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Mobile Homes; Manufactured Homes

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Mobile Homes

Mobile Homes; manufactured homes

NEV. REV. STAT. §§489.071, 489.361, 489.371, 598.750, 598.755, 598.760, 598.765, 598.770, 598.775 (repealed); §489.— (new); §§489.021, 489.031, 489.051, 489.076, 489.104, 489.105, 489.110, 489.115, 489.120, 489.122, 489.125, 489.135, 489.137, 489.145, 489.155, 489.211, 489.221, 489.231, 489.241, 489.251, 489.261, 489.271, 489.295, 489.297, 489.301, 489.311, 489.321, 489.331, 489.341, 489.391, 489.401, 489.411, 489.421, 489.451, 489.461, 489.481, 489.491, 489.4971, 489.4981, 489.501, 489.511, 489.521, 489.531, 489.551, 489.561, 489.571, 489.581, 489.601, 489.611, 489.621, 489.631, 489.641, 489.661, 489.701, 489.711, 489.715, 489.731, 489.741, 489.801, 489.811, 489.821 (amended).

AB 43 (Committee on Commerce); 1983 STAT. Ch 325

(§§8, 12.5, 28.5, 29.5, 39.5, 65.5 *effective July 1, 1985*)

AB 329 (Berkley); 1983 STAT. Ch 162

Existing law regulates the construction and use of mobile homes,¹ travel trailers² and commercial coaches.³ Chapter 325 expands existing law to permit the regulation of manufactured homes.⁴ These changes are intended to conform Nevada law to the federal statutes governing safety and construction standards for manufactured homes.⁵

1. NEV. REV. STAT. §489.120 (amended by 1983 Nev. Stat. c. 325, §14, at 778) (definition of mobile home).

2. *Id.* §489.150 (definition of travel trailer).

3. *Id.* §§489.021 (amended by 1983 Nev. Stat. c. 325, §6, at 776); 489.062 (definition of commercial coach).

4. 1983 Nev. Stat. c. 325, §2, at 775 (definition of manufactured home). *Compare* NEV. REV. STAT. §489.021 (amended by 1983 Nev. Stat. c. 325, §6, at 776) *with* 1977 Nev. Stat. c. 573, §9, at 1452 (amending NEV. REV. STAT. §489.021).

5. NEV. REV. STAT. §489.021 (amended by 1983 Nev. Stat. c. 325, §6(4), at 776). Federal manufactured home construction and safety standards preempt state law. 42 U.S.C. §5403(d) (1980). The state, however, may regulate areas where no federal law has been established. *Id.* §5422(a). The state may also assume responsibility for the enforcement of federal statutes. *Id.* §5422(b); *see also id.* §5402(6) (the federal definition of manufactured home is identical to the Nevada term). The U.S. Congress substituted the term "manufactured home" for "mobile home" in the United States Code whereas Chapter 325 simply adds "manufactured home" to the existing statutes. *Compare id.* §5401-2 *with* NEV. REV. STAT. §§489.021-821. In the United States Code the "change is in name only," and it is not intended to "make any substantive changes affecting the regulation of mobile homes." S. Rep. No. 766, 96th Cong., 2nd Sess. 4, *reprinted in* 1980 U.S. CODE CONG. AND AD. NEWS 3506, 3548.

Licenses

Prior to the enactment of Chapter 325, only those persons in business as new⁶ or used⁷ mobile home dealers,⁸ manufacturers,⁹ rebuilders,¹⁰ servicemen,¹¹ or installers¹² of mobile homes or commercial coaches were required to obtain a license from the Manufactured Housing Division of the Department of Commerce (hereinafter referred to as Division).¹³ Chapter 325 expands this provision by requiring any person engaged as a dealer, manufacturer, rebuilder, serviceman or installer of manufactured homes, mobile homes, or commercial coaches to be licensed.¹⁴ Existing law also mandates that manufacturers and rebuilders post a \$10,000 bond to guarantee the fair conduct of their businesses.¹⁵ With the enactment of Chapter 325, servicemen and installers must post a \$5000 bond.¹⁶

Powers and Duties of the Administrator

Existing law permits the administrator¹⁷ of the Division to conduct inspections, approve plans, issue certificates¹⁸ and labels of compliance,¹⁹ and adopt regulations necessary to carry out the duties of the office.²⁰ Chapter 325 expands these powers to include the right to issue

6. NEV. REV. STAT. §489.125 (amended by 1983 Nev. Stat. c. 325, §16, at 778) (definition of new manufactured home, mobile home, travel trailer and commercial coach).

7. *Id.* §489.155 (amended by 1983 Nev. Stat. c. 325, §20, at 779) (definition of used manufactured home, mobile home, travel trailer and commercial coach).

8. *Id.* §489.076 (amended by 1983 Nev. Stat. c. 325, §9, at 777) (definition of dealer).

9. *Id.* §489.115 (amended by 1983 Nev. Stat. c. 325, §13, at 778) (definition of manufacturer).

10. *Id.* §489.135 (amended by 1983 Nev. Stat. c. 325, §17, at 779) (definition of rebuilder).

11. *Id.* §489.145 (amended by 1983 Nev. Stat. c. 325, §19, at 779) (definition of serviceman).

12. *Id.* §489.105 (amended by 1983 Nev. Stat. c. 325, §11, at 777) (definition of installer).

13. 1981 Nev. Stat. c. 738, §19, at 1853 (amending NEV. REV. STAT. §489.311); NEV. REV. STAT. §489.091 (definition of division).

14. NEV. REV. STAT. §489.311 (amended by 1983 Nev. Stat. c. 325, §31, at 784). Manufacturers of *travel trailers* must also be licensed. *Id.* §489.115 (amended by 1983 Nev. Stat., c. 325, §13, at 778).

15. *Id.* §489.321(1)(f). Existing law allows any person injured by a dealer, rebuilder, manufacturer or salesman to bring an action on the bond. *Id.*

16. *Id.* §489.321(1)(f) (amended by 1983 Nev. Stat. c. 325, §32, at 784). Chapter 325 allows persons injured by servicemen, installers, responsible managing employees and employees to bring an action on the bond. *Id.*

17. *Id.* §489.036 (definition of administrator).

18. *Id.* §489.051 (amended by 1983 Nev. Stat. c. 325, §8, at 777) (definition of certificate of compliance).

19. *Id.* §489.110 (amended by 1983 Nev. Stat. c. 325, §§12, 12.5, at 778) (definition of label of compliance). Previously any person could apply to the division for a license to issue labels of compliance. Chapter 325 repeals this license. 1983 Nev. Stat. c. 325, §68, at 799 (repealing NEV. REV. STAT. §§489.361, 489.371). The administrator now has the sole authority to issue these labels. *Compare* NEV. REV. STAT. §489.321(4) (amended by 1983 Nev. Stat. c. 325, §23(4)(d), at 780) with 1979 Nev. Stat. c. 592, §12, at 1203 (enacting NEV. REV. STAT. §489.361).

20. NEV. REV. STAT. §489.231(4) (amended by 1983 Nev. Stat. c. 325, §23(4), at 780). Chapter 325 requires the administrator to notify licensees of the adoption of a regulation imposing a civil penalty. *Id.* §489.811(2) (amended by 1983 Nev. Stat. c. 325, §66(2), at 798).

licenses and certificates of ownership and installation²¹ and to enter into agreements with states or private organizations having similar standards for the regulation of manufactured homes.²² In addition, Chapter 325 imposes on the administrator the duty to adopt nationally recognized standards for the design of travel trailers²³ and the construction, reconstruction, and alteration of mobile homes and commercial coaches.²⁴ Furthermore, existing law allows the administrator to make surprise inspections of the records relevant to the manufacture and sale of mobile homes.²⁵ Chapter 325 extends the scope of this inspection to include documents associated with the construction and sale of travel trailers and manufactured homes.²⁶

Dealer's Trust Accounts

Chapter 162 supplements existing law by increasing the fiduciary obligations of dealers in manufactured or mobile homes.²⁷ Money received by dealers of mobile homes, on behalf of their principals, must now be deposited in an insured trust account.²⁸ Chapter 162 requires each dealer to maintain a record of the money deposited.²⁹ Furthermore, each account must designate the dealer as the trustee and provide for the withdrawal of the money without prior notice.³⁰

Under Chapter 162 each dealer must file a report with the Division which includes the names of the various accounts and financial institutions in which each account is maintained.³¹ The dealer must also submit to the Division an annual trust account report prepared by a certified public accountant³² and subject to an audit by the Division.³³ Finally, any dealer who fails to maintain a trust account or who wrongfully commingles the money of another is guilty of a gross misdemeanor.³⁴

21. *Id.* §489.231(4)(d) (amended by 1983 Nev. Stat. c. 325, §23(4)(d), at 780).

22. *Id.* §489.231(4)(e) (amended by 1983 Nev. Stat. c. 325, §23(4)(e), at 780).

23. *Id.* §489.241(4) (amended by 1983 Nev. Stat. c. 325, §24(4), at 781).

24. *Id.* §489.241(2) (amended by 1983 Nev. Stat. c. 325, §24(2), at 781).

25. *Id.* §489.321(5).

26. Compare NEV. REV. STAT. §489.231(5) (amended by 1983 Nev. Stat. c. 325, §23(5), at 780) with 1981 Nev. Stat. c. 738, §18, at 1852 (amending NEV. REV. STAT. §489.231).

27. See generally 1983 Nev. Stat. c. 162, §§1-5, at 379-81.

28. 1983 Nev. Stat. c. 162, §2(1), at 379 (the trust account must be located in Nevada and insured by an agency of the federal government).

29. *Id.* c. 162, §2(2), at 379 (dealer must include dates of receipt, deposit, and withdrawal of money). The dealer must identify the account into which the money is deposited and to whom it belongs. *Id.*

30. *Id.*

31. *Id.* c. 162, §2(3), at 380.

32. *Id.* c. 162, §2(4), at 380.

33. *Id.* c. 162, §2(2), (4), at 379-80.

34. NEV. REV. STAT. §489.821(2) (amended by 1983 Nev. Stat. c. 325, §67, at 798).

Disciplinary Actions

Existing law permits the Division to commence disciplinary actions against licensees who violate conditions of their licenses.³⁵ Chapter 325 expands the list of possible grounds for disciplinary actions.³⁶ Licensees are now subject to punishment if they (1) perform work that is substandard or endangers the life and safety of an occupant,³⁷ (2) fail to honor a guarantee for workmanship given as a condition of the sale, lease or improvement of a manufactured home, mobile home or commercial coach,³⁸ (3) fail to disclose all the terms and conditions of a sale or lease,³⁹ (4) make specified misrepresentations to a lender or other guaranteeing agency,⁴⁰ or (5) take actions designed to induce applicants for credit to falsify their credit applications.⁴¹ Under existing law, disciplinary action may be taken upon a conviction of a felony or a crime of moral turpitude.⁴² Chapter 325 additionally allows punishment upon the entry of a plea of guilty or nolo contendere to these same crimes.⁴³ Finally, licensees are forbidden from comingling a principal's money with their own⁴⁴ or refusing to allow the administrator to inspect requested documents.⁴⁵

Applicants who furnish false information to the Division⁴⁶ or who fail to provide proof of their good character and fitness to engage in a licensed activity are also subject to disciplinary actions.⁴⁷ Furthermore, Chapter 325 prohibits employers from employing unlicensed persons if a license is required for the position.⁴⁸ Under prior law, employees of a licensee could accept benefits from someone other than their employer unless those benefits adversely influenced their conduct in relation to

35. *Id.* §489.381; *see id.* §§489.391-411 (grounds for disciplinary action by the division).

36. *Compare id.* §§489.391-411 (amended by 1983 Nev. Stat. c. 325, §§35-37, at 787-88) with 1979 Nev. Stat. c. 592, §§19-21, at 1205-06 (enacting NEV. REV. STAT. §§489.391-411; *id.* §489.421 (amended by 1983 Nev. Stat. c. 325, §38, at 788) with 1981 Nev. Stat. c. 595, §7, at 1299 (amending NEV. REV. STAT. §489.421); *see* 1983 Nev. Stat. c. 325, §5, at 776.

37. 1983 Nev. Stat. c. 325, §5, at 776.

38. *Id.*

39. NEV. REV. STAT. §489.401(4) (amended by 1983 Nev. Stat. c. 325, §36(4), at 787).

40. *Id.* §489.401(5) (amended by 1983 Nev. Stat. c. 325, §36(5), at 788).

41. *Id.* §489.401(6) (amended by 1983 Nev. Stat. c. 325, §36(6), at 788).

42. *Id.* §489.421(7).

43. *Id.* (amended by 1983 Nev. Stat. c. 325, §38(7), at 789).

44. *Id.* §489.411(4) (amended by 1983 Nev. Stat. c. 325, §37(4), at 788). Licensees are forbidden from converting the money of others to their own use. *Id.*

45. *Id.* §489.421(4) (amended by 1983 Nev. Stat. c. 325, §38(4), at 789); *see id.* §489.801(6) (amended by 1983 Nev. Stat. c. 325, §§65, 65.5, at 796, 797) (refusing or denying access is also declared unlawful).

46. *Id.* §489.391(3) (amended by 1983 Nev. Stat. c. 325, §35(3), at 787).

47. *Id.* §489.391(4) (amended by 1983 Nev. Stat. c. 325, §35(5), at 787).

48. *Id.* §489.411(3) (amended by 1983 Nev. Stat. c. 325, §37(3), at 788). At variance with this statute is the requirement that some applicants must first be employed before they can be licensed. *Id.* §§489.341(1)(b) (amended by 1983 Nev. Stat. c. 325, §34, at 786), 489.391(4) (amended by 1983 Nev. Stat. c. 325, §35, at 787).

the commercial affairs of their employer.⁴⁹ With the enactment of Chapter 325, employees may now *only* accept fees, commissions, or compensation from the licensees with whom they are associated or employed.⁵⁰

General regulatory provisions

Existing law stipulates that a dealer of new commercial coaches and mobile homes must send a report of the sale of the vehicle to the County Assessor in which the vehicle will be located.⁵¹ Chapter 325 expands these provisions to require reports of the sale of new manufactured homes⁵² and of used or rebuilt manufactured homes, commercial coaches, and mobile homes.⁵³ In addition, existing law requires leased or rented mobile homes, travel trailers and commercial coaches to be equipped with smoke detectors.⁵⁴ Chapter 325 applies this same provision to manufactured homes.⁵⁵

Prior to the enactment of Chapter 325, every commercial coach had to bear a certificate *or* label of compliance.⁵⁶ Chapter 325 now mandates that every commercial coach, travel trailer, *and* mobile home must bear a certificate *and* a label of compliance.⁵⁷ Mobile homes and commercial coaches are presently subject to (1) an order to vacate if constructed or maintained in violation of the law,⁵⁸ or (2) an order to stop production or rebuilding if the work performed is in violation of an applicable statute or regulation.⁵⁹ Chapter 325 brings manufactured homes and travel trailers into the class of vehicles covered by these two orders.⁶⁰

49. 1979 Nev. Stat. c. 592, §21(2), at 1206 (enacting Nev. Rev. Stat. §489.411).

50. Compare NEV. REV. STAT. §489.411(2) (amended by 1983 Nev. Stat. c. 325, §37(2), at 788) with 1979 Nev. Stat. c. 592, §21(2), at 1206 (enacting NEV. REV. STAT. §489.411).

51. NEV. REV. STAT. §489.501(3).

52. *Id.* (amended by 1983 Nev. Stat. c. 325, §45, at 791).

53. *Id.* §489.511(2) (amended by 1983 Nev. Stat. c. 325, §46, at 791). The seller must also furnish the buyer a copy of the report of the sale at the time of the sale. *Id.*

54. *Id.* §489.701(1).

55. *Id.* §489.701(2) (amended by 1983 Nev. Stat. c. 325, §59(2), at 795). The smoke detector in manufactured homes must comply with federal standards. *Id.*

56. 1981 Nev. Stat. c. 558, §10, at 1192 (amending NEV. REV. STAT. §489.451) (applied only to coaches manufactured after July 1, 1977).

57. NEV. REV. STAT. §489.451 (amended by 1983 Nev. Stat. c. 325, §39, at 789). This requirement becomes inapplicable to travel trailers after July 1, 1985. 1983 Nev. Stat. c. 325, §§39.5, 69(2), at 789, 799.

58. NEV. REV. STAT. §489.295.

59. *Id.* §489.297.

60. Compare *id.* §489.295 (amended by 1983 Nev. Stat. c. 325, §28, at 783) with 1981 Nev. Stat. c. 558, §3, at 1190 (enacting NEV. REV. STAT. §489.295); *id.* §489.297 (amended by 1983 Nev. Stat. c. 325, §29, at 783) with 1981 Nev. Stat. c. 558, §4, at 1190 (enacting NEV. REV. STAT. §489.297); see 1983 Nev. Stat. c. 325, §§28.5, 29.5, 69(2), at 783, 799 (both of these orders are inapplicable to travel trailers after July 1, 1985).

In summary, Chapter 325 conforms state law to federal law by regulating manufactured homes.⁶¹ Chapters 325 and 162 have increased the duties of the administrator,⁶² established trust accounts for dealers,⁶³ added grounds for disciplinary actions,⁶⁴ and revised licensing requirements.⁶⁵

61. See *supra* note 5 and accompanying text. Chapter 325 also revises the remaining provisions of existing law regulating the manufacture, lease, rental, sale and use of mobile homes to conform to federal law. See NEV. REV. STAT. §§489.104, .122, .137, .211, .221, .251-.271, .331, .461-.4971, .4981, .521, .531, .551-641, .661, .711, .715, .731, .741, .821 (amended by 1983 Nev. Stat. c. 325, §§10, 15, 18, 21, 22, 25-27, 33, 40-43, 44, 47, 48, 49-57, 58, 60, 61, 63, 64, 67, at 777, 778, 779, 781-82, 785, 789-90, 792-95, 796, 798).

62. See *supra* notes 17-26 and accompanying text.

63. See *supra* notes 27-34 and accompanying text.

64. See *supra* notes 35-50 and accompanying text.

65. See *supra* notes 6-16 and accompanying text.

Mobile Homes; low income housing projects

NEV. REV. STAT. §§315.969, 319.130 (amended).
SB 298 (Robinson); 1983 STAT. Ch 397

Under existing law, governmental agencies have the authority and means to provide persons of low income¹ with decent, safe, and sanitary housing². Rural dwellings and apartments are specifically included among the types of housing that may be provided.³ Chapter 397 expands the definition of housing projects⁴ to include (1) the acquisition or development of mobile home parks and facilities, and (2) the leasing or rental of mobile homes⁵ and mobile home lots.⁶

In addition, existing law provides state financing of residential housing⁷ for eligible families.⁸ Chapter 397 extends this state assisted financing to manufactured homes⁹ and mobile home parks.¹⁰ More-

1. NEV. REV. STAT. §315.973 (definition of persons of low income).

2. *Id.* §315.961 (policy of the state relating to housing). See generally *McLaughlin v. Housing Authority*, 68 Nev. 84, 96-97, 227 P.2d 206, 212 (1951) (classification of persons to be benefited by housing authority law is reasonable and does not deny equal protection to other members of the public in contravention of the fourteenth amendment).

3. NEV. REV. STAT. §315.969(1)(b).

4. Compare *Id.* §315.969 (amended by 1983 Nev. Stat. c. 397, §1, at 971) with 1973 Nev. Stat. c. 425, §11, at 616 (enacting NEV. REV. STAT. §315.969).

5. NEV. REV. STAT. §489.120 (amended by 1983 Nev. Stat. c. 325, §14, at 778) (definition of mobile home).

6. *Id.* §315.969(3) (amended by 1983 Nev. Stat. c. 397, §1, at 971).

7. *Id.* §319.130 (definition of residential housing).

8. *Id.* §319.060 (definition of eligible family); see *id.* §§319.180 (power of the Division as mortgagee), 319.190 (power of Division to make loans).

9. 1983 Nev. Stat. c. 325, §2, at 775 (definition of manufactured home).

10. See NEV. REV. STAT. §319.130 (amended by 1983 Nev. Stat. c. 397, §2, at 971).