

ARTICLE 14 Manufactured Housing

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60-14-1. Short title.

[Chapter 60, Article 14](#) NMSA 1978 may be cited as the "Manufactured Housing Act."

History: 1953 Comp., § [67-41-1](#), enacted by Laws 1975, ch. [331](#), § [1](#); 1983, ch. [295](#), § [7](#).

ANNOTATIONS

Jurisdiction over installation of gas lines. — The Mobile Housing Act does not supersede or repeal by implication the Liquefied Petroleum Gas Act, Section [70-5-1](#) NMSA 1978 et seq., with respect to jurisdiction over the installation of liquefied petroleum gas lines within a mobile housing unit. 1976 Op. Att'y Gen. No. [76-38](#).

60-14-2. Definitions.

As used in the Manufactured Housing Act:

A. "broker" means any person who, for a fee, commission or valuable consideration, lists, sells, offers for sale, exchanges, offers to exchange, rents or leases or offers to rent or lease pre-owned manufactured homes for another person or who negotiates, offers to negotiate, locates or brings together a buyer and a seller or offers to locate or bring together a buyer and a seller in conjunction with the sale, exchange, rental or lease of a pre-owned manufactured home. A broker may or may not be an agent of any party involved in the transaction. No person shall be considered a broker unless engaged in brokerage activities related to the sale, exchange or lease-purchase of two or more pre-owned manufactured homes to consumers in any consecutive twelve-month period;

B. "certificate of qualification" means a certificate issued by the division to a qualifying party;

C. "committee" means the manufactured housing committee;

D. "consumer" means any person who seeks or acquires by purchase, exchange or lease-purchase a manufactured home;

E. "dealer" means any person engaged in the business of buying for resale, selling or exchanging manufactured homes or offering manufactured homes for sale, exchange or lease-purchase to consumers. No person shall be considered a dealer unless engaged in the sale, exchange or lease-purchase of two or more manufactured homes to consumers in any consecutive twelve-month period. A dealer may also engage in any brokerage activities included under the definition of broker in this section; provided, "dealer" shall not include:

(1) receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under judgment, decree or order of any court;

(2) public officers while performing their duties as such officers; and

(3) finance companies, banks and other lending institutions covering sales of repossessed manufactured houses;

F. "director" means the director of the manufactured housing division and the construction industries division of the regulation and licensing department;

G. "division" means the manufactured housing division of the regulation and licensing department;

H. "inspection agency" means any firm, partnership, corporation, association or any combination thereof approved in accordance with regulations adopted by the division as having the personnel and equipment available to adequately inspect for the proper construction of manufactured homes or house trailers not used exclusively for recreational purposes;

I. "inspector" means a person appointed by the division as being qualified to adequately inspect the construction, electrical installations and mechanical installations of manufactured homes and their repair and modification, as well as the installation, tie-downs, blocking, skirting and water, gas and sewer connections of any manufactured homes in New Mexico;

J. "installer" means any person who installs manufactured homes for remuneration;

K. "installation" means, but is not limited to, preparation by an installer of a manufactured home site, construction of tie-down facilities and connection to on-site utility terminals;

L. "manufacturer" means any resident or nonresident person who manufactures or assembles manufactured homes or any component of manufactured homes;

M. "manufactured home" means a movable or portable housing structure over thirty-two feet in length or over eight feet in width constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation for human occupancy as a residence and that may include one or more components that can be retracted for towing purposes and subsequently expanded for additional capacity or may be two or more units separately towable but designed to be joined into one integral unit, as well as a single unit. "Manufactured home" does not include recreational vehicles or modular or premanufactured homes, built to Uniform Building Code standards, designed to be permanently affixed to real property. "Manufactured home" includes any movable or portable housing structure over twelve feet in width and forty feet in length that is used for nonresidential purposes;

N. "permit" means a certificate issued by the division to the dealer or installer of a manufactured home indicating that the manufactured home meets the minimum requirements for occupancy provided for by codes or regulations of the division;

O. "person" includes an individual, firm, partnership, corporation, association or other legal entity or any combination thereof;

P. "qualifying party" means any individual who submits to the examination for a license, other than a broker's or salesperson's license, to be issued under the Manufactured Housing Act to a licensee, other than an individual, and who after passing such an examination is responsible for the licensee's compliance with the requirements of that act and with the rules, regulations, codes and standards adopted and promulgated in accordance with the provisions of the Manufactured Housing Act;

Q. "repairman" means any person who, for remuneration or consideration, modifies, alters or repairs the structural, mechanical or electrical systems of a manufactured home; and

R. "salesperson" means any person who for any form of compensation sells or lease-purchases or offers to sell or lease-purchase manufactured homes to consumers as an employee or agent of a dealer.

History: 1953 Comp., § [67-41-2](#), enacted by Laws 1978, ch. [79](#), § [1](#); 1983, ch. [295](#), § [8](#); 1988, ch. [102](#), § [3](#); 2013, ch. [36](#), § [1](#).

Repeals and reenactments. — Laws 1978, ch. [79](#), § [1](#), repealed former 67-41-2, 1953 Comp. (former 60-14-2 NMSA 1978), as amended by Laws 1977, ch. [341](#), § [1](#), relating to definitions used in the Mobile Housing Act, and enacted a new 67-41-2, 1953 Comp.

The 2013 amendment, effective June 14, 2013, clarified the definition of "director"; and in Subsection F, after "manufactured housing", added "division and the" and after "construction industries division", added "of the regulation and licensing department".

ANNOTATIONS

Offering units for sale constitutes "dealing". — In order to be engaged in the business of mobile home dealing, it is not necessary that a person actually sell mobile housing units so long as he offers mobile housing units for sale or attempts to negotiate such sales in pursuit of a livelihood. 1982 Op. Att'y Gen. No. [82-12](#).

Offering units not dealing in real estate. — When a real estate broker or salesperson acts as the agent for another person in the sale, exchange, lease or purchase of a mobile housing unit which is not attached to real property, he is no longer engaging in the real estate business as defined in the Real Estate Licensing Act. Rather, he is engaged in the business of acting as an agent for another in the sale of a mobile housing unit and must be licensed as a dealer under this article. 1982 Op. Att'y Gen. No. [82-12](#).

Law reviews. — For comment, "A Comparison of State and Federal Exemptions: 11 U.S.C. § 101-1330 (Supp. II 1978)," see 10 N.M.L. Rev. 431 (1980).

60-14-3. Purpose.

It is the intent of the legislature that the large and growing manufactured housing industry be supervised and regulated by a division of the commerce and industry department [regulation and licensing department]. The purpose of the Manufactured Housing Act [[60-14-1](#) NMSA 1978] is to insure the purchasers and users of manufactured homes the essential conditions of health and safety which are their right and to provide that the business practices of the industry are fair and orderly among the members of the industry with due regard to the ultimate consumers in this important area of human shelter.

History: 1953 Comp., § [67-41-3](#), enacted by Laws 1975, ch. [331](#), § [3](#); 1977, ch. [245](#), § [218](#); 1983, ch. [295](#), § [9](#).

Bracketed material. — Laws 1983, ch. [297](#), § [20](#), creates the regulation and licensing department, consisting of several divisions, including the mobile housing division, and Laws 1983, ch. [297](#), § [31](#), provides that all references in law to the mobile housing division of the commerce and industry department shall be construed to be references to the same division within the regulation and licensing department. See [9-16-4](#) NMSA 1978 and notes thereto. The bracketed material was inserted by the compiler; it was not enacted by the legislature and is not a part of the law.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — Validity of zoning ordinances prohibiting or regulating outside storage of house trailers, motor homes, campers, vans and the like, in residential neighborhoods, 95 A.L.R.3d 378.

60-14-4. Powers and duties of division.

The division shall:

A. prepare, administer and grade examinations for licensure under the classification sought by each applicant;

B. issue licenses and certificates of qualification in accordance with the provisions of the Manufactured Housing Act;

C. establish and collect fees authorized to be collected by the division pursuant to the Manufactured Housing Act;

D. subject to the approval of the committee, adopt rules and regulations relating to the construction, repair, modification, installation, tie-down, hookup and sale of all manufactured homes, which regulations shall be uniform throughout the state and shall be enforced by inspectors for the division to insure minimum standards of safety within the state and any of its political subdivisions. Ordinances of any political subdivision of New Mexico relating to gas, including natural gas, liquefied petroleum gas or synthetic natural gas; electricity; sanitary plumbing; and installation or sale of manufactured homes shall not be inconsistent with any rules, regulations, codes or standards adopted by the division pursuant to the Manufactured Housing Act;

E. adopt a budget and submit it to the regulation and licensing department for approval;

F. make an annual report to the superintendent of regulation and licensing concerning the operations of the division. The report shall contain the division's recommendations for legislation that it deems necessary to improve the licensing and the ethical and technical practices of the manufactured housing industry and to protect the public welfare;

G. subject to the approval of the committee, adopt such rules, regulations, codes and standards as are necessary to carry out the provisions of the Manufactured Housing Act;

H. prepare a uniform manufacturer's warranty and require its adoption as a condition of licensure by all manufacturers of manufactured homes doing business in New Mexico;

I. subject to the approval of the committee, adopt by regulation the mobile home construction and safety standards contained in the National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., as amended;

J. subject to the approval of the committee, adopt by regulation the mobile home procedural and enforcement regulations, 24 C.F.R. 3282, as amended, promulgated by the department of housing and urban development pursuant to the National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., as amended;

K. issue permits and provide for a single inspection of every installation in New Mexico, regardless of the location;

L. subject to the approval of the committee, adopt regulations prescribing standards for the installation or use of electrical wiring; the installation of all fixtures, plumbing, consumer's gas pipe, including natural gas, liquefied petroleum gas and synthetic natural gas, appliances and materials installed in the course of mechanical installation; and the construction, alteration, installation and repair of all manufactured homes intended for use in flood or mudslide areas designated pursuant to Section [3-18-7](#) NMSA 1978. The regulations shall give due regard to standards prescribed by the federal insurance administration pursuant to regulation 1910,

Subsection 7(d), 79 Stat. 670, Section 1361, 82 Stat. 587 and 82 Stat. 5757, all as amended, and shall give due regard to physical, climatic and other conditions peculiar to New Mexico;

M. conduct "inspector schools" so that each inspector under the division's jurisdiction is capable of giving a complete one-time inspection for the sufficiency of unit installation, construction and mechanical and electrical systems;

N. enter into cooperative agreements with federal agencies relating to manufactured housing and accept and use federal grants, matching funds or other financial assistance to further the purposes of the Manufactured Housing Act. The division may enter into agreements with municipalities and counties to provide for the inspection of manufactured homes by employees of municipalities and counties, to be performed under the supervision and control of the division. The division may allow all or a portion of the inspection fee collected by a local public body to be retained by the local public body. The portion of the fee retained shall be determined by the division and shall be related to the completeness of the inspection performed;

O. administer oaths through any member of the division, the director or a hearing officer;

P. subject to the approval of the committee, adopt rules and regulations for the conducting of hearings and the presentation of views, consistent with the regulations promulgated by the department of housing and urban development, 24 C.F.R. 3282.151 through 3282.156, as amended;

Q. subject to the approval of the committee, adopt by regulation a requirement that dealers, repairmen and installers provide to consumers warranties on their product and work and prescribe by regulation minimum requirements of such warranties;

R. coordinate with and qualify inspectors for any multiple inspection program provided by the construction industries division of the regulation and licensing department for inspection of manufactured homes;

S. subject to the approval of the committee, adopt regulations, codes and standards for manufactured homes used for nonresidential purposes; provided such manufactured homes being used for nonresidential purposes on May 18, 1988 shall not be required to meet Uniform Building Code standards, except as to requirements for access to the handicapped, but manufactured homes being used for nonresidential purposes after May 18, 1988 shall be required to meet Uniform Building Code standards. None of the provisions contained in this subsection shall apply to retailers licensed by the motor vehicle division of the taxation and revenue department; and

T. with the approval of the superintendent of regulation and licensing, employ such personnel as the director deems necessary for the exclusive purposes of investigating violations of the Manufactured Housing Act, enforcing Section [60-14-17](#) NMSA 1978 and instituting legal action in the name of the division to enforce the provisions of Section [60-14-19](#) NMSA 1978.

History: 1953 Comp., § [67-41-6](#), enacted by Laws 1978, ch. [80](#), § [1](#); 1983, ch. [295](#), § [10](#); 1988, ch. [102](#), § [4](#); 2007, ch. [62](#), § [1](#).

Cross references. — For the motor vehicle division of the taxation and revenue department, see [66-2-1](#) NMSA 1978 et seq.

For the Federal Regulation 1910, see 44 C.F.R. § 60.1 et seq.

Repeals and reenactments. — Laws 1978, ch. [80](#), § [1](#), repealed former 67-41-6, 1953 Comp. (former 60-14-4 NMSA 1978), relating to powers and duties, and enacted a new 67-41-6, 1953 Comp.

The 2007 amendment, effective June 15, 2007, added Subsection T to permit the division to employ personnel exclusively to investigate violations and enforce the Manufactured Housing Act.

ANNOTATIONS

Shared jurisdiction over liquefied petroleum gas line installations. — Mobile Housing Act in no way confers on the mobile housing commission (now mobile housing division) exclusive jurisdiction over liquefied petroleum gas line installations within mobile housing units. Both the mobile housing commission

and the liquefied petroleum gas commission (now liquefied petroleum gas bureau) have jurisdiction to regulate and inspect the installation of liquefied petroleum gas lines in mobile homes. 1976 Op. Att'y Gen. No. [76-38](#).

60-14-5. Manufactured housing committee created; membership; compensation; duties.

A. There is created within the division the "manufactured housing committee". It shall be composed of seven members who are residents of New Mexico and who shall serve at the pleasure of the governor and be appointed by the governor as follows:

(1) one member who is or is the designated representative of a manufacturer licensed under the Manufactured Housing Act;

(2) one member who is or is the qualifying party of a dealer licensed under the Manufactured Housing Act;

(3) one member who is or is the qualifying party of an installer licensed under the Manufactured Housing Act;

(4) one member who is the owner of a manufactured housing dealership licensed under the Manufactured Housing Act;

(5) one member who is engaged in the business of financing the purchase of manufactured housing units; and

(6) two public members who are manufactured housing unit owners not subject to licensure under the Manufactured Housing Act.

The term of office of each member of the committee is four years; provided that members shall be appointed for staggered terms beginning July 1, 1983 so that two terms end on June 30, 1985, two terms end on June 30, 1986 and three terms end on June 30, 1987. Thereafter, all members shall be appointed to four-year terms. Members shall be appointed to provide adequate representation of all geographic areas of the state.

B. Each member of the committee shall receive per diem and mileage as provided in the Per Diem and Mileage Act [[10-8-1](#) through [10-8-8](#) NMSA 1978] and shall receive no other compensation, perquisite or allowance.

C. The committee shall annually elect a chair and vice chair from its membership. The director of the division shall serve as the executive secretary of the committee.

D. The committee shall meet at least bimonthly at the call of the chair.

E. The committee shall provide technical and policy advice to the division, review and approve or disapprove all rules, regulations, standards and codes subject to its approval under the provisions of the Manufactured Housing Act and:

(1) establish by regulation classifications of licenses issued by the division and qualifications and examinations necessary for licensure under the Manufactured Housing Act; and

(2) suspend or revoke for cause any license or certificate of qualification issued by the division.

History: 1953 Comp., § [67-41-6.1](#), enacted by Laws 1977, ch. [245](#), § [220](#); 1983, ch. [295](#), § [11](#); 2013, ch. [36](#), § [2](#).

Cross references. — For termination of committee, see [60-14-16](#) NMSA 1978.

The 2013 amendment, effective June 14, 2013, changed the composition of the manufacturing housing committee; in Paragraph (4) of Subsection A, after "member who is", deleted "a broker" and added "the owner of a manufactured housing dealership"; added Paragraph (5) of Subsection A; and in Paragraph (6) of Subsection A, at the beginning of the sentence, deleted "three members" and added "two public members".

60-14-6. Bonding requirements; dealers, brokers, salespersons, manufacturers, repairmen and installers.

A. The division, with the approval of the committee, may by regulation require each dealer, broker, salesperson, manufacturer, repairman and installer to furnish and maintain with the division a consumer protection bond underwritten by a corporate surety authorized to transact business in New Mexico, in a sum to be determined by regulation and in such form, and with either unit or blanket coverage, as required by regulation, to be conditioned upon the dealer, broker, salesperson, manufacturer, repairman or installer complying with the provisions of the Manufactured Housing Act [[60-14-1](#) NMSA 1978] and any other law applying to the licensee, and also as indemnity for any loss sustained by any person damaged:

- (1) as a result of a violation by the licensee of any provision of the Manufactured Housing Act or of any regulation of the division adopted pursuant to that act;
- (2) as a result of a violation of any regulation adopted by the division;
- (3) by fraud of a licensee in the execution or performance of a contract; or
- (4) by misrepresentation or the making of false promises through the advertising or the agents of a licensee.

B. The consumer protection bond may include provisions for the indemnification for any loss sustained by any consumer as the result of the refusal, failure or inability to transfer good and sufficient legal title to the consumer by the transferor or any other party claiming title.

C. The committee may attach and disburse for cause any consumer protection bond furnished to the division pursuant to this section. The division, subject to the approval of the committee, shall adopt the necessary rules and regulations to administer the provisions of this section.

History: 1953 Comp., § [67-41-7](#), enacted by Laws 1978, ch. [81](#), § [1](#); 1983, ch. [295](#), § [12](#).

Repeals and reenactments. — Laws 1978, ch. [81](#), § [1](#), repealed former 67-41-7, 1953 Comp. (former 60-14-6 NMSA 1978), as amended by Laws 1977, ch. [341](#), § [3](#), relating to bonding requirements for dealers, manufacturers and installers, and enacted a new 67-41-7, 1953 Comp. For provisions of former section, see 1978 Original Pamphlet.

ANNOTATIONS

Authority of committee. — Since the mobile home dealer and buyer had settled a dispute over return of a deposit through arbitration, the committee was estopped from ordering the dealer to return the deposit to the buyer based on the dealer's violation of a division regulation providing a time limit for return of deposits; the committee was only entitled to attach the dealer's consumer protection bond to the extent the buyer was damaged by delay in return of the deposit and require return of that amount; in addition, the committee could suspend the dealer's license for a violation of the regulation, but could not condition staying the suspension on return of the total deposit. *Rex, Inc. v. Manufactured Hous. Comm.*, [1995-NMSC-023](#), [119 N.M. 500](#), [892 P.2d 947](#).

Elements to be proved at proceeding to attach bond pursuant to the Manufactured Housing Act are (1) the existence of the bond; (2) losses sustained by the consumer; and (3) the losses occurring by reason of misrepresentation. *Rex, Inc. v. Manufactured Hous. Comm.*, [2003-NMCA-134](#), [134 N.M. 533](#), [81 P.3d 470](#).

Collateral estoppel applied in committee hearing on attachment of bond. — Where the purpose of a manufactured housing committee hearing was not to investigate consumers' complaints, but to determine whether the committee could attach the manufacturer's consumer protection bond and disburse it to consumers in partial payment of a judgment recovered in an Unfair Practices Act action, the committee was in privity with the consumers in the UPA action, and the doctrine of collateral estoppel applied on the issues of misrepresentation and loss by the consumers. *Rex, Inc. v. Manufactured Hous. Comm.*, [2003-NMCA-134](#), [134 N.M. 533](#), [81 P.3d 470](#).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 58 Am. Jur. 2d Occupations, Trades and Professions § 7.

60-14-7. License required; classification; examination.

A. No person shall engage in business as a manufacturer, dealer, broker, repairman, installer or salesperson unless licensed as provided in the Manufactured Housing Act or the Construction Industries Licensing Act [Chapter [60](#), Article [13](#) NMSA 1978].

B. The committee shall adopt regulations creating a system of license classifications covering the occupations of dealer, broker, manufacturer, repairman, installer and salesperson and providing for the qualifications and examination for each class of license.

C. No person shall import for sale or exchange, or engage in the business of selling, leasing or exchanging or offering for sale, lease or exchange, any manufactured home manufactured by any person who is not licensed as a manufacturer under the Manufactured Housing Act.

History: 1953 Comp., § [67-41-8](#), enacted by Laws 1975, ch. [331](#), § [8](#); 1977, ch. [245](#), § [222](#); 1983, ch. [295](#), § [13](#); 2013, ch. [36](#), § [3](#).

Cross references. — For the Parental Responsibility Act, see [Chapter 40, Article 5A](#) NMSA 1978.

The 2013 amendment, effective June 14, 2013, permitted licensees under the Construction Industries Licensing Act to engage in activities regulated by the Manufactured Housing Act; and in Subsection A, after "Manufactured Housing Act", added "or the Construction Industries Licensing Act".

ANNOTATIONS

When real estate broker must be licensed. — When a real estate broker or salesperson acts as the agent for another person in the sale, exchange, lease or purchase of a mobile housing unit which is not attached to real property he is no longer engaging in the real estate business as defined in the Real Estate Licensing Act. Rather, he is engaged in the business of acting as an agent for another in the sale of a mobile housing unit and must be licensed as a dealer under this article. 1982 Op. Att'y Gen. No. [82-12](#).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 51 Am. Jur. 2d Licenses and Permits § 1 et seq. 53 C.J.S. Licenses §§ 26, 27.

60-14-8. Licensure; exemption.

The provisions of [Section 60-14-7](#) NMSA 1978 shall not apply to:

A. licensed real estate brokers or salesmen acting as agents for another person in the sale of real property on which is located one or more manufactured homes whose installation has been approved as provided in regulations of the committee; or

B. technicians working on weatherization projects that do not exceed a cost of three thousand five hundred dollars (\$3,500) and that are administered by a state or federal agency.

History: 1953 Comp., § [67-41-8.1](#), enacted by Laws 1977, ch. [6](#), § [1](#); 1983, ch. [295](#), § [14](#); 1999, ch. [90](#), § [1](#).

The 1999 amendment, effective June 18, 1999, added the Subsection A designation, added Subsection B, and made a minor stylistic change.

ANNOTATIONS

When real estate broker must be licensed. — When a real estate broker or salesperson acts as the agent for another person in the sale, exchange, lease or purchase of a mobile housing unit which is not attached to real property he is no longer engaging in the real estate business as defined in the Real Estate Licensing Act. Rather, he is engaged in the business of acting as an agent for another in the sale of a mobile housing unit and must be licensed as a dealer under this article. 1982 Op. Att'y Gen. No. [82-12](#).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 53 C.J.S. Licenses §§ 35, 36.

60-14-9. License; application; issuance.

A. Application for a license required under [Section 60-14-7](#) NMSA 1978 for one of the classified occupations, or for a certificate of qualification of a qualifying party of a licensee other

than an individual licensee, shall be submitted to the division on forms prescribed and furnished by the division. The application shall contain such information and be accompanied by such attachments as are required by regulations of the division. The forms shall be accompanied by the prescribed fee.

B. No license shall be issued by the division to any person unless the division is satisfied that he is or has in his employ a qualifying party who is qualified for the classification for which the application is made and who has satisfied the requirements of Subsection C of this section.

C. An applicant for licensure shall:

- (1) demonstrate financial responsibility as required by regulations of the committee;
- (2) be of good reputation;
- (3) not have engaged illegally in the licensed classification that he is applying for within one year prior to making the application;
- (4) demonstrate familiarity with the rules and regulations adopted by the committee concerning the classification for which application is made;
- (5) if a corporation, have complied with the laws of New Mexico regarding qualifications for doing business in this state or have been incorporated in New Mexico and have and maintain a registered agent and a registered office in this state;
- (6) if an individual or partnership, have maintained a residence or street address in New Mexico for at least thirty days preceding the date of application;
- (7) submit proof of registration with the revenue division of the taxation and revenue department and submit a current tax identification number; and
- (8) personally or through the applicant's qualifying party successfully pass an examination administered by the division in the license classification for which application is made.

History: 1953 Comp., § [67-41-9](#), enacted by Laws 1975, ch. [331](#), § [9](#); 1977, ch. [245](#), § [223](#); 1983, ch. [295](#), § [15](#).

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 51 Am. Jur. 2d Licenses and Permits §§ 45 to 47. 53 C.J.S. Licenses §§ 37 to 42.

60-14-10. Qualifying party; examination; certificate.

A. Except as provided in Subsection C of this section, no certificate of qualification shall be issued to any individual desiring to be a qualifying party until he has passed with a satisfactory score an examination prepared, administered and graded by the division.

B. The examination where applicable shall consist of:

- (1) general business knowledge, the rules and regulations of the division and committee and the provisions of the Manufactured Housing Act [this article];
- (2) technical knowledge and familiarity with the prescribed codes and minimum standards, which may be prepared and administered by an employee of the division who is expert in the particular classification for which certification is sought; and
- (3) general knowledge of the statutes of this state relating to the sale, exchange or lease of manufactured homes, contracts of sale, agency and brokerage.

C. If a licensee is subject to suspension by the committee for failure of the licensee to have a qualifying party in his employ, and the employment of the qualifying party is terminated without fault of the licensee, then an employee of the licensee who is experienced in the classification for which the certificate of qualification was issued and who has been employed two or more years by

the licensee shall be issued without examination a temporary certificate of qualification in the classification for which the licensee is licensed. The temporary qualifying party shall be subject to passing the examination as set forth in this section within one year from the date of the temporary certificate's issuance.

D. A certificate of qualification is not transferable.

History: 1953 Comp., § [67-41-10](#), enacted by Laws 1975, ch. [331](#), § [10](#); 1977, ch. [245](#), § [224](#); 1983, ch. [295](#), § [16](#).

60-14-11. Division fees.

The division shall by regulation establish reasonable annual license fees, fees for examinations and inspection and permit fees. Fees shall be set to reflect the actual cost of licensing and regulation, and in the case of the examination they shall reflect the actual cost of preparing and administering the examination. All fees shall be paid to the state treasurer for deposit and transfer as provided in [Section 9-16-14](#) NMSA 1978.

History: 1953 Comp., § [67-41-11](#), enacted by Laws 1975, ch. [331](#), § [11](#); 1977, ch. [245](#), § [225](#); 1983, ch. [295](#), § [17](#); 1987, ch. [298](#), § [9](#).

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 51 Am. Jur. 2d Licenses and Permits §§ 39 to 41.
Amount in controversy for purposes of jurisdiction in case involving tax or license fee, 109 A.L.R. 300.
53 C.J.S. Licenses §§ 64 to 73.

60-14-12. Suspension and revocation.

Any license or certificate of qualification issued by the division shall be suspended for a definite period or revoked under the procedures of the Uniform Licensing Act [[61-1-1](#) NMSA 1978] by the committee for any of the following causes:

A. if a licensee or a qualifying party of a licensee violates any provision of the Manufactured Housing Act [[60-14-1](#) NMSA 1978] or any regulations adopted by the division or committee pursuant to that act;

B. false, misleading or deceptive advertising;

C. knowingly contracting or performing a service beyond the scope of the license;

D. misrepresentation of a material fact by the applicant in obtaining a license or certificate;

E. misrepresentation or omission of a material fact in any manufactured home transaction;

F. failure to comply with the warranty requirements of the Manufactured Housing Act or any regulation of the committee pursuant to those requirements;

G. failure by a manufacturer or dealer to transfer good and sufficient title to the purchaser of a manufactured home;

H. failure by a broker or dealer to provide the buyer and the seller of a preowned manufactured home with a closing statement as required by regulation of the committee;

I. conviction of a licensee or a qualifying party of a licensee in any court of competent jurisdiction of a felony or any offense involving moral turpitude; or

J. failure by a dealer or broker in the transfer of a preowned manufactured home not owned at the time of the transaction by the dealer or broker to comply with title transfer provisions set forth by regulation of the division.

History: 1953 Comp., § [67-41-12](#), enacted by Laws 1975, ch. [331](#), § [12](#); 1977, ch. [245](#), § [226](#); 1983, ch. [295](#), § [18](#).

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 51 Am. Jur. 2d Licenses and Permits §§ 58 to 62.
53 C.J.S. Licenses §§ 50 to 62.

60-14-13. Transition.

The records, automobiles, field equipment, office furniture and office equipment and the records of the mobile housing commission shall be transferred to the mobile housing division on the effective date of the Commerce and Industry Department Act. The regulations and all licenses and permits currently in force under the Construction Industries Licensing Act [[60-13-1](#) NMSA 1978] regarding mobile homes shall remain in force to be administered by the division under the Mobile Housing Act until replaced by regulations adopted by the division.

History: 1953 Comp., § [67-41-13](#), enacted by Laws 1975, ch. [331](#), § [13](#); 1977, ch. [245](#), § [227](#).

Commerce and Industry Department Act. — The Commerce and Industry Department Act refers to Laws 1977, ch. [245](#), §§ [1](#) to [12](#), the provisions of which were compiled as [9-2-1](#) to 9-2-10. Laws 1983, ch. [297](#), § [33](#), repeals [9-2-1](#) to 9-2-13 NMSA 1978.

Mobile Housing Act. — The Mobile Housing Act refers to Laws 1975, ch. [331](#), the provisions of which were compiled as [60-13-2](#), [60-13-10](#), [60-13-41](#), [60-13-42](#), [60-13-44](#), [60-13-46](#), [60-14-1](#), [60-14-3](#), [60-14-7](#), [60-14-9](#) to [60-14-15](#) NMSA 1978. However, Laws 1983, ch. [295](#), § [7](#), amended [60-14-1](#) NMSA 1978 to change the name of the Mobile Housing Act to the Manufactured Housing Act. For scope of Manufactured Housing Act, see [60-14-1](#) NMSA 1978

60-14-14. Hearing officer.

The division or committee may designate a hearing officer to preside over and take evidence at any hearing held pursuant to the Manufactured Housing Act [[60-14-1](#) NMSA 1978].

History: 1953 Comp., § [67-41-14](#), enacted by Laws 1975, ch. [331](#), § [14](#); 1977, ch. [245](#), § [228](#); 1983, ch. [295](#), § [19](#).

60-14-15. Committee and division; consumer complaints; orders; suspension; revocation.

In addition to the other duties imposed on the committee and division under the Manufactured Housing Act [[60-14-1](#) NMSA 1978], the committee and division shall receive complaints from any consumer who claims to be harmed by any licensee and shall attempt to have the complaints adjusted to the reasonable satisfaction of the consumer. If the committee or division cannot secure a proper adjustment, the committee or division shall prepare a formal complaint for the consumer, and, pursuant to the provisions of the Uniform Licensing Act [[61-1-1](#) NMSA 1978], the committee shall determine whether the licensee is in violation of the Manufactured Housing Act or of rules and regulations promulgated under that act. If the licensee is in violation of the Manufactured Housing Act or of the rules and regulations promulgated under that act, the committee may order him to comply, may suspend his license until such time as the licensee complies with the order of the committee or may revoke his license.

History: 1953 Comp., § [67-41-15](#), enacted by Laws 1975, ch. [331](#), § [23](#); 1983, ch. [295](#), § [20](#).

60-14-16. Repealed.

Repeals. — Laws 2005, ch. [208](#), § [27](#) repealed [60-14-16](#) NMSA 1978, as enacted by Laws 1983, ch. [295](#), § [21](#), relating to termination of the manufactured housing committee and division, effective June 17, 2005. For provisions of former section, see the [2004 NMSA 1978](#) on *NMOneSource.com*.

60-14-17. Unlicensed dealers, brokers, salespersons, repairmen, manufacturers and installers; penalties.

It is unlawful for any person to act in the capacity of a dealer, broker, salesperson, repairman, manufacturer or installer within the meaning of the Manufactured Housing Act [[60-14-1](#) NMSA 1978] without a license required by that act. Any person who conspires with any person to violate any provision of that act requiring a dealer, broker, salesperson, repairman, manufacturer or installer to obtain a license and maintain a license in good standing is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than five hundred dollars (\$500) or ten percent of the dollar value of the contracted work performed while acting in the capacity of a dealer, broker, salesperson, repairman, manufacturer or installer without having been issued a dealer's, broker's, salesperson's, repairman's, manufacturer's or installer's license, whichever is greater.

History: 1953 Comp., § 60-14-17, enacted by Laws 1979, ch. [351](#), § [1](#); 1979, ch. [400](#), § [1](#); 1983, ch. [295](#), § [22](#).

60-14-18. Committee or division; powers of injunctions; mandamus.

The division or committee may enforce the provisions of the Manufactured Housing Act [[60-14-1](#) NMSA 1978] by injunction, mandamus or any proper legal proceeding in the district court of the county in which the offense was committed.

History: 1953 Comp., § 60-14-18, enacted by Laws 1979, ch. [351](#), § [2](#); 1979, ch. [400](#), § [2](#); 1983, ch. [295](#), § [23](#).

60-14-19. Penalties.

A. Any person who knowingly and willfully violates a provision of the Manufactured Housing Act or any rule, regulation or administrative order of the committee or division in a manner that threatens the health or safety of any purchaser or consumer is guilty of a misdemeanor and on conviction shall be fined not more than one thousand dollars (\$1,000) or shall be confined in the county jail not longer than one year or both.

B. In any action brought to enforce any provision of the Manufactured Housing Act, the division, upon petition to the court, may recover on behalf of the state a civil penalty not to exceed one thousand dollars (\$1,000) for each violation, except that the maximum civil penalty may not exceed one million dollars (\$1,000,000) for any related series of violations occurring within one year from the date of the first violation.

C. Failure by a manufacturer or dealer to comply with the warranty provisions of the Manufactured Housing Act or any implied warranties or the violation of any provision of the Manufactured Housing Act by any person is an unfair or deceptive trade practice in addition to those practices defined in the Unfair Practices Act [[57-12-1](#) NMSA 1978] and is actionable pursuant to the Unfair Practices Act. As such, the venue provisions and all remedies available in the Unfair Practices Act apply to and are in addition to the remedies in the Manufactured Housing Act.

D. The director may issue a license to an applicant who at any time within one year prior to making an application has acted as an unlicensed dealer, broker, salesperson, repairman, manufacturer or installer in New Mexico without a license as required by the division if:

(1) the applicant in addition to all other requirements for licensure pays an additional fee as follows:

(a) in an amount up to ten percent of the contract price or the value of the unlicensed work in the discretion of the committee; or

(b) if the applicant has bid or offered a price on a project and was not the successful bidder or offeror, the fee shall be at least one percent but not more than five percent of the total bid amount in the discretion of the committee; and

(2) the director is satisfied that no incident of unlicensed work:

(a) caused monetary damage to any person; or

(b) resulted in an unresolved consumer complaint being filed against the applicant.

E. Any unlicensed person who has performed unlicensed work may settle the claims against that unlicensed person without becoming licensed if the administrative claims arise from that person's first offense and that person pays an administrative fee calculated pursuant to Paragraph (1) of Subsection D of this section. In addition to the administrative fee, an additional ten percent of the amount of the administrative fee shall be assessed as a service fee.

F. If the total fee to be paid by the unlicensed person pursuant to the provisions of Subsection D or E of this section is twenty-five dollars (\$25.00) or less, the fee may be waived by the director.

History: 1978 Comp., § 60-14-19, enacted by Laws 1983, ch. [295](#), § [24](#); 2007, ch. [62](#), § [2](#).

The 2007 amendment, effective June 15, 2007, added Subsections D, E and F to provide for the issuance of licenses to applicants who have acted without a required license; settlement of claims against unlicensed persons; and for waiver of the fee to be paid by an unlicensed person if the fee is \$25.00 or less.

60-14-20. Criminal offenders character evaluation.

The provisions of the Criminal Offender Employment Act [[28-2-1](#) NMSA 1978] shall govern any consideration of criminal records required or permitted by the Manufactured Housing Act [[60-14-1](#) NMSA 1978].

History: Laws 1983, ch. [295](#), § [25](#).