

Manufactured Housing

**information**

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## **MANUFACTURED HOMES REGULATIONS AND LOCAL GOVERNMENT RESPONSIBILITY**

The Codes Division has received a number of inquiries seeking clarification regarding the authority given local governments in the enforcement of the manufactured home regulations. This bulletin provides some background information and the important role local governments have towards ensuring that manufactured homes are properly constructed and installed.

Federal Law, the “Manufactured Housing Improvement Act of 2000 (PL106-157)”, gives states the option to establish regulations that would provide enhanced protection for consumers of manufactured homes. In states that opt not to establish such regulation, the U.S. Department of Housing and Urban Development (HUD) becomes directly responsible to provide the necessary protection to consumers, i.e., ensure that manufactured homes are properly installed through their dispute resolution process. By enactment of Article 21-B of the Executive Law, New York State has chosen to establish a regulation that has been approved by HUD known as 19 NYCRR Part 1210, Manufactured Homes. This action was in part driven by participants of the manufactured home industry including installers.

Part 1210 requires among other things that all manufacturers, retailers, installers and mechanics of manufactured homes be certified to manufacture, sell, install, or service any manufactured home in New York State. Such certification is issued only after applicants have satisfied stringent financial responsibilities (surety bonds, deposit account control agreement, or letter of credit), experience, and education. Part 1210.16 also establishes accountability by requiring both the manufacturer and installer to warranty manufactured homes and affix a NYS Warranty Seal in a specific location within the home. By affixing a warranty seal, a manufacturer attests that the home was constructed in accordance with HUD standards, and an installer attests that the installation has been completed as prescribed by and in compliance with the NYS Uniform Fire Prevention and Building Code (Uniform Code). The presence of both warranty seals provides valuable protection for manufactured home owners in your community.

The Certificate of Occupancy is another and final testament, this time by the local government, that the manufactured home complies with Part 1210.16 and that the respective

warranty seals have been placed in the home. It prohibits the issuance of a certificate of occupancy where the required warranty seals have not been attached. Part 1210.16(g) states:

(g) No governmental agency or department or other person or entity responsible for issuing certificates of occupancy in any jurisdiction shall issue a certificate of occupancy for any manufactured home installed in such jurisdiction at any time on or after January 1, 2006 unless:

(1) the manufacturer's warranty seal required by this section has been attached to such manufactured home (unless such manufacturer's warranty seal is not required by reason of subdivision (i), subdivision (j), or subdivision (k) of this section);

(2) The installer's warranty seal required by this section has been attached to such manufactured home; and

(3) The governmental agency or department or other person or entity responsible for issuing certificates of occupancy has independently determined that such manufactured home has been installed in accordance with the applicable provisions of the Uniform Code. In determining whether such installation was or was not in accordance with the applicable provisions of the Uniform Code, the governmental agency or department or other person or entity responsible for issuing certificates of occupancy shall not rely upon the presence of the installer's warranty seal, but shall make its own determination.

Failure of the local official to enforce these requirements has resulted in reluctance, and in some cases refusal of financial institutions to provide financing for the purchase of these new homes. It can also result in civil judgments against the municipality.

Finally, any homeowner, retailer, manufacturer, installer, mechanic, or lending entity may file a complaint seeking resolution of an allegation that a substantial defect exists in the delivered condition, installation, service or construction of a manufactured home. Such a complaint that is not resolved on an informal basis may lead to a Part 400 proceeding before an administrative law judge who may apportion liability and compensation to a complaining party. In addition, Part 1210.21 provides for penalties to any person found guilty, after a hearing, of violation of any provision of Article 21-B or Part 1210 in an amount up to \$1,000 for each such violation.

In summary, the responsibility to ensure that manufactured homes are properly constructed and installed is shared by the manufacturer, retailer, installer and the local government. But the last person(s) to sign-off on an installation is the code enforcement official. Culpability for a non-complying installation does not always rest with the industry.



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