815 KAR 25:050. Administration and enforcement of manufactured housing construction standards.

RELATES TO: KRS 227.550 - 227.665, 227.990, 227.992, 42 U.S.C. Chapter 70
STATUTORY AUTHORITY: KRS 227.590, 227.600
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 227.590 requires the Department of Housing, Buildings and Construction to promulgate administrative regulations governing the standards for the manufacture and sale of manufactured homes and mobile homes. KRS 227.600 requires the department to establish forms for application for seals of approval for previously owned manufactured homes or mobile homes which are not covered by the National Manufactured Housing Construction and Safety Standards Act and for previously owned recreational vehicles. This administrative regulation establishes standards for the design, manufacture, installation, and sale of new and used manufactured homes and mobile homes, and for B seal application requirements.

Section 1. Limitations on the Conversion or Alteration of a Home.

(1) Retailer repairs. A retailer shall not make any of the following changes to a manufactured home or mobile home without the written approval of the manufacturer or the manufacturer's agent:
  (a) The addition or deletion of a window, door, or partition;
  (b) The addition of an electrical circuit to accommodate a washer or dryer;
  (c) The conversion of a heating, cooling, or fuel burning system from one (1) fuel to another, such as electric to gas, or gas to electric or oil;
  (d) The use of improperly listed materials for the repair of a unit; or
  (e) The installation of an unlisted heating, cooling, or fuel burning appliance.

(2) Certified retailer repairs. A certified retailer may alter or convert equipment and make repairs associated with the sale of a used manufactured home or mobile home in accordance with this administrative regulation.

(3) Changes requested by the purchaser. A change to the equipment, an appliance, or the interior or exterior furnishings of the home shall be made only with the written agreement of the purchaser.

(4) Other changes. The following actions shall be consistent with the sales contract in quality and quantity:
  (a) Replacement or removal of equipment or an appliance listed on the data plate;
  (b) Change or removal of furniture; or
  (c) Other cosmetic changes.

Section 2. Retailer Lot Inspections. An employee of the department may enter a retailer's place of business to inspect:

(1) Each manufactured home or mobile home to ensure compliance with state and federal law; and

(2) All records a retailer is required to maintain in accordance with Section 3(1) through (3) of this administrative regulation.

Section 3. Required Records. The following records shall be maintained on the business premises from which the manufactured home or mobile home was sold or at corporate headquarters, if the headquarters are located in the Commonwealth, for at least three (3) years:

(1) Sales or purchase agreements, including Forms HBC MH-10, HBC MH-11, and HBC MH-8;

(2) Unit Inspection, Form HBC MH-16; and

(3) Monthly Manufactured Home Dealer Certification Form, Form HBC MH-7.

Section 4. Consumer Complaints.

(1) Upon written complaint and request by an owner or occupant, and to determine compliance with applicable law, a state inspector from the department may enter a privately-owned manufactured home or mobile home sold by a retailer.

(2) The department shall instruct the responsible party, either retailer, certified installer, or manufacturer, to correct a violation if the state inspector determines that:

(a) The home is in violation of construction standards contained in the federal act;

(b) The home has been damaged in transit; or

(c) The installation violates installation standards contained in the federal act.

(3) Failure of the retailer, certified installer, or manufacturer to correct a violation of safety standards shall subject the responsible licensee or certificate holder to the penalties established in KRS 227.630.

Section 5. Installation Inspections for used homes. The department may make random inspections, prior to or after installation of a used home, to:

(1) Determine compliance with the minimum installation requirements contained in the federal act;

(2) Ensure the used home is properly sealed;

(3) Ensure that the used home has not been damaged in transit; or

(4) Ensure the used home is correctly installed.

Section 6. Certified Retailer.

(1) A certified retailer shall meet the following requirements:

(a) Employ at least one (1) installer certified in accordance with 815 KAR 25:080;

(b) Certify to the department that the dealership is capable of performing minor maintenance to the following systems of manufactured homes:

1. Plumbing;
2. Heating;
3. Cooling;
4. Fuel-burning; and
5. Electrical; and

(c) Complete and submit Form HBC MH/RV-2 to the department.

(2) A certified retailer shall not:

(a) Perform negligent inspection or repair of a unit; or

(b) Apply the wrong seal to a unit.

(3) The department shall maintain a list of certified retailers qualified to practice in Kentucky.

Section 7. Inspection of Used Manufactured Homes or Mobile Homes.

(1) A used manufactured home or mobile home requiring a new seal shall be inspected by a state inspector or a certified retailer. The state inspector or certified retailer shall affix a B1 seal indicating the manufactured home's or mobile home's compliance or noncompliance with the federal act under which the home was constructed. A state inspector or certified retailer shall inspect:

(a) The plumbing and waste systems to determine if the systems are operable and free of leaks;

(b) The cooling system and heating or fuel-burning system to determine if they are operational;

(c) The electrical system, including the main circuit box, each outlet, and each switch to detect:

1. A damaged covering;
2. A missing screw; or
3. Improper installation;

(d) The presence of adequate and operable smoke detection equipment;
(e) The doors, windows, and general structural integrity of the unit;
(f) The existence of two (2) exits;
(g) Storm windows in a manufactured home, but not in a mobile home; and
(h) The sealing of all exterior holes to prevent the entry of rodents.

(2) A unit that is not in compliance with the applicable federal standards under which it was constructed shall be issued a B2 seal unless brought into compliance.

Section 8. Application for Seals.

(1) A retailer who possesses a used manufactured home or mobile home without a B seal, shall apply to the department for a B seal prior to offering the manufactured home or mobile home for resale. The application shall be:
(a) Filed on Form HBC MH-12; and
(b)
1. Accompanied by a request for an inspection; or
2. Accompanied by notification that a certified retailer will conduct the inspection.

(2) Placement of B seals.
(a) Each B seal shall remain the property of the department and be:
1. Assigned and affixed to a specific manufactured home or mobile home;
2. Transferable only if assigned between retailers;
3. Void if not affixed as assigned;
4. Returned to the department if unused; and
5. Seized for a violation of KRS 227.550 to 227.665 or this administrative regulation.
(b) The B seal shall be securely affixed on or next to the main entry door on the handle side at approximately handle height.
(c) Other seals, stamps, covers, or other markings shall not be placed within two (2) inches of the seal.

(3) Lost or damaged B seals.
(a) If a B seal is lost or damaged, the owner shall notify the department immediately, in writing, specifying:
1. The manufacturer;
2. The manufactured home serial number; and
3. The seal number, if known.
(b) A damaged B seal shall be promptly returned to the department.
(c) A lost or damaged B seal shall be replaced by the department after an inspection and payment of the appropriate fee under Section 10 of this administrative regulation.

Section 9. Inspection of Used Homes in Manufacturer's or Retailer's Possession.

(1) A retailer or manufacturer shall re-inspect and place a new B seal on a repossessed home or a home taken in trade or purchased by a retailer or manufacturer before the manufactured home or mobile home is offered for sale.

(2) A retailer or manufacturer shall submit to the department on a completed Form HBC MH-16 prior to placing a B seal on the used manufactured home or mobile home to certify compliance with Section 7(1)(a) through (h) of this administrative regulation.

(3) A retailer shall remove any existing B seal upon taking possession of a used home.

Section 10. Fees for inspections of used homes.

(1) The fee for an inspection of a used home shall be:
(a) If performed by a certified retailer:
1. Seventy-five (75) dollars;
2. Thirty-two (32) cents per mile traveled, measured from the place of the certified retailer's place of business; and

3. Twenty-five (25) dollars for the seal; and

(b) If performed by the department:

1. Seventy-five (75) dollars; and

2. Twenty-five (25) dollars for the seal.

(2) The department shall charge no fee for random inspections conducted pursuant to Section 5 of this administrative regulation.

Section 11. Prohibition of Sales.

(1) A home shall not be sold or transferred for use as human habitation or occupancy without:

(a) A current, valid, marketable title; and

(b) A HUD label or a B1 seal.

(2) A used home with a B2 seal shall not be resold unless the purchaser executes Form HBC MH-8.

(3) Sales between retailers. The requirement that a retailer inspect and apply B seals to each home before it is sold shall not apply if the resale is between retailers.

(4) As a condition of continued licensure, a retailer shall:

(a) Not sell or offer for sale a manufactured home or mobile home for which marketable title cannot be conveyed to the purchaser;

(b) Provide an application for title as soon as possible; and

(c) Demonstrate good cause for delay in providing an application for title, upon purchaser complaint.

Section 12. Red Tagging.

(1) The department shall:

(a) Attach a red tag to a manufactured home or mobile home found in violation of KRS 227.550 to 227.665 or this administrative regulation; and

(b) Furnish the retailer with a copy of the red tag.

(2) The red tag shall not be removed and the home shall not be sold unless:

(a) The department approves the correction of each violation and the red tag removal; or

(b) The sale is from an unlicensed retailer to a certified retailer, who applies a B seal and resells the manufactured home or mobile home.

Section 13. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "ANSI A225.1, Manufactured Home Installations", 1994 Edition;

(b) "Form HBC MH-7, Monthly Manufactured Home Retailer Certification Form", May 2020;

(c) "Form HBC MH-8, Affidavit of Sale (Salvage Only)", May 2020;

(d) "Form HBC MH-10, Consumer Protection Notice", May 2020;

(e) "Form HBC MH-11, Release for Delivery", August 2018;

(f) "Form HBC MH-12, Application Form for Purchasing Seals", May 2020;

(g) "Form HBC MH/RV-2, Request for Approval to Inspect", May 2020; and

(h) "Form HBC MH-16, Unit Inspection for B-Seal", May 2020.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, Division of Building Code Enforcement, Manufactured Housing Section, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, Monday through Friday, 8 a.m. to 4:30 p.m. and is available online at http://dhbc.ky.gov.

(815 KAR 025:050. 27 Ky.R. 2972; 3254; eff. 6-8-2001; 34 Ky.R. 866; 1431; eff. 1-4-2008; 45 Ky.R. 822, 1556; eff. 1-4-2019; TAm eff. 5-29-2020; Crt to Am; filing deadline 6-3-2027.)