

## CHAPTER 320

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### **320.77 License required of mobile home dealers.--**

(1) DEFINITIONS.--As used in this section:

(a) "Dealer" means any person engaged in the business of buying, selling, or dealing in mobile homes or offering or displaying mobile homes for sale. The term "dealer" includes a mobile home broker. Any person who buys, sells, deals in, or offers or displays for sale, or who acts as the agent for the sale of, one or more mobile homes in any 12-month period shall be prima facie presumed to be a dealer. The terms "selling" and "sale" include lease-purchase transactions. The term "dealer" does not include banks, credit unions, and finance companies that acquire mobile homes as an incident to their regular business and does not include mobile home rental and leasing companies that sell mobile homes to dealers licensed under this section. A licensed dealer may transact business in recreational vehicles with a motor vehicle auction as defined in s. 320.27(1)(c)4. Any licensed dealer dealing exclusively in mobile homes shall not have benefit of the privilege of using dealer license plates.

(b) "Mobile home broker" means any person who is engaged in the business of offering to procure or procuring used mobile homes for the general public; who holds himself or herself out through solicitation, advertisement, or otherwise as one who offers to procure or procures used mobile homes for the general public; or who acts as the agent or intermediary on behalf of the owner or seller of a used mobile home which is for sale or who assists or represents the seller in finding a buyer for the mobile home.

(c)1. "Mobile home salesperson" means a person not otherwise expressly excluded by this section who:

a. Is employed as a salesperson by a mobile home dealer, as defined in s. 320.77, or who, under any contract, agreement, or arrangement with a dealer, for a commission, money, profit, 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 mobile home required to be titled under this chapter;

b. Induces or attempts to induce any person to buy or exchange an interest in a mobile home required to be registered and who receives or expects to receive a commission, money, brokerage fees, profit, or any other thing of value from the seller or purchaser of the mobile home; or

c. Exercises managerial control over the business of a licensed mobile home dealer or who supervises mobile home salespersons employed by a licensed mobile home dealer, whether compensated by salary or commission, including, but not limited to, any person who is employed by the mobile home dealer as a general manager, assistant general manager, or sales manager, or any employee of a licensed mobile home dealer who negotiates

with or induces a customer to enter into a security agreement or purchase agreement or purchase order for the sale of a mobile home on behalf of the licensed mobile home dealer.

2. The term does not include:

a. A representative of an insurance company or a finance company, or a public official who, in the regular course of business, is required to dispose of or sell mobile homes under a contractual right or obligation of the employer, in the performance of an official duty, or under the authority of any court if the sale is to save the seller from any loss or pursuant to the authority of a court.

b. A person who is licensed as a manufacturer, remanufacturer, transporter, distributor, or representative of mobile homes.

c. A person who is licensed as a mobile home dealer under this chapter.

d. A person not engaged in the purchase or sale of mobile homes as a business who is disposing of mobile homes acquired for his or her own use or for use in his or her business if the mobile homes were acquired and used in good faith and not for the purpose of avoiding the provisions of this chapter.

(2) LICENSE REQUIRED.--No person shall engage in business as, or serve in the capacity of, a dealer in this state unless such person possesses a valid, current license as provided in this section.

(3) APPLICATION.--The application for such license shall be in the form prescribed by the department and subject to such rules as may be prescribed by it. The application shall be verified by oath or affirmation and shall contain:

(a) A full statement of the name and the date of birth of the person or persons applying therefor.

(b) The name of the firm or copartnership with the names and places of residence of all its members, if the applicant is a firm or copartnership.

(c) The names and places of residence of the principal officers, if the applicant is a body corporate or other artificial body.

(d) The name of the state under whose laws the corporation is organized.

(e) The former place or places of residence of the applicant.

(f) The prior businesses in which the applicant has been engaged, the dates during which the applicant was engaged in such businesses, and the locations thereof.

(g) A description of the exact location of the place of business, when it was acquired, and whether it is owned in fee simple by the applicant. If leased, a true copy of the lease shall be attached to the application.

(h) Certification by the applicant that the location is a permanent one, not a tent or a temporary stand or other temporary quarters; and, except in the case of a mobile home broker, that the location affords sufficient unoccupied space to store all mobile homes offered and displayed for sale; and that the location is a suitable place in which the applicant can in good faith carry on business and keep and maintain books, records, and files necessary to conduct such business, which will be available at all reasonable hours to inspection by the department or any of its inspectors or other employees. This subsection shall not preclude a licensed mobile home dealer from displaying and offering for sale mobile homes in a mobile home park.

(i) Certification by the applicant that the business of a mobile home dealer is the principal business which shall be conducted at that location; however, this provision shall not apply to mobile home park operators licensed as mobile home dealers.

(j) Such other relevant information as may be required by the department. Each applicant, general partner in the case of a partnership, or corporate officer and director in the case of a corporate applicant, must file a set of fingerprints with the department for the purpose of determining any prior criminal record or any outstanding warrants. The department shall submit the fingerprinting to the Department of Law Enforcement for state processing and forwarding to the Federal Bureau of Investigation for federal processing. The actual cost of such state and federal processing shall be borne by the applicant and is to be in addition to the fee for licensure. The department may issue a license to an applicant pending the results of the fingerprint investigation, which license is fully revocable if the department subsequently determines that any facts set forth in the application are not true or correctly represented.

The department shall, if it deems necessary, cause an investigation to be made to ascertain if the facts set forth in the application are true and shall not issue a license to the applicant until it is satisfied that the facts set forth in the application are true.

(4) FEES.--Upon making initial application, the applicant shall pay to the department a fee of \$300 in addition to any other fees now required by law. The fee for renewal application shall be \$100. The fee for application for change of location shall be \$25. Any applicant for renewal who has failed to submit his or her renewal application by October 1 shall pay a renewal application fee equal to the original application fee. No fee is refundable. All fees shall be deposited into the General Revenue Fund.

(5) DENIAL OF LICENSE.--The department may deny any applicant a license on the ground that:

(a) The applicant has made a material misstatement in his or her application for a license.

(b) The applicant has failed to comply with any applicable provision of this chapter.

(c) The applicant has failed to provide warranty service.

(d) The applicant or one or more of his or her principals or agents has violated any law, rule, or regulation relating to the sale of mobile homes.

(e) The department has proof of unfitness of the applicant.

(f) The applicant or licensee has engaged in previous conduct in any state which would have been a ground for revocation or suspension of a license in this state.

(g) The applicant or licensee has violated any of the provisions of the National Mobile Home Construction and Safety Standards Act of 1974 or any rule or regulation of the Department of Housing and Urban Development promulgated thereunder.

Upon denial of a license, the department shall notify the applicant within 10 days, stating in writing its grounds for denial. The applicant is entitled to a public hearing and may request that such hearing be held within 45 days of denial of the license. All proceedings shall be pursuant to chapter 120.

(6) LICENSE CERTIFICATE.--A license certificate shall be issued by the department in accordance with the application when the same is regular in form and in compliance with the provisions of this section. The license certificate may be in the form of a document or a computerized card as determined by the department. The cost of each original, additional, or replacement computerized card shall be borne by the licensee and is in addition to the fee for licensure. The fees charged applicants for both the required background investigation and the computerized card as provided in this section shall be deposited into the Highway Safety Operating Trust Fund. The license, when so issued, shall entitle the licensee to carry on and conduct the business of a mobile home dealer at the location set forth in the license for a period of 1 year from October 1 preceding the date of issuance. Each initial application received by the department shall be accompanied by verification that, within the preceding 6 months, the applicant or one or more of his or her designated employees has attended a training and information seminar conducted by the department or by a public or private provider approved by the department. Such seminar shall include, but not be limited to, statutory dealer requirements, which requirements include required bookkeeping and recording procedures, requirements for the collection of sales

and use taxes, and such other information that in the opinion of the department will promote good business practices.

(7) SUPPLEMENTAL LICENSE.--Any person licensed pursuant to this section shall be entitled to operate one or more additional places of business under a supplemental license for each such business if the ownership of each business is identical to that of the principal business for which the original license is issued. Each supplemental license shall run concurrently with the original license and shall be issued upon application by the licensee on a form to be furnished by the department and payment of a fee of \$50 for each such license. Only one licensed dealer shall operate at the same place of business. A supplemental license authorizing off-premises sales shall be issued, at no charge to the dealer, for a period not to exceed 10 consecutive calendar days.

(8) RECORDS TO BE KEPT BY LICENSEE.--Each licensee shall keep records in such form as shall be prescribed by the department. Such records shall include:

(a) A record of the purchase, sale, or exchange, or receipt for the purpose of sale, of any mobile home;

(b) The description of each such mobile home, including the identification or serial number and such other numbers or identification marks as may be thereon, and a statement that a number has been obliterated, defaced, or changed, if such fact is apparent; and

(c) The name and address of the seller, the purchaser, and the alleged owner or other person from whom the mobile home was purchased or received and the person to whom it was sold or delivered, as the case may be.

(9) SALESPERSONS TO BE REGISTERED BY LICENSEES.--

(a) Each licensee shall register with the department, within 30 days after the date of hire, the name, local residence address, and home telephone number of each person employed by such licensee as a mobile home salesperson. A licensee may not provide a post office box in lieu of a physical residential address.

(b) Each time a mobile home salesperson employed by a licensee changes his residence address, the salesperson must notify the department within 20 days after the change.

(c) Quarterly, each licensee shall notify the department of the termination or separation from employment of each mobile home salesperson employed by the licensee. Each notification must be on a form prescribed by the department.

(10) EVIDENCE OF TITLE REQUIRED.--The licensee shall also have in his or her possession for each new mobile home a manufacturer's invoice or statement of origin, and for each used mobile home a properly assigned certificate of title or registration certificate if the used mobile home was previously registered in a nontitle state, from the time the mobile home is delivered to the licensee until it has been disposed of by him or her.

(11) SETUP OPERATIONS.--Each licensee may perform setup operations only as defined in s. 320.822, and the department shall provide by rule for the uniform application of all existing statutory provisions relating to licensing and setup operations.

(12) PENALTY.--The violation of any provision of this section is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(13) INJUNCTION.--In addition to the remedies provided in this chapter, and notwithstanding the existence of any adequate remedy at law, the department is authorized to make application to any circuit court of the state, and the circuit court shall have jurisdiction, upon a hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from acting as a mobile home dealer under the terms of this section who is not properly licensed or who violates or fails or refuses to comply with any of the provisions of chapter 319 and this chapter or any rule or regulation adopted thereunder. Such injunction shall be issued without bond. A single act in violation of the provisions of chapter 319 or this chapter shall be sufficient to authorize the issuance of an injunction.

(14) **SUSPENSION OR REVOCATION.**--The department shall, as it deems necessary, either suspend or revoke any license issued hereunder upon a finding that the licensee violated any provision of this section or of any other law of this state having to do with dealing in mobile homes or perpetrated a fraud upon any person as a result of such dealing in mobile homes.

(15) **ADMINISTRATIVE FINES.**--In addition to the exercise of other powers provided in this section, the department is authorized to assess, impose, levy, and collect by legal process fines, in an amount not to exceed \$1,000 for each violation, against any licensee if it finds that a licensee has violated any provision of this section or has violated any other law of this state having to do with dealing in motor vehicles. Any licensee shall be entitled to a hearing pursuant to chapter 120 should the licensee wish to contest the fine levied, or about to be levied, upon him or her.

(16) **SURETY BOND, CASH BOND, OR IRREVOCABLE LETTER OF CREDIT REQUIRED.**--

(a) Before any license shall be issued or renewed, the applicant or licensee shall deliver to the department a good and sufficient surety bond, cash bond, or irrevocable letter of credit, executed by the applicant or licensee as principal. The bond or irrevocable letter of credit shall be in a form to be approved by the department and shall be conditioned upon the dealer's complying with the conditions of any written contract made by the dealer in connection with the sale, exchange, or improvement of any mobile home and his or her not violating any of the provisions of chapter 319 or this chapter in the conduct of the business for which the dealer is licensed. The bond or irrevocable letter of credit shall be to the department and in favor of any retail customer who shall suffer any loss as a result of any violation of the conditions contained in this section. The bond or irrevocable letter of credit shall be for the license period, and a new bond or irrevocable letter of credit or a proper continuation certificate shall be delivered to the department at the beginning of each license period. However, the aggregate liability of the surety in any one license year shall in no event exceed the sum of such bond, or, in the case of a letter of credit, the aggregate liability of the issuing bank shall not exceed the sum of the credit. The amount of the bond required shall be as follows:

1. A single dealer who buys, sells, or deals in mobile homes and who has four or fewer supplemental licenses shall provide a surety bond, cash bond, or irrevocable letter of credit executed by the dealer applicant or licensee in the amount of \$25,000.

2. A single dealer who buys, sells, or deals in mobile homes and who has more than four supplemental licenses shall provide a surety bond, cash bond, or irrevocable letter of credit executed by the dealer applicant or licensee in the amount of \$50,000.

For the purposes of this paragraph, any person who buys, sells, or deals in both mobile homes and recreational vehicles shall provide the same surety bond required of dealers who buy, sell, or deal in mobile homes only.

(b) Surety bonds shall be executed by a surety company authorized to do business in the state as surety, and irrevocable letters of credit shall be issued by a bank authorized to do business in the state as a bank.

(c) Irrevocable letters of credit shall be engaged by a bank as an agreement to honor demands for payment as specified in this section.

(d) The department shall, upon denial, suspension, or revocation of any license, notify the surety company of the licensee or bank issuing an irrevocable letter of credit for the licensee, in writing, that the license has been denied, suspended, or revoked and shall state the reason for such denial, suspension, or revocation.

(e) Any surety company that pays any claim against the bond of any licensee or any bank that honors a demand for payment as a condition specified in a letter of credit of a licensee shall notify the department, in writing, that such action has been taken and shall state the amount of the claim or payment.

(f) Any surety company that cancels the bond of any licensee or any bank that cancels an irrevocable letter of credit shall notify the department, in writing, of such cancellation, giving reason for the cancellation.

**History.**--s. 1, ch. 23665, 1947; s. 2, ch. 70-215; s. 1, ch. 70-439; s. 1, ch. 74-169; s. 2, ch. 75-203; s. 3, ch. 76-168; s. 32, ch. 77-357; s. 1, ch. 77-457; s. 20, ch. 78-95; ss. 8, 16, 17, ch. 80-217; s. 199, ch. 81-259; ss. 2, 3, ch. 81-318; s. 9, ch. 82-66; ss. 5, 6, ch. 82-129; s. 6, ch. 85-176; s. 8, ch. 85-343; s. 1, ch. 87-150; ss. 3, 19, 20, ch. 88-147; s. 40, ch. 91-224; s. 4, ch. 91-429; s. 7, ch. 92-148; s. 69, ch. 93-120; s. 65, ch. 94-306; s. 917, ch. 95-148; s. 19, ch. 95-333; s. 18, ch. 2005-164; s. 37, ch. 2006-290.

### **320.771 License required of recreational vehicle dealers.--**

(1) **DEFINITIONS.**--As used in this section:

(a) "Dealer" means any person engaged in the business of buying, selling, or dealing in recreational vehicles or offering or displaying recreational vehicles for sale. The term "dealer" includes a recreational vehicle broker. Any person who buys, sells, deals in, or offers or displays for sale, or who acts as the agent for the sale of, one or more recreational vehicles in any 12-month period shall be prima facie presumed to be a dealer. The terms "selling" and "sale" include lease-purchase transactions. The term "dealer" does not include banks, credit unions, and finance companies that acquire recreational vehicles as an incident to their regular business and does not include mobile home rental and leasing companies that sell recreational vehicles to dealers licensed under this section. A licensed dealer may transact business in recreational vehicles with a motor vehicle auction as defined in s. 320.27(1)(c)4. Further, a licensed dealer may, at retail or wholesale, sell a motor vehicle, as described in s. 320.01(1)(a), acquired in exchange for the sale of a recreational vehicle, if such acquisition is incidental to the principal business of being a recreational vehicle dealer. However, a recreational vehicle dealer may not buy a motor vehicle for the purpose of resale unless licensed as a motor vehicle dealer pursuant to s. 320.27.

(b) "Recreational vehicle broker" means any person who is engaged in the business of offering to procure or procuring used recreational vehicles for the general public; who holds himself or herself out through solicitation, advertisement, or otherwise as one who offers to procure or procures used recreational vehicles for the general public; or who acts as the agent or intermediary on behalf of the owner or seller of a used recreational vehicle which is for sale or who assists or represents the seller in finding a buyer for the recreational vehicle.

(c) For the purposes of this section, the term "recreational vehicle" does not include any camping trailer, as defined in s. 320.01(1)(b)2.

(2) **LICENSE REQUIRED.**--No person shall engage in business as, or serve in the capacity of, a dealer in this state unless such person possesses a valid, current license as provided in this section. Motor vehicle dealers licensed under s. 320.27 shall not be required to obtain the license provided in this section to sell motor vehicles as defined in s. 320.01(1)(b)4., 5., and 6.

(3) **APPLICATION.**--The application for such license shall be in the form prescribed by the department and subject to such rules as may be prescribed by it. The application shall be verified by oath or affirmation and shall contain:

(a) A full statement of the name and the date of birth of the person or persons applying therefor.

(b) The name of the firm or copartnership with the names and places of residence of all its members, if the applicant is a firm or copartnership.

(c) The names and places of residence of the principal officers, if the applicant is a body corporate or other artificial body.

(d) The name of the state under whose laws the corporation is organized.

(e) The former place or places of residence of the applicant.

(f) The prior businesses in which the applicant has been engaged, the dates during which the applicant was engaged in such businesses, and the locations thereof.

(g) A description of the exact location of the place of business, when it was acquired, and whether it is owned in fee simple by the applicant. If leased, a true copy of the lease shall be attached to the application.

(h) Certification by the applicant that the location is a permanent one, not a tent or a temporary stand or other temporary quarters; that the location affords sufficient unoccupied space to store all recreational vehicles offered and displayed for sale; and that the location is a suitable place in which the applicant can in good faith carry on business and keep and maintain books, records, and files necessary to conduct such business, which will be available at all reasonable hours to inspection by the department or any of its inspectors or other employees.

(i) Certification by the applicant that the business of a recreational vehicle dealer is the principal business which shall be conducted at that location; however, this provision shall not apply to recreational vehicle or mobile home park operators licensed as mobile home or recreational vehicle dealers.

(j) A statement that the applicant is insured under a garage liability insurance policy, which shall include, at a minimum, \$25,000 combined single-limit liability coverage, including bodily injury and property damage protection, and \$10,000 personal injury protection, if the applicant is to be licensed as a dealer in, or intends to sell, recreational vehicles.

(k) A statement that the applicant for a recreational vehicle license, issued pursuant to this section, has not and will not enter into any agreements, written or oral, with any other person or business entity which would constitute an unfair or deceptive trade practice in violation of part II of chapter 501.

(l) Such other relevant information as may be required by the department. Each applicant, general partner in the case of a partnership, or corporate officer and director in the case of a corporate applicant, must file a set of fingerprints with the department for the purpose of determining any prior criminal record or any outstanding warrants. The department shall submit the fingerprinting to the Department of Law Enforcement for state processing and forwarding to the Federal Bureau of Investigation for federal processing. The actual cost of such state and federal processing shall be borne by the applicant and is to be in addition to the fee for licensure. The department may issue a license to an applicant pending the results of the fingerprint investigation, which license is fully revocable if the department subsequently determines that any facts set forth in the application are not true or correctly represented.

The department shall, if it deems necessary, cause an investigation to be made to ascertain if the facts set forth in the application are true and shall not issue a license to the applicant until it is satisfied that the facts set forth in the application are true.

(4) FEES.--Upon making initial application, the applicant shall pay to the department a fee of \$300 in addition to any other fees now required by law. The fee for renewal application shall be \$100. The fee for application for change of location shall be \$25. Any applicant for renewal who has failed to submit his or her renewal application by October 1 shall pay a renewal application fee equal to the original application fee. No fee is refundable. All fees shall be deposited into the General Revenue Fund.

(5) DENIAL OF LICENSE.--The department may deny any applicant a license on the ground that:

(a) The applicant has made a material misstatement in the application for a license.

(b) The applicant has failed to comply with any applicable provision of this chapter.

(c) The applicant has failed to provide warranty service.

(d) The applicant or one or more of the applicant's principals or agents has violated any law, rule, or regulation relating to the sale of recreational vehicles.

(e) The department has proof of unfitness of the applicant.

(f) The applicant or licensee has engaged in previous conduct in any state which would have been a ground for revocation or suspension of a license in this state.

(g) The applicant or licensee has violated any of the provisions of the National Mobile Home Construction and Safety Standards Act of 1974 or any rule or regulation of the Department of Housing and Urban Development promulgated thereunder.

Upon denial of a license, the department shall notify the applicant within 10 days, stating in writing its grounds for denial. The applicant is entitled to a public hearing and may request that such hearing be held within 45 days of denial of the license. All proceedings shall be pursuant to chapter 120.

(6) LICENSE CERTIFICATE.--A license certificate shall be issued by the department in accordance with the application when the same is regular in form and in compliance with the provisions of this section. The license certificate may be in the form of a document or a computerized card as determined by the department. The cost of each original, additional, or replacement computerized card shall be borne by the licensee and is in addition to the fee for licensure. The fees charged applicants for both the required background investigation and the computerized card as provided in this section shall be deposited into the Highway Safety Operating Trust Fund. The license, when so issued, shall entitle the licensee to carry on and conduct the business of a recreational vehicle dealer at the location set forth in the license for a period of 1 year from October 1 preceding the date of issuance. Each initial application received by the department shall be accompanied by verification that, within the preceding 6 months, the applicant or one or more of his or her designated employees has attended a training and information seminar conducted by the department or by a public or private provider approved by the department. Such seminar shall include, but not be limited to, statutory dealer requirements, which requirements include required bookkeeping and recording procedures, requirements for the collection of sales and use taxes, and such other information that in the opinion of the department will promote good business practices.

(7) SUPPLEMENTAL LICENSE.--Any person licensed pursuant to this section shall be entitled to operate one or more additional places of business under a supplemental license for each such business if the ownership of each business is identical to that of the principal business for which the original license is issued. Each supplemental license shall run concurrently with the original license and shall be issued upon application by the licensee on a form to be furnished by the department and payment of a fee of \$50 for each such license. Only one licensed dealer shall operate at the same place of business. A supplemental license authorizing off-premises sales shall be issued, at no charge to the dealer, for a period not to exceed 10 consecutive calendar days.

(8) LICENSE ENDORSEMENT.--Any mobile home dealer licensed pursuant to s. 320.77, may apply to the department for authority to sell recreational vehicles. The mobile home dealer shall file an application required by this section and shall be governed by the licensing provisions contained herein. No additional license fees or bond shall be required for issuance of this endorsement to the mobile home dealer's license.

(9) RECORDS TO BE KEPT BY LICENSEE.--Each licensee shall keep records in such form as shall be prescribed by the department. Such records shall include:

(a) A record of the purchase, sale, or exchange, or receipt for the purpose of sale, of any recreational vehicle.

(b) The description of each such recreational vehicle, including the identification or serial number and such other numbers or identification marks as may be thereon, and a statement that a number has been obliterated, defaced, or changed, if such fact is apparent.

(c) The name and address of the seller, the purchaser, and the alleged owner or other person from whom the recreational vehicle was purchased or received and the person to whom it was sold or delivered, as the case may be.

(10) EVIDENCE OF TITLE REQUIRED.--The licensee shall also have in his or her possession for each new recreational vehicle a manufacturer's invoice or statement of origin, and for each used recreational vehicle a properly assigned certificate of title or registration certificate if the used recreational vehicle was previously

registered in a nontitle state, from the time the recreational vehicle is delivered to the licensee until it has been disposed of by the licensee.

(11) SETUP OPERATIONS.--Each licensee may perform setup operations only as defined in s. 320.822, and the department shall provide by rule for the uniform application of all existing statutory provisions relating to licensing and setup operations.

(12) PENALTY.--The violation of any provision of this section is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(13) INJUNCTION.--In addition to the remedies provided in this chapter, and notwithstanding the existence of any adequate remedy at law, the department is authorized to make application to any circuit court of the state, and the circuit court shall have jurisdiction, upon a hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from acting as a recreational vehicle dealer under the terms of this section who is not properly licensed or who violates or fails or refuses to comply with any of the provisions of chapter 319 and this chapter or any rule or regulation adopted thereunder. Such injunction shall be issued without bond. A single act in violation of the provisions of chapter 319 or this chapter shall be sufficient to authorize the issuance of an injunction.

(14) SUSPENSION OR REVOCATION.--The department shall, as it deems necessary, either suspend or revoke any license issued hereunder upon a finding that the licensee violated any provision of this section or of any other law of this state having to do with dealing in recreational vehicles or perpetrated a fraud upon any person as a result of such dealing in recreational vehicles.

(15) ADMINISTRATIVE FINES.--In addition to the exercise of other powers provided in this section, the department is authorized to assess, impose, levy, and collect by legal process fines, in an amount not to exceed \$1,000 for each violation, against any licensee if it finds that a licensee has violated any provision of this section or has violated any other law of this state having to do with dealing in motor vehicles. Any licensee shall be entitled to a hearing pursuant to chapter 120 should the licensee wish to contest the fine levied, or about to be levied, upon him or her.

(16) BOND.--

(a) Before any license shall be issued or renewed, the applicant shall deliver to the department a good and sufficient surety bond, executed by the applicant as principal and by a surety company qualified to do business in the state as surety. The bond shall be in a form to be approved by the department and shall be conditioned upon the dealer's complying with the conditions of any written contract made by that dealer in connection with the sale, exchange, or improvement of any recreational vehicle and his or her not violating any of the provisions of chapter 319 or this chapter in the conduct of the business for which he or she is licensed. The bond shall be to the department and in favor of any retail customer who shall suffer any loss as a result of any violation of the conditions hereinabove contained. The bond shall be for the license period, and a new bond or a proper continuation certificate shall be delivered to the department at the beginning of each license period. However, the aggregate liability of the surety in any one license year shall in no event exceed the sum of such bond. The amount of the bond required shall be as follows:

1. A single dealer who buys, sells, or deals in recreational vehicles and has four or fewer supplemental licenses shall provide a surety bond in the amount of \$10,000.

2. A single dealer who buys, sells, or deals in recreational vehicles and who has more than four supplemental licenses shall provide a surety bond in the amount of \$20,000.

For the purposes of this paragraph, any person who buys, sells, or deals in both mobile homes and recreational vehicles shall provide the same surety bond required of dealers who buy, sell, or deal in mobile homes only.

(b) The department shall, upon denial, suspension, or revocation of any license, notify the surety company of the licensee, in writing, that the license has been denied, suspended, or revoked and shall state the reason for such denial, suspension, or revocation.

(c) Any surety company which pays any claim against the bond of any licensee shall notify the department, in writing, that it has paid such a claim and shall state the amount of the claim.

(d) Any surety company which cancels the bond of any licensee shall notify the department, in writing, of such cancellation, giving reason for the cancellation.

(17) PROHIBITED COMMISSION SHARING.--In accordance with the provisions of s. 626.753, a dealer or recreational vehicle broker, as defined in this section, who is not a licensed insurance agent may not share in the commission on the sale of insurance coverage on the types of recreational vehicles defined in s. 320.01(1)(b) by the creation of a foreign partnership, corporation, or other entity which is controlled by a person or entity not licensed as an insurance agent.

History.--s. 20, ch. 95-333; s. 44, ch. 96-413; s. 35, ch. 97-96; s. 1, ch. 2000-247.

### **320.781 Mobile Home and Recreational Vehicle Protection Trust Fund.--**

(1) There is hereby established a Mobile Home and Recreational Vehicle Protection Trust Fund. The trust fund shall be administered and managed by the Department of Highway Safety and Motor Vehicles. The expenses incurred by the department in administering this section shall be paid only from appropriations made from the trust fund.

(2) Beginning October 1, 1990, the department shall charge and collect an additional fee of \$1 for each new mobile home and new recreational vehicle title transaction for which it charges a fee. This additional fee shall be deposited into the trust fund. The Department of Highway Safety and Motor Vehicles shall charge a fee of \$40 per annual dealer and manufacturer license and license renewal, which shall be deposited into the trust fund. The sums deposited in the trust fund shall be used exclusively for carrying out the purposes of this section. These sums may be invested and reinvested by the Chief Financial Officer under the same limitations as apply to investment of other state funds, with all interest from these investments deposited to the credit of the trust fund.

(3) The trust fund shall be used to satisfy any judgment or claim by any person, as provided by this section, against a mobile home or recreational vehicle dealer or broker for damages, restitution, or expenses, including reasonable attorney's fees, resulting from a cause of action directly related to the conditions of any written contract made by him or her in connection with the sale, exchange, or improvement of any mobile home or recreational vehicle, or for any violation of chapter 319 or this chapter.

(4) The trust fund shall not be liable for any judgment, or part thereof, resulting from any tort claim except as expressly provided in subsection (3), nor for any punitive, exemplary, double, or treble damages. A person, the state, or any political subdivision thereof may recover against the mobile home or recreational vehicle dealer, broker, or surety, jointly and severally, for such damages, restitution, or expenses; provided, however, that in no event shall the trust fund or the surety be liable for an amount in excess of actual damages, restitution, or expenses.

(5) Subject to the limitations and requirements of this section, the trust fund shall be used by the department to compensate persons who have unsatisfied judgments, or in certain limited circumstances unsatisfied claims, against a mobile home or recreational vehicle dealer or broker. The following conditions must exist for a person to be eligible to file a claim against the trust fund:

(a) The claimant has obtained a final judgment that is unsatisfied against the mobile home or recreational vehicle dealer or broker or its surety jointly and severally, or against the mobile home dealer or broker only, if the court found that the surety was not liable due to prior payment of valid claims against the bond in an amount equal to, or greater than, the face amount of the applicable bond; or the claimant is prohibited from filing a claim in a lawsuit because a bankruptcy proceeding is pending by the dealer or broker, and the claimant has filed a claim in that bankruptcy proceeding; or the dealer or broker has closed his or her business and cannot be found or located within the jurisdiction of the state; and

(b) A claim has been made in a lawsuit against the surety and a judgment obtained is unsatisfied; a claim has been made in a lawsuit against the surety which has been stayed or discharged in a bankruptcy proceeding; or a claimant is prohibited from filing a claim in a lawsuit because a bankruptcy proceeding is pending by surety or the surety is not liable due to the prior payment of valid claims against the bond in an amount equal to, or greater than, the face amount of the applicable bond. However, a claimant may not recover against the trust fund if the claimant has recovered from the surety an amount that is equal to or greater than the total loss.

(6) In order to recover from the trust fund, the person must file an application and verified claim with the department.

(a) If the claimant has obtained a judgment that is unsatisfied against the mobile home or recreational vehicle dealer or broker or its surety as set forth in this section, the verified claim must specify the following:

1.a. That the judgment against the mobile home or recreational vehicle dealer or broker and its surety has been entered; or

b. That the judgment against the mobile home or recreational vehicle dealer or broker contains a specific finding that the surety has no liability, that execution has been returned unsatisfied, and that a judgment lien has been perfected;

2. The amount of actual damages broken down by category as awarded by the court or jury in the cause which resulted in the unsatisfied judgment, and the amount of attorney's fees set forth in the unsatisfied judgment;

3. The amount of payment or other consideration received, if any, from the mobile home or recreational vehicle dealer or broker or its surety;

4. The amount that may be realized, if any, from the sale of real or personal property or other assets of the judgment debtor liable to be sold or applied in satisfaction of the judgment and the balance remaining due on the judgment after application of the amount which has been realized and a certification that the claimant has made a good faith effort to collect the judgment;

5. An assignment by the claimant of rights, title, or interest in the unsatisfied judgment lien to the department; and

6. Such other information as the department requires.

(b) If the claimant has alleged a claim as set forth in paragraph (5)(a) and for the reasons set forth therein has not been able to secure a judgment, the verified claim must contain the following:

1. A true copy of the pleadings in the lawsuit that was stayed or discharged by the bankruptcy court and the order of the bankruptcy court staying those proceedings or a true copy of the claim that was filed in the bankruptcy court proceedings;

2. Allegations of the acts or omissions by the mobile home or recreational vehicle dealer or broker setting forth the specific acts or omissions complained of which resulted in actual damage to the person, along with the actual dollar amount necessary to reimburse or compensate the person for costs or expenses resulting from the acts or omissions of which the person complained;

3. True copies of all purchase agreements, notices, service or repair orders or papers or documents of any kind whatsoever which the person received in connection with the purchase, exchange, or lease-purchase of the mobile home or recreational vehicle from which the person's cause of action arises;

4. An assignment by the claimant of rights, title, or interest in the claim to the department; and

5. Such other information as the department requires.

(c) The department may require such proof as it deems necessary to document the matters set forth in the claim.

(7) Within 90 days after receipt of the application and verified claim, the department shall issue its determination on the claim. Such determination shall not be subject to the provisions of chapter 120, but shall be reviewable only by writ of certiorari in the circuit court in the county in which the claimant resides in the manner and within the time provided by the Florida Rules of Appellate Procedure. The claim must be paid within 45 days after the determination, or, if judicial review is sought, within 45 days after the review becomes final. A person may not be paid an amount from the fund in excess of \$25,000 per mobile home or recreational vehicle, which includes any damages, restitution, payments received as the result of a claim against the surety bond, or expenses, including reasonable attorney's fees. Prior to payment, the person must execute an assignment to the department of all the person's rights and title to, and interest in, the unsatisfied judgment and judgment lien or the claim against the dealer or broker and its surety.

(8) The department, in its discretion and where feasible, may try to recover from the mobile home or recreational vehicle dealer or broker, or the judgment debtor or its surety, all sums paid to persons from the trust fund. Any sums recovered shall be deposited to the credit of the trust fund. The department shall be awarded a reasonable attorney's fee for all actions taken to recover any sums paid to persons from the trust fund pursuant to this section.

(9) This section does not apply to any claim, and a person may not recover against the trust fund as the result of any claim, against a mobile home or recreational vehicle dealer or broker resulting from a cause of action directly related to the sale, lease-purchase, exchange, brokerage, or installation of a mobile home or recreational vehicle prior to July 1, 2006.

(10) Neither the department, nor the trust fund shall be liable to any person for recovery if the trust fund does not have the moneys necessary to pay amounts claimed. If the trust fund does not have sufficient assets to pay the claimant, it shall log the time and date of its determination for payment to a claimant. If moneys become available, the department shall pay the claimant whose unpaid claim is the earliest by time and date of determination.

(11) It is unlawful for any person or his or her agent to file any notice, statement, or other document required under this section which is false or contains any material misstatement of fact. Any person who violates this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

**History.**--s. 1, ch. 90-221; s. 376, ch. 95-148; s. 362, ch. 2003-261; s. 38, ch. 2006-290.

**320.822 Definitions; ss. 320.822-320.862.**--In construing ss. 320.822-320.862, unless the context otherwise requires, the following words or phrases have the following meanings:

(1) "Buyer" means a person who purchases at retail from a dealer or manufacturer a mobile home or recreational vehicle for his or her own use as a residence, or other related use.

(2) "Code" means the appropriate standards found in:

(a) The Federal Manufactured Housing Construction and Safety Standards for single-family mobile homes, promulgated by the Department of Housing and Urban Development;

(b) The Uniform Standards Code approved by the American National Standards Institute, ANSI A-119.2 for recreational vehicles and ANSI A-119.5 for park trailers or the United States Department of Housing and Urban Development standard for park trailers certified as meeting that standard; or

(c) The Mobile Home Repair and Remodeling Code and Used Recreational Vehicle Code.

(3) "Construction" means the minimum requirements for materials, products, equipment, and workmanship needed to assure that the mobile home or recreational vehicle will provide structural strength and rigidity;

protection against corrosion, decay, and other similar destructive forces; resistance to the elements; and durability and economy of maintenance.

(4) "Institute" means the United States of America Standards Institute.

(5) "Length," for purposes of transportation only, means the distance from the extreme front of the mobile home or recreational vehicle, to the extreme rear, including the drawbar and coupling mechanism, but not including expandable features that do not project from the body during transportation.

(6) "Length of a mobile home" means the distance from the exterior of the front wall (nearest to the drawbar and coupling mechanism) to the exterior of the rear wall (at the opposite end of the home) where such walls enclose living or other interior space and such distance includes expandable rooms but not bay windows, porches, drawbars, couplings, hitches, wall and roof extensions, or other attachments.

(7) "Licensee" means any person licensed or required to be licensed under s. 320.8225.

(8) "Mobile home dealer" means any person engaged in the business of buying, selling, or dealing in mobile homes or offering or displaying mobile homes for sale. Any person who buys, sells, or deals in one or more mobile homes in any 12-month period or who offers or displays for sale one or more mobile homes in any 12-month period shall be prima facie presumed to be engaged in the business of a mobile home dealer. The terms "selling" and "sale" include lease-purchase transactions. The term "mobile home dealer" does not include a bank, credit union, or finance company that acquires mobile homes as an incident to its regular business, does not include a mobile home rental or leasing company that sells mobile homes to mobile home dealers licensed under s. 320.77, and does not include persons who are selling their own mobile homes.

(9) "Recreational vehicle dealer" means any person engaged in the business of buying, selling, or dealing in recreational vehicles or offering or displaying recreational vehicles for sale. The term "dealer" includes a recreational vehicle broker. Any person who buys, sells, deals in, or offers or displays for sale, or who acts as the agent for the sale of, one or more recreational vehicles in any 12-month period shall be prima facie presumed to be a dealer. The terms "selling" and "sale" include lease-purchase transactions. The term "dealer" does not include banks, credit unions, and finance companies that acquire recreational vehicles as an incident to their regular business and does not include mobile home rental and leasing companies that sell recreational vehicles to dealers licensed under s. 320.771.

(10) "Mobile home manufacturer" means any person, resident or nonresident, who, as a trade or commerce, manufactures or assembles mobile homes.

(11) "Recreational vehicle manufacturer" means any person, resident or nonresident, who, as a trade or commerce, manufactures or assembles recreational vehicles or van-type vehicles in such manner that they then qualify as recreational vehicles, for sale in this state.

(12) "Responsible party" means a manufacturer, dealer, or supplier.

(13) "Seal" or "label" means a device issued by the department certifying that a mobile home or recreational vehicle meets the appropriate code, which device is to be displayed on the exterior of the mobile home or recreational vehicle.

(14) "Setup" or "installation" means the operations performed at the occupancy site which render a mobile home or park trailer fit for habitation. Such operations include, but are not limited to, transporting; positioning; blocking; leveling, supporting, installing foundation products, components, and systems; connecting utility systems; making minor adjustments; or assembling multiple or expandable units.

(15) "Substantial defect" means:

(a) Any substantial deficiency or defect in materials or workmanship occurring to a mobile home or recreational vehicle which has been reasonably maintained and cared for in normal use.

(b) Any structural element, utility system, or component of the mobile home or recreational vehicle, which fails to comply with the code.

(16) "Supplier" means the original producer of completed components, including refrigerators, stoves, hot water heaters, dishwashers, cabinets, air conditioners, heating units, and similar components, which are furnished to a manufacturer or dealer for installation in the mobile home or recreational vehicle prior to sale to a buyer.

(17) "Width of a mobile home" means the distance from the exterior of one side wall to the exterior of the opposite side wall where such walls enclose living or other interior space and such distance includes expandable rooms but not bay windows, porches, wall and roof extensions, or other attachments.

(18) "Body size" of a park trailer, travel trailer, or fifth-wheel trailer means the distance from the exterior side or end to the opposite exterior side or end of the body. Such distance includes expandable rooms, bay windows, wall and roof extensions, or other extrusions in the travel mode. The following exceptions apply:

(a) Travel trailers shall not exceed 320 square feet. All square footage measurements are of the exterior when in setup mode, including bay windows.

(b) Park trailers constructed to ANSI A-119.5 shall not exceed 400 square feet. Park trailers constructed to the United States Department of Housing and Urban Development standard shall not exceed 500 square feet. All square footage measurements are of the exterior when in setup mode and do not include bay windows.

(c) Fifth-wheel trailers may not exceed 400 square feet. All square footage measurements are of the exterior when in setup mode, including bay windows.

**History.**--s. 3, ch. 67-350; ss. 24, 35, ch. 69-106; s. 96, ch. 71-377; s. 2, ch. 74-169; s. 3, ch. 75-203; s. 1, ch. 76-195; s. 1, ch. 77-174; s. 33, ch. 77-357; s. 2, ch. 78-221; s. 2, ch. 81-318; s. 2, ch. 84-182; ss. 7, 9, ch. 85-343; s. 8, ch. 87-225; ss. 4, 19, 20, ch. 88-147; s. 4, ch. 91-429; s. 42, ch. 94-306; s. 918, ch. 95-148; s. 21, ch. 95-333; s. 2, ch. 2004-283.

### **320.8225 Mobile home and recreational vehicle manufacturer's license.--**

(1) **LICENSE REQUIRED.**--Any person who engages in the business of a mobile home or recreational vehicle manufacturer in this state, or who manufactures mobile homes or recreational vehicles out of state which are ultimately offered for sale in this state, shall obtain annually a license for each factory location in this state and for each factory location out of state which manufactures mobile homes or recreational vehicles for sale in this state, prior to distributing mobile homes or recreational vehicles for sale in this state.

(2) **APPLICATION.**--The application for a license shall be in the form prescribed by the department and shall contain sufficient information to disclose the identity, location, and responsibility of the applicant. The application shall also include a copy of the warranty and a complete statement of any service agreement or policy to be utilized by the applicant, any information relating to the applicant's solvency and financial standing, and any other pertinent matter commensurate with safeguarding the public. The department may prescribe an abbreviated application for renewal of a license if the licensee had previously filed an initial application pursuant to this section. The application for renewal shall include any information necessary to bring current the information required in the initial application.

(3) **FEES.**--Upon making initial application, the applicant shall pay to the department a fee of \$300. Upon making renewal application, the applicant shall pay to the department a fee of \$100. Any applicant for renewal who has failed to submit his or her renewal application by October 1 shall pay a renewal application fee equal to the original application fee. No fee is refundable. All fees shall be deposited into the General Revenue Fund.

(4) **NONRESIDENT.**--Any person applying for a license who is not a resident of this state shall have designated an agent for service of process pursuant to s. 48.181.

(5) **REQUIREMENT OF ASSURANCE.**--

(a) Annually, prior to the receipt of a license to manufacture mobile homes, the applicant or licensee shall submit a surety bond, cash bond, or letter of credit from a financial institution, or a proper continuation certificate, sufficient to assure satisfaction of claims against the licensee for failure to comply with appropriate code standards, failure to provide warranty service, or violation of any provisions of this section. The amount of the surety bond, cash bond, or letter of credit shall be \$50,000. Only one surety bond, cash bond, or letter of credit shall be required for each manufacturer, regardless of the number of factory locations. The surety bond, cash bond, or letter of credit shall be to the department, in favor of any retail customer who shall suffer loss arising out of noncompliance with code standards or failure to honor or provide warranty service. The department shall have the right to disapprove any bond or letter of credit that does not provide assurance as provided in this section.

(b) Annually, prior to the receipt of a license to manufacture recreational vehicles, the applicant or licensee shall submit a surety bond, or a proper continuation certificate, sufficient to assure satisfaction of claims against the licensee for failure to comply with appropriate code standards, failure to provide warranty service, or violation of any provisions of this section. The amount of the surety bond shall be \$10,000 per year. The surety bond shall be to the department, in favor of any retail customer who shall suffer loss arising out of noncompliance with code standards or failure to honor or provide warranty service. The department shall have the right to disapprove any bond which does not provide assurance as provided in this section.

(c) The department shall adopt rules pursuant to chapter 120 consistent with this section in providing assurance of satisfaction of claims.

(d) The department shall, upon denial, suspension, or revocation of any license, notify the surety company of the licensee, in writing, that the license has been denied, suspended, or revoked and shall state the reason for such denial, suspension, or revocation.

(e) Any surety company which pays any claim against the bond of any licensee shall notify the department, in writing, that it has paid such a claim and shall state the amount of the claim.

(f) Any surety company which cancels the bond of any licensee shall notify the department, in writing, of such cancellation, giving reason for the cancellation.

(6) LICENSE YEAR.--A license issued to a mobile home or recreational vehicle manufacturer entitles the licensee to conduct the business of a mobile home or recreational vehicle manufacturer for a period of 1 year from October 1 preceding the date of issuance.

(7) DENIAL OF LICENSE.--The department may deny a mobile home or recreational vehicle manufacturer's license on the ground that:

(a) The applicant has made a material misstatement in his or her application for a license.

(b) The applicant has failed to comply with any applicable provision of this chapter.

(c) The applicant has failed to provide warranty service.

(d) The applicant or one or more of his or her principals or agents has violated any law, rule, or regulation relating to the manufacture or sale of mobile homes or recreational vehicles.

(e) The department has proof of unfitness of the applicant.

(f) The applicant or licensee has engaged in previous conduct in any state which would have been a ground for revocation or suspension of a license in this state.

(g) The applicant or licensee has violated any of the provisions of the National Mobile Home Construction and Safety Standards Act of 1974 or any rule or regulation of the Department of Housing and Urban Development promulgated thereunder.

Upon denial of a license, the department shall notify the applicant within 10 days, stating in writing its grounds for denial. The applicant is entitled to a public hearing and may request that such hearing be held within 45 days of denial of the license. All proceedings shall be pursuant to chapter 120.

(8) **REVOCACTION OR SUSPENSION OF LICENSE.**--The department shall suspend or, in the case of a subsequent offense, shall revoke any license upon a finding that the licensee violated any provision of this chapter or any other law of this state regarding the manufacture, warranty, or sale of mobile homes or recreational vehicles. When any license has been revoked or suspended by the department, it may be reinstated if the department finds that the former licensee has complied with all applicable requirements of this chapter and an application for a license is refiled pursuant to this section.

(9) **CIVIL PENALTIES; PROCEDURE.**--In addition to the exercise of other powers provided in this section, the department is authorized to assess, impose, levy, and collect by legal process a civil penalty, in an amount not to exceed \$1,000 for each violation, against any licensee if it finds that a licensee has violated any provision of this section or has violated any other law of this state having to do with dealing in motor vehicles. Any licensee shall be entitled to a hearing pursuant to chapter 120 should the licensee wish to contest the fine levied, or about to be levied, upon him or her.

**History.**--s. 3, ch. 74-169; s. 4, ch. 75-203; s. 34, ch. 77-357; s. 20, ch. 78-95; s. 9, ch. 80-217; s. 2, ch. 81-318; s. 7, ch. 85-176; s. 43, ch. 86-243; ss. 19, 20, ch. 88-147; s. 4, ch. 91-429; s. 377, ch. 95-148; s. 6, ch. 96-394.

**320.823 Establishment of uniform mobile home standards.**--Each new single-family or duplex mobile or manufactured home manufactured in this state or manufactured outside this state but sold or offered for sale in this state must be constructed to meet the Manufactured Home Construction and Safety Standards, promulgated by the Department of Housing and Urban Development, pursuant to the Manufactured Housing Improvement Act. Such standards must include, but need not be limited to, standards for body and frame construction and the installation of plumbing, HVAC, and electrical systems.

**History.**--s. 4, ch. 67-350; s. 5, ch. 75-203; s. 35, ch. 77-357; s. 2, ch. 81-318; ss. 5, 19, 20, ch. 88-147; s. 4, ch. 91-429; s. 3, ch. 2004-283.

**320.8231 Establishment of uniform standards for recreational vehicle-type units and park trailers.**--

(1) Each recreational vehicle-type unit, as defined in s. 320.01(1)(b), manufactured in this state or manufactured outside this state but sold or offered for sale in this state shall meet the Uniform Standards Code ANSI book A-119.2 or A-119.5, as applicable, approved by the American National Standards Institute. Such standards shall include, but are not limited to, standards for the installation of plumbing, heating, and electrical systems and fire and life safety in recreational vehicle-type units and park trailers. However, those park trailers exceeding 400 square feet shall meet the Federal Manufactured Home Construction and Safety Standards and shall have a United States Department of Housing and Urban Development label.

(2) Trailer hitches or other trailer connecting devices manufactured, sold, or offered for sale in this state for use with any trailer governed by this section or for use in towing boats must conform to the certification standards in Vehicle Equipment Safety Commission Regulation V-5.

**History.**--s. 6, ch. 75-203; s. 35, ch. 77-357; s. 2, ch. 81-318; s. 3, ch. 84-182; s. 10, ch. 85-343; ss. 19, 20, ch. 88-147; s. 1, ch. 90-78; s. 4, ch. 91-429; s. 66, ch. 94-306; s. 1, ch. 96-358.

**320.8232 Establishment of uniform standards for used recreational vehicles and repair and remodeling code for mobile homes.**--

(1) Each used recreational vehicle manufactured after January 1, 1968, and sold or offered for sale in this state by a dealer or manufacturer shall meet the standards of the Used Recreational Vehicle Code. The provisions of said code shall ensure safe and livable housing and shall not be more stringent than those standards required to be met in the manufacture of recreational vehicles. Such provisions shall include, but not be limited to, standards for structural adequacy, plumbing, heating, electrical systems, and fire and life safety.

(2) The provisions of the repair and remodeling code shall ensure safe and livable housing and shall not be more stringent than those standards required to be met in the manufacture of mobile homes. Such provisions shall include, but not be limited to, standards for structural adequacy, plumbing, heating, electrical systems, and fire and life safety.

**History.**--s. 36, ch. 77-357; s. 2, ch. 81-318; s. 11, ch. 85-343; ss. 19, 20, ch. 88-147; s. 4, ch. 91-429.

#### **320.824 Changes and modifications of standards.--**

(1) The department may adopt by rule changes in, or additions to, the standards adopted in s. 320.823 or s. 320.8231, which are approved and officially published by the institute or promulgated by the Department of Housing and Urban Development subsequent to the effective date of this act.

(2) The department or its authorized agent may enter any place or establishment where mobile homes are manufactured, sold, or offered for sale, for the purpose of ascertaining whether the requirements of the code and the rules adopted by the department have been met.

**History.**--s. 5, ch. 67-350; ss. 24, 35, ch. 69-106; s. 37, ch. 77-357; s. 67, ch. 79-164; s. 2, ch. 81-318; ss. 19, 20, ch. 88-147; s. 4, ch. 91-429; s. 67, ch. 94-306; s. 2, ch. 96-358; s. 64, ch. 98-200.

#### **320.8245 Limitation of alteration or modification to mobile homes or recreational vehicles.--**

(1) **LIMITATION OF ALTERATIONS OR MODIFICATIONS.**--No alteration or modification shall be made to a mobile home or recreational vehicle by a licensed dealer after shipment from the manufacturer's plant unless such alteration or modification is authorized in this section.

(2) **EFFECT ON MOBILE HOME WARRANTY.**--Unless an alteration or modification is performed by a qualified person as defined in subsection (4), the warranty responsibility of the manufacturer as to the altered or modified item shall be void.

(a) An alteration or modification performed by a mobile home or recreational vehicle dealer or his or her agent or employee shall place warranty responsibility for the altered or modified item upon the dealer. If the manufacturer fulfills, or is required to fulfill, the warranty on the altered or modified item, he or she shall be entitled to recover damages in the amount of his or her costs and attorneys' fees from the dealer.

(b) An alteration or modification performed by a mobile home or recreational vehicle owner or his or her agent shall render the manufacturer's warranty as to that item void. A statement shall be displayed clearly and conspicuously on the face of the warranty that the warranty is void as to the altered or modified item if the alteration or modification is performed by other than a qualified person. Failure to display such statement shall result in warranty responsibility on the manufacturer.

(3) **AUTHORITY OF THE DEPARTMENT.**--The department is authorized to promulgate rules and regulations pursuant to chapter 120 which define the alterations or modifications which must be made by qualified personnel. The department may regulate only those alterations and modifications which substantially impair the structural integrity or safety of the mobile home.

(4) **DESIGNATION AS A QUALIFIED PERSON.**--

(a) In order to be designated as a person qualified to alter or modify a mobile home or recreational vehicle, a person must comply with local or county licensing or competency requirements in skills relevant to performing alterations or modifications on mobile homes or recreational vehicles.

(b) When no local or county licensing or competency requirements exist, the department may certify persons to perform mobile home alterations or modifications. The department shall by rule or regulation determine what skills and competency requirements are requisite to the issuance of a certification. A fee sufficient to cover the costs of issuing certifications may be charged by the department. The certification shall be valid for a period

which terminates when the county or other local governmental unit enacts relevant competency or licensing requirements. The certification shall be valid only in counties or localities without licensing or competency requirements.

(c) The department shall determine which counties and localities have licensing or competency requirements adequate to eliminate the requirement of certification. This determination shall be based on a review of the relevant county or local standards for adequacy in regulating persons who perform alterations or modifications to mobile homes. The department shall find local or county standards adequate when minimal licensing or competency standards are provided.

**History.**--s. 4, ch. 74-169; s. 38, ch. 77-357; s. 2, ch. 81-318; ss. 19, 20, ch. 88-147; s. 4, ch. 91-429; s. 378, ch. 95-148.

### **320.8249 Mobile home installers license.--**

(1) Any person who installs a mobile home shall obtain a mobile home installers license from the Bureau of Mobile Home and Recreational Vehicle Construction of the Department of Highway Safety and Motor Vehicles pursuant to this section. Said license shall be renewed annually, and each licensee shall pay a fee of \$150.

(2) The Department of Highway Safety and Motor Vehicles shall issue a license as a mobile home installer to any person who applies to the department, pays the appropriate application fee, not to exceed \$100, as set by department rule, and complies with subsection (3).

(3) In order to obtain licensure as a mobile home installer, the applicant must be at least 18 years old, must hold a valid performance bond in an amount set by department rule, not to exceed \$5,000, conditioned upon proper performance of mobile home installation and weather-sealing duties for a period of 1 year, must carry liability insurance in an amount determined by department rule, not to exceed \$100,000, must complete a minimum 8-hour training course approved by the department, and must pass a department-approved examination designed to test the skills necessary to properly and competently perform mobile home installation and to ascertain that the applicant has adequate knowledge of federal, state, and local laws applicable to mobile home installation contracting. The department may charge an examination fee sufficient to defray the costs of developing or obtaining and providing the examination, not to exceed \$100. Any licensed dealer or licensed manufacturer who has subcontracted with an installer for installation and who remedies any faulty installation performed by said installer shall have recourse against said installer's performance bond.

(4) Notwithstanding the provisions of subsection (3), any person who can show that he or she had been engaged in the business of mobile home installation on October 1, 1996, shall be exempted until October 1, 1997, from the requirement for completing training and for passing an examination in order to be licensed by the department as a mobile home installer and shall be licensed upon application, provided he or she has complied with all requirements of subsection (3), other than the training and examination requirements. No person shall be licensed or remain licensed as a mobile home installer subsequent to October 1, 1997, who has not taken and passed the department-approved mobile home installer examination.

(5) A direct employee of a licensed mobile home installer working under the supervision of the licensee and within the job scope of the licensee is not required to be licensed as a mobile home installer. The licensed mobile home installer is responsible for supervising all such employees and for the proper and competent performance of all employees working under his or her supervision.

(6) "Installation," as used herein, is synonymous with "setup" as defined in s. 320.822(14).

(7) No person shall:

(a) Falsely hold himself or herself or a business organization out as a licensed mobile home installer;

(b) Falsely impersonate a licensed mobile home installer;

- (c) Present as his or her own the mobile home installers license of another;
  - (d) Knowingly give false or forged evidence to the department;
  - (e) Use or attempt to use a mobile home installers license which has been suspended or revoked; or
  - (f) Engage in the business or act in the capacity of a licensed mobile home installer or advertise himself or herself or a business organization as available to engage in the business or act in the capacity of a mobile home installer without being duly licensed.
- (8) Any unlicensed person who violates any of the provisions of subsection (7) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
- (9) A licensed person or licensed applicant may not:
- (a) Obtain a mobile home installers license by fraud or misrepresentation.
  - (b) Be convicted or found guilty of, or enter a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of mobile home installation or the ability to practice.
  - (c) Violate any law or rule relating to installing, repairing, or dealing in mobile homes or any lawful order of the department.
  - (d) Commit fraud or deceit in the practice of contracting.
  - (e) Commit incompetence or misconduct in the practice of contracting.
  - (f) Commit gross negligence, repeated negligence, or negligence resulting in a significant danger to life or property.
- (10) Any licensed person or license applicant who violates subsection (7) or subsection (9) may have any of the following disciplinary penalties imposed by the department, at its discretion:
- (a) License revocation;
  - (b) License suspension;
  - (c) A fine not to exceed \$1,000 per violation involving a single installation and not to exceed \$5,000 for a violation involving the total setup;
  - (d) A requirement to take and pass, or retake and pass, the department-approved examination;
  - (e) Probation;
  - (f) Probation subject to such restriction of practice as the department chooses to impose;
  - (g) A notice of noncompliance; or
  - (h) Refusal of licensure application.
- (11) The regulation of manufactured home installers or mobile home installers is preempted to the state, and no person may perform mobile home installation unless licensed pursuant to this section, regardless of whether that person holds a local license.

(12) A county, municipality, or other unit of local government may not require additional licensing, bonding, or insurance of a duly licensed installer who performs setup operations as defined in s. 320.822. However, a county, municipality, or other unit of local government may require an installer to obtain a local occupational license, which license shall not require for its issuance any conditions other than those required by this chapter and payment of the appropriate occupational license fee.

(13) All installers, dealers, and manufacturers shall purchase installation decals from the Department of Highway Safety and Motor Vehicles for a fee not to exceed \$10 per decal. An installation decal shall be affixed to the manufactured home or mobile home prior to installation. This decal shall denote the date of installation, the name of the installer, and the number of the installer's license or the dealer or manufacturer license number. Such decal shall be positioned immediately next to the HUD decal.

(14) Each installer shall maintain a location log for each decal for 2 years. This requirement must not take effect until the department develops an acceptable format for the log and provides a sample of the acceptable format to each licensed installer.

(15) In performing the installation, installers shall not perform plumbing or electrical activities prohibited by department rules related to setup operations pursuant to s. 320.822.

(16) Funds received by the department pursuant to this section shall be deposited in the Highway Safety Operating Trust Fund.

(17) There are hereby appropriated five positions and \$219,295 from the Highway Safety Operating Trust Fund in the Department of Highway Safety and Motor Vehicles to implement the provisions of this section.

**History.**--s. 5, ch. 96-394; s. 37, ch. 99-248; s. 4, ch. 2004-283.

#### **320.8251 Mobile home installation products; product approval.--**

(1) Each person or entity that engages in the manufacture of mobile home installation components, products, or systems must obtain a certification from the department which affirms that such component, product, or system is approved for use in the installation of mobile homes in this state.

(2) The department shall certify for use in this state any mobile home installation component, product, or system for which a person or entity applies to the department and which complies with subsection (3).

(3) In order to obtain the certification set forth in this section, a manufacturer must submit to the department a report certifying that the mobile home installation component, product, or system meets the mobile home installation standards set forth in this section and in department rules. The report must be signed and sealed by a professional engineer registered in this state. In accordance with chapter 120, the department shall review the report and approve or deny the certification of the installation component, product, or system for use in the installation of mobile homes in this state.

(4) The certification set forth in this subsection is subject to suspension or revocation, and the person or entity that obtained the certification is subject to a fine set by department rules upon a finding by the department that the person or entity has obtained the certification by misrepresentation or fraud or that the product, component, or system does not meet the mobile home installation standards set forth in this chapter or in department rules.

(5) Any product, component, or system subject to this section which is currently being used in the installation of mobile homes in this state is not required to be certified in accordance with this section until July 1, 2009.

**History.**--s. 5, ch. 2004-283.

### **320.8255 Mobile home inspection.--**

- (1) In order to ensure the highest degree of quality control in the construction of new mobile homes, each new mobile home sold in the state shall be inspected by the department pursuant to procedures developed by the department which assure compliance with code provisions. The department may adopt reasonable rules and regulations pursuant to chapter 120 for the implementation and enforcement of this inspection.
- (2) Department inspectors shall make unannounced visits to manufacturing plants or take any other appropriate action which assures compliance with the code.
- (3) Mobile home manufacturers and dealers shall be charged a fee for special inspections, including, but not limited to, plant approvals, 100 percent plant inspections, increased frequency inspections, reinspections, and special consumer complaint investigations as requested by a manufacturer or dealer or as may be deemed necessary by the department.
- (4) The department shall determine fees for special inspections and for the label authorized under s. 320.827 which are sufficient to cover the cost of inspection and administration under this section. Fees collected shall be deposited into the General Revenue Fund.

**History.**--s. 5, ch. 74-169; s. 39, ch. 77-357; s. 10, ch. 80-217; s. 200, ch. 81-259; s. 2, ch. 81-318; s. 10, ch. 82-66; ss. 6, 19, 20, ch. 88-147; s. 4, ch. 91-429; s. 275, ch. 99-248.

**320.827 Label; procedures for issuance; certification; requirements.**--No dealer shall sell or offer for sale in this state any new mobile home manufactured after January 1, 1968, unless the mobile home bears a label and the certification by the manufacturer that the mobile home to which the label is attached meets or exceeds the appropriate code. Any mobile home bearing the insignia of approval pursuant to this section shall be deemed to comply with the requirements of all local government ordinances or rules which govern construction, and no mobile home bearing the department insignia of approval shall be in any way modified except in compliance with this chapter. Labels may be issued by the department when applied for with an affidavit certifying that the dealer or manufacturer applying will not attach a label to any new mobile home that does not meet or exceed the appropriate code. No mobile home may be manufactured in this state unless it bears a label and certification that the mobile home meets or exceeds the code. The label for each mobile home shall be displayed in a manner to be prescribed by the department.

**History.**--s. 8, ch. 67-350; s. 7, ch. 75-203; s. 40, ch. 77-357; s. 2, ch. 81-318; s. 11, ch. 82-66; ss. 19, 20, ch. 88-147; s. 4, ch. 91-429; s. 3, ch. 96-358; s. 53, ch. 97-100.

### **320.8285 Onsite inspection.--**

- (1) Each county or municipality in this state shall be responsible for the onsite inspection of each mobile home installation located within the jurisdiction of such entity. The onsite inspection shall ensure compliance with the department's uniform installation standards set forth in this chapter and in department rules.
- (2) Each county or municipality may designate the persons who are to perform the onsite inspection. If a county or municipality does not so designate, the department shall designate the persons who are to perform the onsite inspection. A person may not be designated to perform onsite inspections unless that person is competent in the area of mobile home installation.
- (3) The county or municipality issuing a permit for the installation of a mobile home shall issue such permit only to a licensed mobile home installer or to a licensed mobile home dealer or manufactured home owner if the dealer or owner demonstrates on the face of the application that a licensed installer will be performing the actual work. In the case of issuance to an owner, the permit must reflect the name and the license number of the licensed installer performing the work.
- (4) Pursuant to the onsite inspection, each mobile home shall be issued a certificate of occupancy if the mobile home complies with department rules regarding the installation of mobile homes.

(5) Fees for onsite inspections and certificates of occupancy of mobile homes shall be reasonable for the services performed. A guideline for fee schedules shall be issued by the department.

(6) The Department of Highway Safety and Motor Vehicles shall enforce every provision of this section and the rules adopted pursuant hereto, except that local land use and zoning requirements, fire zones, building setback and side and rear yard requirements, site development and property line requirements, subdivision control, and onsite installation inspection requirements, as well as review and regulation of architectural and aesthetic requirements, are hereby specifically and entirely reserved to local jurisdictions. However, any architectural or aesthetic requirement imposed on the mobile home structure itself may pertain only to roofing and siding materials. Such local requirements and regulations for manufactured homes must be reasonable, uniformly applied, and enforced without distinctions as to whether such housing is manufactured, located in a mobile home park or a mobile home subdivision, or built in a conventional manner. No local jurisdiction shall prohibit siting or resiting of used mobile homes based solely on the date the unit was manufactured.

(7) Park trailers are subject to inspection in the same manner as are mobile homes pursuant to this section.

**History.**--s. 6, ch. 74-169; s. 10, ch. 75-203; s. 1, ch. 77-174; s. 2, ch. 81-318; s. 12, ch. 82-66; s. 4, ch. 84-182; ss. 19, 20, ch. 88-147; s. 4, ch. 91-429; s. 6, ch. 92-148; s. 68, ch. 94-306; s. 49, ch. 97-300; s. 6, ch. 2004-283.

**320.830 Reciprocity.**--If any other state has codes for mobile homes at least equal to those established by this chapter, the department, upon determining that such standards are being enforced by an independent inspection agency, shall place the other state on a reciprocity list, which list shall be available to any interested person. Any mobile home that bears a seal of any state which has been placed on the reciprocity list may not be required to bear the seal of this state. A mobile home that does not bear the label herein provided shall not be permitted to be manufactured or offered for sale by a manufacturer or dealer anywhere within the geographical limits of this state unless the mobile home is designated for delivery into another state that has not adopted a code entitling the state to be placed on the reciprocity list.

**History.**--s. 11, ch. 67-350; ss. 24, 35, ch. 69-106; s. 8, ch. 74-169; s. 8, ch. 75-203; s. 2, ch. 81-318; ss. 19, 20, ch. 88-147; s. 4, ch. 91-429; s. 4, ch. 96-358.

### **320.831 Penalties.**--

(1) Whoever violates any provision of the National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. ss. 5401 et seq., or any rules, regulations, or final order issued thereunder shall be liable for a civil penalty not to exceed \$1,000 for each such violation. Each violation of a provision of the act or any rule, regulation, or order issued thereunder shall constitute a separate violation with respect to each mobile home or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed \$1 million for any related series of violations occurring within 1 year from the date of the first violation.

(2) Any individual, or a director, officer, or agent of a corporation, who knowingly and willfully violates the provisions of s. 610 of the National Mobile Home Construction and Safety Standards Act of 1974 in a manner which threatens the health or safety of any purchaser is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) Any manufacturer, dealer, or inspector who violates or fails to comply with any of the provisions of ss. 320.822-320.862 or any of the rules adopted by the department is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, provided such violation is not also a violation of the National Mobile Home Construction and Safety Standards Act of 1974 or any rule, regulation, or final order issued thereunder.

**History.**--s. 12, ch. 67-350; ss. 24, 35, ch. 69-106; s. 1, ch. 74-99; s. 41, ch. 77-357; s. 5, ch. 78-221; s. 12, ch. 80-217; s. 2, ch. 81-318; ss. 19, 20, ch. 88-147; s. 41, ch. 91-224; s. 4, ch. 91-429.

**320.832 Legislative intent.**--Nothing herein shall act to nullify or supersede the provisions of chapter 527.

**History.**--s. 13, ch. 67-350; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 16, 17, ch. 80-217; ss. 2, 3, ch. 81-318; ss. 19, 20, ch. 88-147; s. 4, ch. 91-429.

**320.8325 Mobile homes, manufactured homes, and park trailers; uniform installation standards; injunctions; penalty.**--

(1) The department shall adopt rules setting forth uniform standards for the installation of mobile homes, manufactured homes, and park trailers and for the manufacture of components, products, or systems used in the installation of mobile homes, manufactured homes, and park trailers. The rules shall ensure that the home or park trailer is installed on a permanent foundation that resists wind, flood, flotation, overturning, sliding, and lateral movement of the home or park trailer. No entity, other than the department, has authority to amend these uniform standards. The owner of the mobile home, manufactured home, or park trailer shall be responsible for the installation in accordance with department rules.

(2)(a) Persons licensed in this state to engage in the business of insuring mobile homes, manufactured homes, or park trailers that are subject to the provisions of this section against damage from windstorm shall issue such insurance only if the mobile home, manufactured home, or park trailer has been installed in accordance with the requirements of this chapter and department rules.

(b) If a mobile home, manufactured home, or park trailer is insured against damage caused by windstorm and subsequently sustains windstorm damage of a nature that indicates that the mobile home, manufactured home, or park trailer was not installed in the manner required by this chapter and department rules, the person issuing the policy shall not be relieved from meeting the obligations specified in the insurance policy with respect to such damage on the basis that the mobile home or park trailer was not properly installed.

(3) Whenever a person or entity that engages in the business of manufactured housing installation or in the business of manufacturing components, products, or systems in this state and does so in a manner that is not in accordance with the uniform standards set forth by the department, a person or entity aggrieved thereby may bring an action in the appropriate court for actual damages. In addition, the court may provide appropriate equitable relief, including the enjoining of a violator from engaging in the business or from engaging in further violations. Whenever it is established to the satisfaction of the court that a willful violation has occurred, the court shall award punitive damages to the aggrieved party. The losing party may be liable for court costs and reasonable attorney's fees incurred by the prevailing party.

(4) In addition to other penalties provided in this section, the department or the state attorneys and their assistants are authorized to apply to the circuit courts within their respective jurisdictions, and such courts shall have jurisdiction, upon hearing and for cause shown, to grant temporary or permanent injunctions restraining any person or entity engaging in the business of manufactured housing installation or the manufacturing of components, products, or systems from installing homes or manufacturing or selling such components, products, or systems in a manner not in accordance with the uniform standards set forth by the department or restraining any persons in the business of installing such components, products, or systems from using devices that do not meet the uniform standards set forth by the department or from installing such components, products, or systems in a manner not in accordance with the uniform standards set forth by the department, whether or not there exists an adequate remedy at law, and such injunctions shall issue without bond.

(5) This section applies only to a mobile home, manufactured home, or park trailer that is being used as a dwelling place and that is located on a particular location for a period of time exceeding 14 days, for a mobile or manufactured home, or 45 days, for a park trailer.

(6) For the purposes of this section, the definitions set forth in s. 320.822 apply.

**History.**--s. 6, ch. 73-182; s. 2, ch. 74-9; s. 2, ch. 81-318; s. 4, ch. 84-182; s. 12, ch. 85-343; ss. 19, 20, ch. 88-147; s. 4, ch. 91-429; s. 38, ch. 99-248; s. 7, ch. 2004-283.

**320.833 Retention, destruction, and reproduction of records; electronic retention.**--Records and documents of the Department of Highway Safety and Motor Vehicles, created in compliance with, and in the implementation of, chapter 319 and this chapter, shall be retained by the department as specified in record retention schedules established under the general provisions of chapter 119. Further, the department is hereby authorized:

(1) To destroy, or otherwise dispose of, those records and documents, in conformity with the approved retention schedules.

(2) To photograph, microphotograph, or reproduce on film, as authorized and directed by the approved retention schedules, whereby each page will be exposed in exact conformity with the original records and documents retained in compliance with the provisions of this section. Photographs or microphotographs in the form of film or print of any records, made in compliance with the provisions of this section, shall have the same force and effect as the originals thereof would have and shall be treated as originals for the purpose of their admissibility in evidence. Duly certified or authenticated reproductions of such photographs or microphotographs shall be admitted in evidence equally with the original photographs or microphotographs.

(3) Beginning December 1, 2001, the department may maintain all records required or obtained in compliance with, and in the implementation of, chapter 319 and this chapter exclusively by electronic means.

**History.**--s. 5, ch. 65-190; ss. 24, 35, ch. 69-106; s. 1, ch. 77-443; s. 2, ch. 81-318; ss. 19, 20, ch. 88-147; s. 4, ch. 91-429; s. 33, ch. 2000-313.

**Note.**--Former s. 318.051.

**320.8335 Disclosure of manner used in determining length of mobile homes.**--When the length of the coupling mechanism is included in the overall length of a mobile home, any person who engages in the trade or commerce of selling mobile homes must disclose in writing to the buyer, before the buyer signs a contract for sale, that the length of the coupling mechanism has been included in the length of the mobile home. Any advertisement or other communication which describes a mobile home in terms of its length or width shall conform to the requirements of this section.

**History.**--s. 1, ch. 75-27; s. 3, ch. 78-221; s. 2, ch. 81-318; ss. 19, 20, ch. 88-147; s. 4, ch. 91-429.

**320.834 Purpose.**--It is the intent of the Legislature to ensure the safety and welfare of residents of mobile homes through an inspection program conducted by the Department of Highway Safety and Motor Vehicles. Mobile homes are a primary affordable housing resource of many of the residents of the state and satisfy a large segment of statewide housing needs. It is the further intent of the Legislature that the department, mobile home dealers, and mobile home manufacturers continue to work together to meet the applicable code requirements for mobile homes and that such dealers and manufacturers share the responsibilities of warranting mobile homes in accordance with applicable codes and resolving legitimate consumer complaints in a timely, efficient manner.

**History.**--s. 16, ch. 74-68; s. 9, ch. 74-169; s. 2, ch. 81-318; ss. 8, 19, 20, ch. 88-147; s. 4, ch. 91-429; s. 8, ch. 2004-283.

**320.835 Mobile home and recreational vehicle warranties.**--Each manufacturer, dealer, installer, and supplier of mobile homes or recreational vehicles shall warrant each new mobile home or recreational vehicle sold in this state and the setup of each such mobile home, in accordance with the warranty requirements prescribed by this section, for a period of at least 12 months, measured from the date of delivery of the mobile home to the buyer or the date of sale of the recreational vehicle in the case of a manufacturer or dealer, or from the date of receipt of a certificate of occupancy in the case of an installer. The warranty requirements of each manufacturer, dealer, installer, and supplier of mobile homes or recreational vehicles are as follows:

(1) The manufacturer warrants:

(a) For a mobile home or recreational vehicle, that all structural elements; plumbing systems; heating, cooling, and fuel-burning systems; electrical systems; fire prevention systems; and any other components or conditions included by the manufacturer are free from substantial defect.

(b) That 100-ampere electrical service exists in the mobile home.

(2) The dealer warrants:

(a) That any modifications or alterations made to the mobile home or recreational vehicle by the dealer or authorized by the dealer shall be free from substantial defect. Alterations or modifications made by a dealer shall relieve the manufacturer of warranty responsibility only as to the item altered or modified.

(b) That setup operations performed on the mobile home are performed in compliance with s. 320.8325.

(c) That substantial defects do not occur to the mobile home during setup or by transporting it to the occupancy site.

When the setup of a mobile home is performed by a person who is not an employee or agent of the mobile home manufacturer or dealer and is not compensated or authorized by, or connected with, such manufacturer or dealer, then the warranty responsibility of the manufacturer or dealer as to setup shall be limited to transporting the mobile home to the occupancy site free from substantial defect.

(3) The installer warrants that the setup operations performed on the mobile home are performed in compliance with s. 320.8325 and department rules governing the installation.

(4) The supplier warrants that any warranties generally offered in the ordinary sale of his or her product to consumers shall be extended to buyers of mobile homes and recreational vehicles. When no warranty is extended by suppliers, the manufacturer shall assume warranty responsibility for that component.

(5) The department may adopt rules under chapter 120 to resolve disputes that may arise among the mobile home manufacturer, dealer, installer, or supplier. Those rules must comply with the dispute resolution process as set forth in the federal Manufactured Housing Improvement Act.

**History.**--s. 16, ch. 74-68; s. 9, ch. 74-169; s. 42, ch. 77-357; s. 2, ch. 81-318; ss. 19, 20, ch. 88-147; s. 4, ch. 91-429; s. 379, ch. 95-148; s. 9, ch. 2004-283.

**320.836 Presenting warranty claim.**--The claim in writing, stating the substance of the warranty defect, may be presented to the manufacturer, dealer, or supplier. When the person notified is not the responsible party he or she shall inform the claimant and shall notify the responsible party of the warranty claim immediately.

**History.**--s. 16, ch. 74-68; s. 9, ch. 74-169; s. 2, ch. 81-318; ss. 19, 20, ch. 88-147; s. 4, ch. 91-429; s. 380, ch. 95-148.

**320.837 Warranty service.**--

(1) When a service agreement exists between manufacturers, dealers, and suppliers to provide warranty service, the agreement may specify which party is to remedy warranty defects. However, when a warranty defect is not properly remedied, the responsible party as determined pursuant to s. 320.835 shall be responsible for providing warranty service.

(2) When no service agreement exists for warranty service, the responsible party as designated by s. 320.835 is responsible for remedying the warranty defect.

(3) The defect shall be remedied within 30 days of receipt of the written notification of the warranty claim unless the claim is unreasonable or bona fide reasons exist for not remedying the defect. When sufficient reasons exist for not remedying the defect or the claim is unreasonable, the responsible party shall respond to the

claimant in writing with its reasons for not promptly remedying the defect and what further action is contemplated by the responsible party.

(4) When the person remedying the defect is not the responsible party as designated by s. 320.835 he or she shall be entitled to reasonable compensation paid to him or her by the responsible party. Conduct which coerces or requires a nonresponsible party to perform warranty service is a violation of this section.

(5) Warranty service shall be performed at the site at which the mobile home is initially delivered to the buyer, except for components which can be removed for service without substantial expense or inconvenience to the buyer.

**History.**--s. 16, ch. 74-68; s. 9, ch. 74-169; s. 1, ch. 77-174; s. 2, ch. 81-318; ss. 19, 20, ch. 88-147; s. 4, ch. 91-429; s. 381, ch. 95-148.

**320.838 Civil action.**--Notwithstanding the existence of other remedies, a buyer may bring a civil suit for damages against a responsible party who fails to satisfactorily resolve a warranty claim. Damages shall be the actual costs of remedying the defect. Court costs and reasonable attorney fees may be awarded to the prevailing party. When the court finds that failure to honor warranty claims is a consistent pattern of conduct of the responsible party, or that the defect is so severe as to significantly impair the safety of the mobile home, it may assess punitive damages against the responsible party.

**History.**--s. 16, ch. 74-68; s. 9, ch. 74-169; s. 1, ch. 77-174; s. 2, ch. 81-318; ss. 19, 20, ch. 88-147; s. 4, ch. 91-429.

**320.839 Cumulative remedies.**--The warranty provided for in this act shall be in addition to, and not in derogation of, any other rights and privileges which the buyer may have under any other law or instrument. The manufacturer, dealer or supplier shall not require the buyer to waive his or her rights under this act or any other rights under law. Any such waiver shall be deemed contrary to public policy and unenforceable and void.

**History.**--s. 16, ch. 74-68; s. 9, ch. 74-169; s. 2, ch. 81-318; ss. 19, 20, ch. 88-147; s. 4, ch. 91-429; s. 382, ch. 95-148.

**320.840 Liquidated damages.**--The retail seller of a mobile home may, in the absence of an express provision in the sales contract stipulating reasonable liquidated damages or retention of down payment or deposit if the buyer fails to accept delivery of a mobile home, retain maximum damages according to the following terms:

(1) If the mobile home is in the seller's stock and not specially ordered from the manufacturer for the buyer, the maximum retention shall be \$50.

(2) If the mobile home is a single-wide and specially ordered from the manufacturer for the buyer, the maximum retention shall be \$350.

(3) If the mobile home is larger than a single-wide and specially ordered for the buyer from the manufacturer, the maximum retention shall be \$700.

**History.**--s. 10, ch. 74-169; s. 2, ch. 81-318; ss. 19, 20, ch. 88-147; s. 4, ch. 91-429.

**320.861 Inspection of records; production of evidence; subpoena power.**--

(1) The department may inspect the pertinent books, records, letters, and contracts of any licensee, whether dealer or manufacturer, relating to any written complaint made to it against such licensee.

(2) The department is granted and authorized to exercise the power of subpoena for the attendance of witnesses and the production of any documentary evidence necessary to the disposition by it of any written complaint against any licensee, whether dealer or manufacturer.

**History.**--s. 12, ch. 74-68; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 13, 16, 17, ch. 80-217; ss. 2, 3, ch. 81-318; ss. 19, 20, ch. 88-147; s. 4, ch. 91-429.

**320.862 Revocation of license held by firms or corporations.**--If any applicant or licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension, or revocation of a license that any officer, director, or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of an act or omission which would be cause for refusing, suspending, or revoking a license to such party as an individual. Each licensee shall be responsible for the acts of any of its employees while acting as its agent if the licensee approved of, or had knowledge of, the acts or other similar acts and, after such approval or knowledge, retained the benefits, proceeds, profits, or advantages accruing from, or otherwise ratified, the acts.

**History.**--s. 13, ch. 74-68; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 16, 17, ch. 80-217; ss. 2, 3, ch. 81-318; ss. 19, 20, ch. 88-147; s. 4, ch. 91-429.

**320.865 Maintenance of records by the department.**--Beginning December 1, 2001, the department shall maintain electronic records of all complaints filed against licensees licensed under the provisions of ss. 320.27, 320.61, 320.77, 320.771, and 320.8225, any other provision of this chapter to the contrary notwithstanding. The records shall contain all enforcement actions taken against licensees and against unlicensed persons acting in a capacity which would require them to be licensed under those sections. The electronic file of each licensee and unlicensed person shall contain a record of any complaints filed against him or her and a record of any enforcement actions taken against him or her. The complainant and the referring agency, if there is one, shall be advised of the disposition by the department of the complaint within 10 days of such action.

**History.**--s. 3, ch. 80-217; s. 201, ch. 81-259; s. 2, ch. 81-318; ss. 19, 20, ch. 88-147; s. 4, ch. 91-429; s. 383, ch. 95-148; s. 26, ch. 95-333; s. 34, ch. 2000-313.

**320.90 Notification of consumer's rights.**--The department shall develop a motor vehicle consumer's rights pamphlet which shall be distributed free of charge by the Department of Agriculture and Consumer Services to the motor vehicle owner upon request. Such pamphlet must contain information relating to odometer fraud and provide a summary of the rights and remedies available to all purchasers of motor vehicles.

**History.**--s. 10, ch. 89-333.

**320.95 Transactions by electronic or telephonic means.**--The department is authorized to accept any application provided for under this chapter by electronic or telephonic means.

**History.**--s. 21, ch. 97-300.