manuf.html

Recently the Department of State revised the form known as Manufacturer's Warranty Seal to reflect our change of address. We also added space for additional information regarding the manufactured housing unit bearing the seal. The form now asks for the HUD Label No; Unit Serial No(s); Manufacturer's Certification No. and printed name of the signatory in addition to the name of the Manufacturer; and signature of an individual holding Manufacturer's Certification or Limited Manufacturer's Certification.

Incorrectly the form has been printed as a two part form and not the three part form as was intended. Until we can determine a plan for and carry out corrective action Manufacturer's are hereby directed to do the following: (1) Complete form and affix seal to manufactured housing unit; (2) Photocopy yellow copy to retain for your records; and (3) Mail yellow copy to Department of State with your completed Quarterly/Monthly Reports. We apologize for this inconvenience and appreciate your compliance and understanding until such time as we can complete corrective actions.

INSTALL NO. 09211

STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231

MANUFACTURER'S WARRANTY SEAL
THIS SEAL REMAINS THE PROPERTY OF THE DEPARTMENT OF STATE

By attaching this SEAL to this manufactured home, the undersigned Manufacturer of the manufactured home warrants as follows:

1. That this manufactured home is free from any substantial defects in materials or workmanship.
2. That the Manufacturer, or the retailer for the account of the Manufacturer, shall take appropriate corrective action in instances of substantial defects in materials or workmanship, which become evident within one year from the date of the delivery of this manufactured home to the consumer, provided the consumer or his transferee gives written notice of such defects to the Manufacturer or retailer at their business address not later than one year and ten days after date of delivery. Such appropriate corrective action will be taken at the site of this manufactured home, and within sixty days of receipt by the Manufacturer or retailer of such written notice.
3. That the Manufacturer is approved to construct manufactured homes by the United States Department of Housing and Urban Development.
4. That this manufactured home was constructed in accordance with all applicable federal, state, and local statutes, laws, codes, rules, and regulations.
5. That the Manufacturer is certified as a manufacturer by the New York State Department of State.

The foregoing warranties are in addition to and not in derogation of all other rights and privileges which the consumer may have under any other law or instrument. The foregoing warranties are in addition to, and not in limitation of or substitution for, any and all other warranties, express or implied, given or made by the Manufacturer, whether contractually or by operation of law.

Name of Manufacturer: _____ Manufacturer's Certification #: _____
 HUD Label Number: _____ Serial Number: _____
 Printed Name of Person Signing Seal: _____
 Signature of Manufacturer or Limited Manufacturer: _____

If after contacting both the retailer and manufacturer concerning potential defects in your home, and these defects remain unresolved, you may contact the Department of State at (518) 474-4073.

DOS-1081 (Rev. 0209)
 White Copy—Retain for Your Records Seal—Affix to Home



New York State Department of State

**DIVISION OF
CODE ENFORCEMENT
& ADMINISTRATION**

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