**South Carolina General Assembly**

120th Session, 2013-2014

**A97, R118, S310**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Alexander and Ford

Document Path: l:\council\bills\agm\19859ab13.docx

Companion/Similar bill(s): 3423

Introduced in the Senate on January 29, 2013

Introduced in the House on March 19, 2013

Last Amended on June 18, 2013

Passed by the General Assembly on June 18, 2013

Governor's Action: June 20, 2013, Signed

Summary: Manufactured Housing Board

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/29/2013 Senate Introduced and read first time ([Senate Journal‑page 9](file:///h:\SJ%20Archive\2013\01-29-13.docx))

1/29/2013 Senate Referred to Committee on **Labor, Commerce and Industry** ([Senate Journal‑page 9](file:///h:\SJ%20Archive\2013\01-29-13.docx))

3/5/2013 Senate Committee report: Favorable with amendment **Labor, Commerce and Industry** ([Senate Journal‑page 8](file:///h:\SJ%20Archive\2013\03-05-13.docx))

3/6/2013 Scrivener's error corrected

3/13/2013 Senate Committee Amendment Amended and Adopted ([Senate Journal‑page 19](file:///h:\SJ%20Archive\2013\03-13-13.docx))

3/13/2013 Senate Read second time ([Senate Journal‑page 19](file:///h:\SJ%20Archive\2013\03-13-13.docx))

3/13/2013 Senate Roll call Ayes‑43 Nays‑0 ([Senate Journal‑page 19](file:///h:\SJ%20Archive\2013\03-13-13.docx))

3/14/2013 Scrivener's error corrected

3/14/2013 Senate Read third time and sent to House ([Senate Journal‑page 8](file:///h:\SJ%20Archive\2013\03-14-13.docx))

3/19/2013 House Introduced and read first time ([House Journal‑page 21](file:///h:\HJ%20Archive\2013\03-19-13.docx))

3/19/2013 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 21](file:///h:\HJ%20Archive\2013\03-19-13.docx))

5/23/2013 House Committee report: Favorable with amendment **Labor, Commerce and Industry** ([House Journal‑page 2](file:///h:\HJ%20Archive\2013\05-23-13.docx))

5/29/2013 House Amended ([House Journal‑page 13](file:///h:\HJ%20Archive\2013\05-29-13.docx))

5/29/2013 House Read second time ([House Journal‑page 13](file:///h:\HJ%20Archive\2013\05-29-13.docx))

5/29/2013 House Roll call Yeas‑100 Nays‑8 ([House Journal‑page 18](file:///h:\HJ%20Archive\2013\05-29-13.docx))

5/30/2013 House Read third time and returned to Senate with amendments ([House Journal‑page 33](file:///h:\HJ%20Archive\2013\05-30-13.docx))

6/6/2013 Senate House amendment amended ([Senate Journal‑page 64](file:///h:\SJ%20Archive\2013\06-06-13.docx))

6/6/2013 Senate Roll call Ayes‑43 Nays‑0 ([Senate Journal‑page 64](file:///h:\SJ%20Archive\2013\06-06-13.docx))

6/6/2013 Senate Roll call Ayes‑44 Nays‑0 ([Senate Journal‑page 64](file:///h:\SJ%20Archive\2013\06-06-13.docx))

6/6/2013 Senate Returned to House with amendments ([Senate Journal‑page 64](file:///h:\SJ%20Archive\2013\06-06-13.docx))

6/6/2013 House Non‑concurrence in Senate amendment ([House Journal‑page 77](file:///h:\HJ%20Archive\2013\06-06-13.docx))

6/6/2013 House Roll call Yeas‑1 Nays‑80 ([House Journal‑page 78](file:///h:\HJ%20Archive\2013\06-06-13.docx))

6/6/2013 Senate Senate insists upon amendment and conference committee appointed O'Dell, Hutto, Bryant ([Senate Journal‑page 69](file:///h:\SJ%20Archive\2013\06-06-13.docx))

6/6/2013 House Conference committee appointed Sandifer, Toole, Anderson ([House Journal‑page 102](file:///h:\HJ%20Archive\2013\06-06-13.docx))

6/18/2013 Senate Conference report received and adopted ([Senate Journal‑page 51](file:///h:\SJ%20Archive\2013\06-18-13.docx))

6/18/2013 Senate Roll call Ayes‑38 Nays‑3 ([Senate Journal‑page 51](file:///h:\SJ%20Archive\2013\06-18-13.docx))

6/18/2013 House Conference report received and adopted ([House Journal‑page 48](file:///h:\HJ%20Archive\2013\06-18-13.docx))

6/18/2013 House Roll call Yeas‑110 Nays‑0 ([House Journal‑page 52](file:///h:\HJ%20Archive\2013\06-18-13.docx))

6/18/2013 House Ordered enrolled for ratification ([House Journal‑page 67](file:///h:\HJ%20Archive\2013\06-18-13.docx))

6/19/2013 Ratified R 118

6/20/2013 Signed By Governor

6/26/2013 Effective date 06/20/13

6/26/2013 Act No. 97

**VERSIONS OF THIS BILL**

[1/29/2013](file:///p:\pprever\2013-14\310_20130129.docx)

[3/5/2013](file:///p:\pprever\2013-14\310_20130305.docx)

[3/6/2013](file:///p:\pprever\2013-14\310_20130306.docx)

[3/13/2013](file:///p:\pprever\2013-14\310_20130313.docx)

[3/14/2013](file:///p:\pprever\2013-14\310_20130314.docx)

[5/23/2013](file:///p:\pprever\2013-14\310_20130523.docx)

[5/29/2013](file:///p:\pprever\2013-14\310_20130529.docx)

[6/6/2013](file:///p:\pprever\2013-14\310_20130606.docx)

[6/18/2013](file:///p:\pprever\2013-14\310_20130618.docx)

(A97, R118, S310)

**AN ACT** **TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40‑29‑95 SO AS TO REQUIRE THE MANUFACTURED HOUSING BOARD TO CONSIDER THE FINANCIAL RESPONSIBILITY OF AN APPLICANT FOR LICENSURE BY THE BOARD, TO PROVIDE THE BOARD SHALL PROMULGATE RELATED REGULATIONS, TO PROVIDE THAT A MANUFACTURED HOUSING RETAIL DEALER WHO FAILS TO MEET CERTAIN FINANCIAL RESPONSIBILITY REQUIREMENTS SHALL APPEAR BEFORE THE BOARD, AND TO PROVIDE THAT THE BOARD MAY RESTRICT OR MODIFY THE ACTIVITIES OF A LICENSEE WHO FAILS TO MEET THESE FINANCIAL RESPONSIBILITY REQUIREMENTS; BY ADDING SECTION 40‑29‑325 SO AS TO PROVIDE A LICENSED MANUFACTURED HOUSING RETAIL DEALER SHALL INCLUDE ITS DEALER LICENSE NUMBER ON CERTAIN ADVERTISEMENTS FOR THE MANUFACTURED HOUSING BY THE DEALER; TO AMEND SECTION 40‑29‑200, RELATING TO APPLICATIONS FOR LICENSURE AND RENEWAL, SO AS TO PROVIDE AN APPLICANT FOR LICENSURE AS A RETAIL DEALER SHALL PROVIDE A FINANCIAL STATEMENT REVIEWED BY A LICENSED CERTIFIED PUBLIC ACCOUNTANT TO THE BOARD, TO PROVIDE THE HOLDER OF A LIEN ON A MANUFACTURED HOME IS NOT SUBJECT TO THE PROVISIONS OF CHAPTER 29, TITLE 40 FOR THE SALE, EXCHANGE, OR TRANSFER BY LEASE‑PURCHASE OF A REPOSSESSED MANUFACTURED HOME MADE THROUGH A LICENSED MANUFACTURED HOME RETAILER OR A SALE MADE THROUGH THE FORECLOSURE PROCESS, AND TO PROVIDE FOR THE DENIAL OF A LICENSE TO AN APPLICANT CONVICTED OF CERTAIN CRIMES, AND TO MAKE A CONFORMING CHANGE; AND TO AMEND SECTION 40‑29‑230, RELATING TO VIOLATIONS OF SURETY BOND, CLAIM, AND RELEASE REQUIREMENTS FOR APPLICANTS FOR LICENSURE BY THE BOARD, SO AS TO INCLUDE THE INABILITY OF AN APPLICANT TO SATISFY REQUISITE FINANCIAL RESPONSIBILITY GUIDELINES AS A BASIS FOR INCREASING THE AMOUNT OF THE REQUIRED SURETY BOND OR OTHER APPROVED SECURITY.**

Be it enacted by the General Assembly of the State of South Carolina:

**Financial responsibility requirements**

SECTION 1. Chapter 29, Title 40 of the 1976 Code is amended by adding:

“Section 40‑29‑95. (A) The board shall consider the financial responsibility of an applicant as determined by this section and regulations promulgated by the board.

(B) A retail dealer applicant who fails to possess cash or cash equivalency in an amount equal to or greater than one hundred fifty thousand dollars or a credit score of less than seven hundred must appear before the board.

(C) Should the board license an applicant who is unable to meet the financial responsibility guidelines of this section or the regulations of the board, then the board may modify or restrict the activities of the licensee.”

**Dealer license number required in certain advertisements**

SECTION 2. Chapter 29, Title 40 of the 1976 Code is amended by adding:

“Section 40‑29‑325. Licensed manufactured housing retail dealers shall include their dealer license number on any print, Internet, or email advertisement by the retail dealer for the sale of a manufactured home located in South Carolina.”

**Application requirements, certain lienholder conveyance exempt**

SECTION 3. Section 40‑29‑200 of the 1976 Code is amended to read:

“Section 40‑29‑200. (A) All licenses expire June thirtieth of each even‑numbered year following the date of issue, unless sooner revoked or suspended.

(B) An applicant for licensure shall:

(1) demonstrate financial responsibility as required by Section 40‑29‑95;

(2) for a retail dealer, provide a financial statement reviewed by a licensed certified public accountant;

(3) not have engaged illegally in the licensed classification;

(4) demonstrate familiarity with the regulations adopted by the board concerning the classification for which application is made;

(5) if a corporation, have complied with the laws of South Carolina regarding qualification for doing business in this State or have been incorporated in South Carolina and have and maintain a registered agent and a registered office in this State;

(6) submit proof of registration with the Department of Revenue and submit a current tax identification number;

(7) where applicable, pass an examination administered by the board or its designated test provider in the license classification for which application is made;

(8) where applicable, complete training as prescribed by the board.

(C) A manufactured housing license is not required for a licensed real estate salesman or licensed real estate broker who negotiates or attempts to negotiate for any legal entity the listing, sale, purchase, exchange, lease, or other disposition of a used manufactured or mobile home in conjunction with the listing, sale, purchase, exchange, lease, or other disposition of real estate upon which the used manufactured or mobile home is located.

(D) The holder of a lien on a manufactured home who sells, exchanges, or transfers by lease‑purchase a repossessed manufactured home subject to the lien is not subject to the provisions of this chapter if the sale, exchange, or transfer is through a licensed manufactured home retail dealer. A sale by a lienholder conducted through the foreclosure process of Section 29‑3‑610, et seq. may not be subject to the provisions of this chapter.

(E) A license must be issued in only one person’s name who may be the individual owner, stockholder, copartner, manufactured home retail salesman or other representative of a manufactured home manufacturer, manufactured home retail dealer, or other entity required to be licensed. It is the duty of a manufactured home retail dealer and manufactured home manufacturer to conspicuously display the licenses in the established place of business. Manufactured home retail salesmen and manufactured home contractors, installers, and repairers are required to carry their licenses on their persons at all times when they are doing business in this State, and they must be shown upon request.

(F) The board may deny a license to an applicant who submits an application meeting the requirements of this chapter if the applicant has been convicted in a court of competent jurisdiction of a violent crime as defined in Section 16‑1‑60, a felony directly related to any aspect of the business of manufactured housing, or a felony, an essential element of which is dishonesty, reasonably related to any aspect of the business of manufactured housing.

(G) No person may be issued a license as a manufactured home retail dealer unless the person can show proof satisfactory to the board of two years’ experience in the manufactured home industry or other relevant experience acceptable to the board.

(H) Notwithstanding any other provision of law, the board may not grant reciprocity or issue a license to an applicant:

(1) whose license in another state is currently restricted in any way, including probationary or other conditions, or was surrendered in lieu of disciplinary action or was revoked;

(2) who has disciplinary action pending against him in another state; or

(3) who is currently under sentence, including probation or parole, for a violation of Section 16‑1‑60, a felony directly related to any aspect of the business of manufactured housing, or a felony, an essential element of which is dishonesty, reasonably related to any aspect of the business of manufactured housing.

(I)(1) An applicant may be granted an apprentice salesperson license for up to one hundred twenty days. An apprentice salesperson license may not be issued to an applicant if the applicant has ever been:

(a) denied any type of license issued pursuant to this chapter;

(b) subject to suspension or revocation of a license issued pursuant to this chapter; or

(c) subject to any disciplinary action taken in accordance with this chapter.

(2) An applicant is subject to all of the requirements of this chapter and regulations promulgated pursuant to this chapter, except that an applicant is not required to complete the training, testing, and bond requirements established for a regular retail salesperson license.”

**Surety bonds and other required security**

SECTION 4. Section 40‑29‑230(B)(3) of the 1976 Code is amended to read:

“(3) The board, upon a finding of a violation by a licensee or that an applicant is unable to meet the financial responsibility guidelines, may further require the licensee to increase the amount of a surety bond or other approved security. An increase must be proportioned to the seriousness of the offense, the repeat nature of the licensee’s violations, or related to the financial condition of an applicant. The total amount may not exceed an additional seventy‑five thousand dollars for manufacturers, fifty thousand dollars for dealers, twenty thousand dollars for salespersons, and ten thousand dollars for manufactured home contractors, installers, and repairers. The board, after one year, may reduce an increased surety bond or other approved security when satisfied that violations have been cured by appropriate corrective action and that the licensee is otherwise in good standing. The bonds cannot be reduced below amounts provided in this section.”

**Time effective**

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 19th day of June, 2013.

Approved the 20th day of June, 2013.

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