

EXECUTIVE LAW ARTICLE 21-B SURETY BOND INSTRUCTIONS

Use these instructions to assist Applicants for Certification as a Manufacturer, Retailer, Installer and/or Mechanic of Manufactured Homes in the completion of an Executive Law Article 21-B Surety Bond to be submitted to the NYS Department of State, Division of Code Enforcement and Administration, Manufactured Housing Unit. These instructions address only those areas of the Surety Bond in which errors are most frequently made. Please note that *all* applicable areas of the Surety Bond must be completed, and a fully completed and fully executed original Surety Bond must be submitted to the Department of State. Facsimile or photo copies cannot be accepted.

NOTE: The Applicant for Certification as a Manufacturer, Retailer, Installer and/or Mechanic of Manufactured Homes is referred to in the Surety Bond as the “Principal.” An Applicant for Certification can be either a “person” (i.e., an individual) or a “business entity” (e.g., a corporation, limited liability company, limited partnership, or general partnership).

Page 1: Top Section

The category or categories (Manufacturer, Retailer, Installer and/or Mechanic) in which the Applicant will be applying for Certification must be indicated in the top section on page 1 of the Surety Bond. If the Applicant is applying for Certification in more than one category, be sure to check the box for each category for which application is being made.

- For example, if the Applicant is applying for certification as both a Retailer and an Installer, check both the box for Retailer *and* the box for Installer.

Page 1: First “Whereas” Section

The name of and other information about the Applicant (“Principal”) must be inserted in the first “Whereas” section on page 1 of the Surety Bond.

- The name of the Applicant (“Principal”) must be inserted in the first line in this section.
 - The Department of State cannot certify a DBA. If the Applicant is an individual doing business under an assumed name (e.g., John Smith, doing business as John’s Installation Company), the Surety Bond must name that individual (John Smith) as the “Principal.”
- If the Applicant is a “person,” his or her residential address and principal business address must be inserted in the first three lines immediately following the “Name of Principal” line.
 - An individual who does business under an assumed name is a “person” and is *not* a “business entity.” If the Applicant is an individual who does business under an assumed name (e.g., John Smith, doing business as John’s Installation Company), the Surety Bond must name that individual (John Smith) as the “Principal” and the Surety Bond must specify that individual’s residential address and principal business address in the first three lines immediately following the “Name of Principal” line.
- If the Applicant is a “business entity,” the first three lines immediately following the “Name of Principal” line must be left blank, and the next three lines must be completed by inserting the

Applicant's entity type (e.g., corporation, limited liability company, limited partnership, or general partnership), State of organization, and principal business address.

Page 1: Second "Whereas" Section

The name of and other information about the Surety must be inserted in the second "Whereas" section on page 1 of the Surety Bond. (Please note that the Surety Bond form contemplates that the Surety will be a corporation. If the Applicant wishes to submit a Surety Bond in which the Surety is not a corporation, please contact the Department of State.)

Page 1: "Now, Therefore" Section

The amount of the Surety Bond must be inserted in this section. Required Surety Bond amounts are as follows: Manufacturer, \$50,000; Retailer, \$25,000; Installer, \$10,000; and Mechanic, \$5,000.

If the Applicant is applying for Certification in more than one category, the amount of the Surety Bond must be in the amount required for the higher (or highest) applicable category – the Applicant is *not* required to submit a Surety Bond in the amount equal to the sum of the amounts required for the applicable categories.

- For example, if the Applicant is applying for Certification as a Retailer and an Installer, the Surety Bond must be in the amount of \$25,000, which is the amount required for the higher of the applicable categories (Retailer). The Applicant would not be required to submit a Surety Bond in the amount of \$35,000, which would be the sum of the amounts required for the applicable categories.

Page 2: Signature Lines

NOTE: The Surety Bond must be executed (signed) by the Applicant ("Principal") and by the Surety, and both the Applicant ("Principal") and Surety must acknowledge their execution of the Surety Bond in the presence of a Notary Public. Applicants should plan accordingly.

The Applicant ("Principal") must execute (sign) the Surety Bond in the appropriate place in the "Signature of Principal" section on page 2 of the Surety Bond.

- If the Applicant ("Principal") is a "person" (i.e., an individual, including an individual doing business under an assumed name), the two lines immediately under the phrase "If the Principal is a person, complete this part:" must be used. The Applicant ("Principal") must sign on the first line, and the name of the Applicant ("Principal") must be typed or printed on the second line.
- If the Applicant ("Principal") is a "business entity" (e.g., a corporation, limited liability company, limited partnership, or general partnership), the four lines immediately under the phrase "If Principal is a business entity, complete this part:" must be used. The name of the Applicant ("Principal") must be typed or printed on the first of those lines; the person signing on behalf of the Applicant ("Principal") should do so on the second of those lines; the name of the person signing on behalf of the Applicant ("Principal") must be typed or printed on the third line; and the

title (e.g., President, Member, or Partner) of the person signing on behalf of the Applicant (“Principal”) must be typed or printed on the fourth line.

In all cases, the Surety must execute (sign) the Surety Bond in the “Signature of Surety” section. The name of the Surety must be typed or printed on the first line in that section; the person signing on behalf of the Surety must do so on the second line; the name of the person signing on behalf of the Surety must be typed or printed on the third line; and the title of the person signing on behalf of the Surety must be typed or printed on the fourth line.

Page 3: Acknowledgment Clauses

The Surety Bond must be properly acknowledged, and the appropriate acknowledgement clauses must be completed and signed by the Notary or Notaries.

- If the Applicant (“Principal”) is a corporation, the person signing on behalf of the Applicant (“Principal”) must acknowledge that he or she did so in the presence of a Notary Public, and the Notary Public must complete and sign the *first* acknowledgment clause on page 3.
- If the Applicant (“Principal”) is any “business entity” *other than* a corporation (e.g., a limited liability company, limited partnership or general partnership), the person signing on behalf of the Applicant (“Principal”) must acknowledge that he or she did so in the presence of a Notary Public, and the Notary Public must complete and sign the *second* acknowledgment clause on page 3.
- If the Applicant (“Principal”) is a “person” (i.e., an individual, including an individual who does business under an assumed name), the Applicant (“Principal”) must acknowledge that he or she executed (signed) the Surety Bond in the presence of a Notary Public, and the Notary Public must complete and sign the *second* acknowledgment clause on page 3.

In all cases, the person signing on behalf of the Surety must acknowledge that he or she did so in the presence of a Notary Public, and the Notary Public must complete and sign the *third* acknowledgment clause on page 3.

Additional Page to be attached

A Power of Attorney form from the Surety must also be attached to the Surety Bond. This Power of Attorney form must indicate that the person signing the Surety Bond on behalf of the Surety is authorized to do so.

Should you have any questions regarding these instructions or how to complete an Executive Law Article 21-B Surety Bond please contact the NYS Department of State Manufactured Housing Unit at 518-474-4073.

EXECUTIVE LAW ARTICLE 21-B SURETY BOND

BOND NO. _____

DATE OF BOND: _____, 20__

Check applicable category(ies): ___ Manufacturer of Manufactured Homes ___ Retailer of Manufactured Homes
 ___ Installer of Manufactured Homes ___ Mechanic of Manufactured Homes

KNOW ALL PERSONS BY THESE PRESENTS, that

WHEREAS, the undersigned _____, _____,

(Name of Principal)

(If the Principal is a person, complete this part) an individual residing at _____

_____ and having his/her principal place of business at _____

(If the Principal is a Business Entity complete this part) a _____ organized under the Laws of the

(Specify entity type, e.g. corporation, limited liability company, limited partnership)

State of _____ and having its principal place of business at _____

(hereinafter referred to as "Principal") has applied to the New York State Department of State for certification pursuant to Article 21-B of the Executive Law (hereinafter referred to as "Article 21-B") and Part 1210 of Title 19 of the NYCRR (hereinafter referred to as "Part 1210") in the category or categories checked above, and has received or is about to receive such certification(s); and

WHEREAS, the undersigned _____, _____,

(Name of Surety)

a corporation organized under the Laws of the State of _____ and authorized to transact business as a

surety in the State of New York, having its principal place of business at _____

(hereinafter referred to as "Surety") is willing to act as surety on this Bond to comply with the requirements of Article 21-B and Part 1210;

NOW, THEREFORE, the Principal, as principal, and Surety, as surety, do hereby bind themselves, jointly and severally, and their respective heirs, personal representatives, successors and assigns, unto the **New York State Department of State** in the sum of _____ DOLLARS (\$ _____), the payment for which the Principal and Surety bind themselves, jointly and severally, and their respective heirs, personal representatives, successors and assigns, firmly by these presents, pursuant to Article 21-B and Part 1210, and subject to the following conditions:

1. The Term of this Bond shall commence on the "Date of Bond" state above (or, if no "Date of Bond" is stated above, on the date on which this Bond is filed with the New York State Department of State) and shall terminate on the sixtieth (60th) day after the date on which the New York State Department of State shall have received written notice of cancellation from the Surety. Any such notice of cancellation shall be given by first class mail addressed to the New York State Department of State, Attention: Manufactured Housing Program, at the then-current address of the principal office of the New York State Department of State in Albany, New York.
2. The conditions of this Bond are that the Principal and any and all employees of the Principal now or hereafter holding a "limited certificate" (as that term is defined in Part 1210) shall
 - (a) comply with all applicable provisions of Article 21-B and Part 1210;
 - (b) pay all civil penalties levied or assessed against the Principal and/or any such employee(s) of the Principal under Article 21-B and/or Part 1210;
 - (c) pay or otherwise satisfy or comply with all "Article 21-B orders" (as that term is defined in Part 1210) made against the Principal and/or any such employee(s) of the Principal (and, in the case of a consent order, a decision of an administrative law judge, or a decision and order of the Secretary of State or his or her designee, which is made in an administrative proceeding under Part 1210 and which is reviewed in any judicial action or proceeding, pay or otherwise satisfy or comply with such consent order, decision, or decision and order, as confirmed, affirmed, annulled, reversed, modified, or otherwise affected in such judicial action or proceeding or in any appeal taken in such judicial action or proceeding); and

- (d) pay or otherwise satisfy or comply with any and all "Article 21-B judgments" (as that term is defined in part 1210) entered against the Principal and/or any such employee(s) of the Principal (including, but not limited to, each such Article 21-B judgment which confirms, affirms, annuls, reverses, modifies, or otherwise affects any consent order, any decision of an administrative law judge, or any decision and order of the Secretary of State or his or her designee, made in an administrative proceeding under Part 1210).
3. Recovery against this Bond may be made by the New York State Department of State for any breach of any of the foregoing conditions of this Bond which occurs during the Term of this Bond, and for any breach of any of the foregoing conditions of this Bond which occurs after the termination of the Term of this Bond but which is based upon any violation, act, omission, breach of warranty, or breach of contract which occurred prior to the termination of the Term of this Bond and/or upon any "substantial defect" (as that term is defined in Part 1210) which existed prior to termination of the Term of this Bond. The total liability imposed under this Bond on the Surety for all breaches of the foregoing conditions of this Bond is limited to the face amount of this Bond. In no event shall the Surety be liable under this Bond for claims in excess of the face amount of this Bond, regardless of the number or nature of the claims made against this Bond or the number of years this Bond remains in force.
 4. Subject to the provisions in paragraphs 1 and 3 above, this Bond shall continue in full force and effect indefinitely.
 5. Termination of the Term of this Bond shall not terminate or otherwise affect any liability of the Principal, or any liability of any employee(s) of the Principal.

IN WITNESS WHEREOF, the Principal and Surety have hereunto set their hands and seals on this _____ day of _____, 20_____.

Signature of Principal

If Principal is a person, complete this part:

(Signature of Principal)

(Type or Print Name of Principal)

If Principal is a business entity, complete this part:

(Print Name of Principal)

By: _____
(Signature of Authorized Representative of Principal)

Name: _____
(Type or Print Title of Authorized Representative of Principal)

Title: _____
(Type or Print Title of Authorized Representative of Principal)

Signature of Surety

(Type or Print Name of Surety)

By: _____
(Signature of Authorized Representative of Principal)

Name: _____
(Type or Print Name of Authorized Representative of Principal)

Title: Attorney-in-Fact

Acknowledgment of Principal

If the Principal is a corporation, use this part:

State of _____)

County of _____) ss.:

On the _____ day of _____ in the year 20 ____ before me personally came _____
_____ to me known, who, being by me duly sworn, did depose and say that he/she resides
in _____

(if the place of residence is in a city, include the street and street number, if any, thereof); that he/she is the _____
_____ of the _____,

the corporation described in and which executed the above instrument; that he/she knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by authority of the board of directors of said corporation, and that he/she signed his/her name thereto by like authority.

Notary Public

If the Principal is an individual, or a business entity other than a corporation, use this part:

State of _____)

County of _____) ss.:

On the _____ day of _____ in the year 20 _____ before me the undersigned, personally appeared
_____, personally known to me or proved to me on the basis of satisfactory
evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed
the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which
the individual acted, executed the instrument.

Notary Public

Acknowledgment of Surety

State of _____)

County of _____) ss.:

On the _____ day of _____ in the year 20 ____ before me personally came _____
_____ to me known, who, being by me duly sworn, did depose and say that he/she resides
in _____

(if the place of residence is in a city, include the street and street number, if any, thereof); that he/she is the duly appointed
Attorney-in-Fact of the _____,

the corporation described in and which executed the above instrument; that he/she knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by authority of the board of directors of said corporation, and that he/she signed his/her name thereto by like authority.

Notary Public