

to make effective such provisions and he may make such investigations and inspections as in his judgment are necessary to enforce and administer this chapter *Miss. Code Ann.* § 75-49-11.

Source: *Miss. Code Ann.* § 75-49-11 (Supp. 2015).

## **Rule 5.02.1: Rules and Regulations**

### **Rule 5.02.1-1: Licensure of Manufacturers, Developers, Retailers and Installers/Transporters**

Each manufacturer, developer, retailer and installer/transporter must be licensed pursuant to *Miss. Code Ann.* § 75-49-9. Any person who knowingly and willfully fails to obtain a license in violation of *Miss. Code Ann.* § 75-49-9 shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than One Thousand Dollars (\$1,000.00) or imprisoned not more than one (1) year, or both, pursuant to *Miss. Code Ann.* § 75-49-19 (Supp. 2015).

Source: *Miss. Code Ann.* §§ 75-49-1, et seq.; 75-49-9(7); 75-49-19 (Supp. 2015).

### **Rule 5.02.1-2: Manufacturer License Application**

Every manufacturer engaged in the production (construction) of Factory-Built homes within or without the State of Mississippi shall apply for and obtain a license from the Commissioner. The application for license must be accompanied by proof of financial responsibility for cargo loss or damage by providing documentation of the bonding and liability insurance requirements as required by this regulation.

Source: *Miss. Code Ann.* §§ 75-49-1, et seq.; 75-49-9(7); 75-49-19 (Supp. 2015).

### **Rule 5.02.1-3: Retailer/Developer License Application**

A. Any retailer or developer conducting retail business within this State shall apply for a license annually to sell Factory-Built homes to be shipped into or sited in Mississippi. This licensure also applies to anyone who buys, relocates, re-builds and sells Factory - Built home units or anyone who buys and sells but does not move or relocate repossessed or used Factory-Built homes.

B. Every retailer or developer that sells, transports, or installs new or used Factory-Built homes within the State of Mississippi, shall apply for and obtain a license from the Commissioner. The application for license must be accompanied by proof of financial responsibility for cargo loss or damage by providing documentation of the bonding and liability insurance requirements as required by this regulation.

Source: *Miss. Code Ann.* §§ 75-49-1, et seq.; 75-49-9(7); 75-49-19 (Supp. 2015).

#### **Rule 5.02.1-4: Repossession and Resale**

Any person as defined in *Miss. Code Ann.* § 75-49-3(h) that repossesses and sells new or used Factory-Built homes which will be transported or relocated from the existing home site within the State of Mississippi shall contract the resale of the Factory-Built home through a current licensed retailer or developer to insure that the Factory-Built home is installed and set-up by a licensed installer/transporter in compliance with the Division's rules and regulations. A copy of said contract with the licensed retailer/developer is required to be on file with the Division.

Source: *Miss. Code Ann.* §§ 75-49-1, et seq.; 75-49-9(7); 75-49-19 (Supp. 2015).

#### **Rule 5.02.1-5: Installer/Transporter License Application**

Every installer/transporter that transports and/or installs new or used Factory-Built homes within the State of Mississippi shall apply for and obtain a license from the Commissioner. The application for license must be accompanied by proof of financial responsibility for cargo loss or damage by providing documentation of the bonding and liability insurance requirements as required by this regulation.

Source: *Miss. Code Ann.* §§ 75-49-1, et seq.; 75-49-9(7); 75-49-19 (Supp. 2015).

#### **Rule 5.02.1-6: Tax Identification Number**

A. All license applicants shall certify in the application to the Commissioner that the applicant will comply with the Construction Standards set forth under Rules and Regulations provided in *Miss. Code Ann.* § 75-49-5, and that the applicant has obtained a current and valid tax identification number.

B. All applications for license shall be obtained from and submitted to the Commissioner on forms prescribed by the Commissioner.

Source: *Miss. Code Ann.* §§ 75-49-1, et seq.; 75-49-9(7); 75-49-19 (Supp. 2015).

#### **Rule 5.02.1-7: License Fees**

A. Pursuant to *Miss. Code Ann.* § 75-49-9, the original license fee and all annual renewals thereof shall be Two Hundred Fifty Dollars (\$250.00) for manufacturing plants located within or without the State of Mississippi manufacturing or delivering homes for sale within the State of Mississippi and One Hundred Fifty Dollars (\$150.00) per retailer location and developer location within the State of Mississippi. The licensing fee for a Factory-Built home and/or modular independent contractor transporter or installer is One Hundred Dollars (\$100.00) for each company. The fee for modular home plan review shall be Four Hundred Dollars (\$400.00) per floor plan. Except as otherwise provided in Rule 5.02.1-9, the license shall be valid for the current license period (July 1 through June 30 of the following year) unless suspended or revoked as provided herein.

B. Every manufacturer, transporter or installer or retailer and developer who first sells, manufacturers, transports or installs a new or used Factory-Built home in this state, before such first construction, sale, transportation or installation, shall apply for and obtain a license from the Commissioner. The original license fee, registration fee, annual relicensing, and all other required fees shall be paid to the Commissioner in such a manner as the Commissioner may by rule require. All funds received by the Commissioner shall be deposited in the State Treasury to the credit of the Department of Insurance.

Source: *Miss. Code Ann.* §§ 75-49-1, et seq.; 75-49-9(7); § 75-49-19 (Supp. 2015).

#### **Rule 5.02.1-8: Manufacturer Monitoring Inspection Fee**

Every manufacturer of Factory-Built homes in the State shall pay a monitoring inspection fee to the Secretary of Housing and Urban Development, or the Secretary's Agent, for each Factory-Built home produced in the State by the manufacturer. The fee shall be in an amount established by the Secretary pursuant to the National Manufactured Home Construction and Safety Standards Act of 1974, (42 U.S.C.S. 5401, et seq.) and as amended by the Manufactured Housing Improvement Act of 2000. The portion of the fee which is returned to the State shall be deposited by the Commissioner in the State Treasury to the credit of the Department of Insurance.

Source: *Miss. Code Ann.* § 75-49-5 (Supp. 2015).

#### **Rule 5.02.1-9: Investigation and Examination of All License Applicants**

A. The Commissioner shall investigate and examine all applicants for all licenses by holding such hearings as he shall deem necessary or conducting investigations or examinations, or any combination thereof, as to the fitness or expertise of the applicant for the type of license for which the applicant applied. A license shall be granted only to a person who bears a good reputation for honesty, trustworthiness, integrity and competency to transact the business in such a manner as to safeguard the interest of the public and only after satisfactory proof of such qualifications has been presented to the Commissioner.

B. Pursuant to Miss Code Ann. § 75-49-9 (8), the Commissioner shall take all license applicants under consideration after having examined them through oral or written examinations, or both, before granting any license. If the license applicant is an individual, examination may be taken by his personal appearance for examination or by the appearance for examination of one or more of his responsible, full time managing employees; and if a partnership or corporation or any other type of business or organization, by the examination of one or more of the responsible, full time managing officers or members of the executive staff of the applicant's firm. Every application by an individual for a license to manufacture, sell, transport or install new or used Factory-Built homes, shall be verified by the oath or affirmation of the applicant, and every such application by a partnership or corporation shall be verified by the oath or affirmation of the applicant and a partner or an officer thereof. The applications for licenses shall be in such form and detail as the Commissioner shall prescribe.

C. Every independent contractor installer or transporter who transports or installs new or used Factory-Built homes within the State of Mississippi and who is applying for a license shall have passed a written examination (passing score of 70 or above). The examination shall consist of questions determined by the Commissioner to establish an applicant's knowledge related to the rules and regulations and administration relative to Factory-Built homes in the State of Mississippi and questions specifically related to the practical installation (anchoring, blocking, and tie-down) of Factory-Built homes in this state. The examination shall be provided by the Commissioner or by a testing service acting on behalf of the Commissioner. The applicant is responsible for registering with the testing service to schedule the examination and is responsible for all fees. The applicant shall follow all procedures established with regard to conduct at the examination. Failure to comply with all procedures established with regard to conduct at the examination may be grounds for denial of application.

D. Prior to the issuance of a privilege license, the person applying for the license shall return the license application received in the "Notice of Renewal" and submit a copy of training certificates, that he and all of his responsible, full-time employees has attended an approved eight (8) hour installation and set-up training class pursuant to the Manufactured Housing Improvement Act of 2000.

E. The holder of any valid license issued by the Commissioner at the time *Miss. Code Ann.* § 75-49-9(8) became effective shall be automatically issued an equivalent license in the same category for which his previous license was issued **if the licensee is in compliance** with this chapter.

Source: *Miss. Code Ann.* §§ 75-49-1, et seq.; 75-49-9(7); 75-49-9(8); 75-49-19 (Supp. 2015).

#### **Rule 5.02.1-10: Non-Compliance**

A. Non-compliance by a license applicant, as a condition precedent, of the requirements of *Miss. Code Ann.* § 75-49-9(7) and with the regulations set forth in this document, will be assessed violations where applicable.

B. Pursuant to *Miss. Code Ann.* § 75-49-13, the Commissioner shall provide the license holder an opportunity to be heard on the question of these violations committed to determine whether he is qualified to receive the license applied for and if there may be sufficient grounds upon which to base a probation, denial, suspension or revocation of the license.

C. Pursuant to *Miss. Code Ann.* § 75-49-9(10), every license shall be issued annually and shall expire on June 30 following the date upon which it was issued. **License fees shall not be prorated for the remainder of the year in which the application was made but shall be paid for the entire year regardless of the date of the application.**

Source: *Miss. Code Ann.* §§ 75-49-1, et seq.; 75-49-9(7); 75-49-19 (Supp. 2015).

### **Rule 5.02.1-11: Annual License Renewal Application**

A. The Commissioner shall on or before April 30 of each year, forward a "Notice of Renewal" by regular United States mail to each licensee at his or its last known mailing address. The "Notice of Renewal" will contain an application that shall be properly filled out by the person whose name will appear on the license, signed and returned to the State Fire Marshal's Office.

B. After depositing the "Notice of Renewal" in the United States mail, the Commissioner shall have no other duty or obligation to notify the licensee of the expiration of his or its annual license. **The failure of the licensee to obtain a renewal license on or before June 30 of the ensuing license period shall act as an automatic suspension of the license unless the Commissioner, for good cause shown in writing and the payment of an amount equal to double the renewal fee for said delinquency, lifts the suspension and issues the renewal license. During the period of suspension, any practice by the licensee under the color of such license shall be deemed a violation of this chapter.** If a license renewal application is not received from the licensee within thirty (30) days of the date of license suspension, the licensee shall be required to remove or cover-up **all forms** of advertisement (signage) identifying the business.

1. All applicants and licensees shall comply with the bonding and general liability requirements as established by *Miss. Code Ann.* § 75-49-11 (Rev. 2008) and as described in Rule 5.02.1-12 of this regulation.

2. Annual renewals of a retailer's license shall require, as a condition precedent, that the retailer verify by oath or affirmation that all retail sales lots that he/or she maintains are done so in accordance with all rules and regulations promulgated by the Commissioner and that each lot has three (3) or more new or used Factory-Built homes located thereon for retail sale as a residential dwelling or for any other use at the time of application. Annual renewals of a developer's license shall require, as a condition precedent, that the developer verify and submit a copy of legal documentation indicating that the developer has five (5) or more locations for a Factory-Built home/land package.

3. With return of the annual licensure application, **it shall be the responsibility of each retailer, developer and installer/transporter to request in writing the number of truck decals needed for their transport vehicles (toter).** A decal is to be placed on the driver and passengers doors of each transport vehicle. Escort vehicles are not required to have decals.

Source: *Miss. Code Ann.* §§ 75-49-1, et seq.; 75-49-9(7); 75-49-19 (Supp. 2015).

### **Rule 5.02.1-12: Licensee Bonding and Insurance Requirements**

A. After August 1, 2009, all new license applications and renewal applications for a license to act as a manufacturer, modular contractor, developer, retailer, transporter, or installer of Factory-Built

homes in the State of Mississippi must provide to the State Fire Marshal's Office verification that they have obtained a general commercial liability policy and a surety bond in the following specified amounts:

B. Manufacturers or Modular Contractors - provide proof of a surety bond in the amount of \$25,000.00 per Licensed Facility or, for three (3) or more Licensed Facilities, a minimum bond in the amount of \$50,000.00; and proof of a general commercial liability policy in the amount of \$1,000,000.00 in coverage;

C. Developers - provide proof of a surety bond in the amount of \$25,000.00 per Facility or for three (3) or more Facilities, a minimum bond in the amount of \$50,000.00; and proof of a general commercial liability policy in the amount of \$1,000,000.00 in coverage;

D. Retailer (with 1 or more Facilities) - provide proof of a surety bond in the amount of \$25,000.00 per Facility or for three (3) or more Facilities, a minimum bond in the amount of \$50,000.00; and proof of a general commercial liability policy in the amount of \$1,000,000.00 in coverage;

E. Retailer (any person involved in the repossession and resale with no lot facilities and performing Retailer activities as defined in Rule 5.01.2 (RR)) – provide proof of a surety bond in the amount of \$25,000.00 and proof of general commercial liability in the amount of \$1,000,000.00 in coverage.

F. Installer/Transporter - provide proof of a surety bond in the amount of \$25,000.00; and proof of a general commercial liability policy for a minimum \$100,000.00 in coverage. The general commercial liability policy or automobile liability policy must indicate that a cargo policy has been obtained by the licensee for the transport of Factory-Built homes.

1. Certificates of general commercial liability policies for all manufacturers, retailer/developers and installer/transporters shall have the Mississippi State Fire Marshal's Office as the designated certificate holder.

2. A surety bond written pursuant to the requirements set forth in this section shall comply with the Surety Bond for Licensure form that will be provided to the applicant from the State Fire Marshal's Office.

Source: *Miss. Code Ann.* §§ 75-49-1, et seq.; 75-49-9(7); 75-49-19 (Supp. 2015).

### **Rule 5.02.1-13: Operating Without a Privilege License**

Any company/individual (retailer, developer or installer/transporter) who is found to be operating without an appropriate privilege license in the State of Mississippi shall:

A. Show good cause, in writing to the Factory-Built Home Division of the State Fire Marshal's

Office, why this violation occurred and include the approximate number of Factory-Built homes sold and/or moved prior to obtaining a privilege license.

B. Request a retailer's, developer's, or installer/transporter's privilege license application. This application is to be returned, signed and notarized with a check payable to the Office of the State Fire Marshal pursuant to the fee schedule in Rule 5.02.1-7.

C. Schedule with the State of Mississippi to attend an 8-hr training course and have passed a written examination (passing score of 70 or above).

D. Set an inspection date with the State Fire Marshal's Office which is required to verify compliance with this chapter prior to issuance of license.

E. Be subject to penalties as set forth in *Miss. Code Ann.* § 75-49-19.

Source: *Miss. Code Ann.* §§ 75-49-1, et seq.; 75-49-9(7); 75-49-19 (Supp. 2015).

#### **Rule 5.02.1-14: Installation Inspection**

All Factory-Built homes passing an on-site inspection pursuant to this regulation, shall have a permanently attached serial numbered and color coded installation decal near the HUD label on new or used Factory-Built homes built after June 1976, and opposite the hitch-end of the Factory-Built homes built prior to or on June 1976. **The inspection decal for each Factory-Built Home implies acceptance as having been installed in accordance with the manufacturer's specification, the local authority having jurisdiction (LAHJ) in coded areas or in the absence of an installation manual, the State of Mississippi's Rules and Regulations for MH-5.**

Source: *Miss. Code Ann.* §§ 75-49-1, et seq.; 75-49-9(7); 75-49-19 (Supp. 2015).

#### **Rule 5.02.1-15: Site Preparation, Anchoring and Blocking Requirement**

No retailer, developer, or installer/transporter shall deliver, or cause to be delivered, any Factory-Built home that is to be used for human habitation, to any person at any site without proper site preparation, anchoring and blocking of such home in accordance with the rules, regulations and procedures promulgated by the Commissioner of Insurance.

Source: *Miss. Code Ann.* §§ 75-49-1, et seq.; 75-49-9(7); 75-49-19 (Supp. 2015).

#### **Rule 5.02.1-16: Time Period Allowed for Installation**

A period of not more than thirty (30) days from date of delivery to the site shall be allowed for the anchoring and blocking of all Factory-Built homes. No retailer, developer, or installer/transporter shall perform a "Hook and Drop" of any Factory-Built home, originally

designed for human habitation, to any installation site. This requirement is provided for in *Miss. Code Ann.* § 75-49-7(2) and Rule 5.02.1-15 of this Regulation.

Source: *Miss. Code Ann.* §§ 75-49-1, et seq.; 75-49-9(7); 75-49-19 (Supp. 2015).

### **Rule 5.02.1-17: Property Locator/Certificate of Installation Submitted by the Retailer/Developer**

A. To ensure compliance with this regulation, it shall be the responsibility of each retailer and developer to submit the Property Locator/Certificate of Installation to the Factory- Built Home Division of the State Fire Marshal's Office for **every** Factory-Built home that has been sold and installed. The above listed form must be received in the State Fire Marshal's Office within seventy-two (72) hours (3 days) of completion of the installation of the home and **not** the sale of the home. The form must be signed by both the retailer/developer and the installer/transporter. The form enables the duly appointed representative of the State Fire Marshal's Office to conduct inspections as required according to the Division. The information on the Property Locator/Certificate of Installation must be legible and shall include all of the following information:

1. The retailer's name, license number, address, telephone number, and fax number;
2. The installer/transporter's name, license number, address, telephone number, and fax number;
3. The homeowner's name, address of the home installation site, the homeowner's telephone number, and county where home has been installed.
4. The serial number of home, size of home, HUD number, Wind Zone designation, year/make/model of the home, new or used home designation, and the manufacturer of the home;
5. The date the home was installed;
6. Any exclusion of the home for use as a hunting/fishing camp, storage or other use, if applicable;
7. Determination of party responsible for the site preparation;
8. Designation of type of pan foundation system, if installed on the home;
9. Class of anchor used for home installation or soil test probe readings for class of anchor installed;
10. Signatures of the retailer/developer and installer/transporter;



11. Precise and accurate written directions to the home installation site; using state highway numbers, county road numbers, towns, street names, and road names and distances along each roadway; and

12. A clear and legible map showing directions to the home-site from a known starting point.

B. Nothing contained herein shall restrict or limit the customer's option of independently contracting with a properly licensed transporter or installer for set-up and installation rather than purchasing transportation and installation services from the retailer or developer.

Source: *Miss. Code Ann.* §§ 75-49-1, et seq.; 75-49-9(7); 75-49-19 (Supp. 2015).

**Rule 5.02.1-18: Property Locator/Certificate of Installation Submitted by the Installer/Transporter**

A. It shall be the responsibility of each installer/transporter that transports or installs a home at a secondary location to submit, for every Factory-Built home, the Property Locator/Certificate of Installation to the Factory-Built Home Division of the State Fire Marshal's Office (SFMO). The above listed form must be signed and dated by the installer/transporter and received in the SFMO within seventy-two (72) hours (3 days) of completion of the installation of a home. The Property Locator/Certificate of Installation is to enable the duly appointed representative of the State Fire Marshal's Office to conduct inspections as required according to the Division. **This report is required for all new and used homes that are transported or installed by an installer/transporter for someone other than a licensed retailer or developer.** The information on the forms must be legible and shall include all of the following:

1. Indicate on the form that this is a secondary installation.
2. The installer/transporter's name, license number, address, telephone number, and fax number;
3. The homeowner's name, address of the home installation site, the homeowner's telephone number, and county where home has been installed.
4. The serial number of the home, size of the home, HUD number, Wind Zone designation, year/make/model of the home, new or used home designation, and the manufacturer of the home;
5. The date of the home installation;
6. Any exclusion of the home for use as a hunting/fishing camp, storage or other use, if applicable;
7. Determination of party responsible for the site preparation;
8. Designation of type of pan foundation system, if installed on the home;

9. Class of anchor used for home installation or soil test probe readings for class of anchor installed;

10. Signature of the installer/transporter;

11. Precise and accurate written directions to the home installation site; using state highway numbers, county road numbers, towns, street names, and road names and distances along each roadway; and

12. A clear and legible map showing directions to the home-site from a known starting point.

B. In all cases in which the installation is arranged and/or paid for by the retailer, the retailer shall assume responsibility for the proper set-up of the Factory-Built home. This subsection shall not relieve any installer/transporter from any responsibilities and applicable penalties.

C. All manufacturers, retailers, developers and installers shall comply with the Mississippi Factory-Built Home Installation Program as set forth in Rule 5.02.2 of this Regulation.

Source: *Miss. Code Ann.* §§ 75-49-1, et seq.; 75-49-9(7); 75-49-19 (Supp. 2015).

### **Rule 5.02.2: Factory-Built Home Installation Inspection Program**

This section of the regulation describes the standards and requirements for an installation inspection program for **all** Factory-Built homes sited within the State of Mississippi. Said program shall be called the Mississippi Factory-Built Home Installation Inspection Program (hereinafter “MS Inspection Program”).

Source: *Miss. Code Ann.* § 75-49-11 (Supp. 2015).

#### **Rule 5.02.2-1: Purpose**

The Commissioner of Insurance, in his duties as State Fire Marshal, pursuant to the authority granted to him by House Bill 1435, 2008 Regular Legislative Session as codified in *Miss. Code Ann.* § 75-49-9(11); *Miss. Code Ann.* § 75-49-11 (Rev. 2008); as well as the provisions of Mississippi Department of Insurance Regulation No. 88-101, said Regulation being the Rules of Practice and Procedure before the Mississippi Insurance Department; and upon agreement between the Mississippi State Fire Marshal’s Office, Factory-Built Home Division (“Division”) and the Department of Housing and Urban Development (“HUD”), which requires the Division to conduct installation inspections of Factory-Built Homes from and after July 1, 2009.

Source: *Miss. Code Ann.* §§ 75-49-1, et seq.; 75-49-11 (Supp. 2015).