



CAROL OWENS

WISCONSIN STATE REPRESENTATIVE

TO: Assembly Committee on Housing Members

FROM: Representative Carol Owens, Chairperson

DATE: November 21, 1997

RE: CLEARINGHOUSE RULES

As you may recall, last month we had the following three Clearinghouse Rules referred to the Housing Committee:

Clearinghouse Rule 96-164, relating to financial qualifications of manufactured home dealer license applicants.

Clearinghouse Rule 96-165, relating to manufactured home dealer trade practices, facilities and records.

Clearinghouse Rule 96-166, relating to length, expiration date and fee for licenses issued to manufactured and mobile home dealers and salespersons and for registration plates issued to dealers.

Our deadline for committee action on these rules is **November 24, 1997**. I was recently contacted by the Wisconsin Manufactured Housing Association (WMHA) about some concerns they have on two of these rules (see attached letter from Ross Kinzler). One of the concerns (**CHR 96-166**) has already been addressed by the Department of Administration (see attached letter from Secretary Bugher). I have asked the Department of Administration for an additional 30 day review period (see copy attached) for **CHR 96-164** so that we can address the concern of WMHA.

If you have any questions, please feel free to contact me.

CO:jfd

Attachments



Wisconsin Manufactured Housing Association

Ross Kinzler, Executive Director

202 State Street, Suite 200

Madison, WI 53703-2215

E-mail: wmha1@itis.com

608-255-3131

608-255-5595 Fax

November 19, 1997



Rep. Carol Owens
Room 105 West, State Capitol
Madison, WI 53702

Dear Rep. Owens:

The Division of Housing has forwarded three rules for Housing Committee review. They are ADM 66, ADM 67, & ADM 68. We wish to raise two concerns.

First, current law (TRANS 140.022) allows dealers to submit a bond or letter of credit as evidence of financial soundness. This measure protects consumers from undercapitalized dealers. The newly proposed rule, ADM 66.04, eliminates the bond or letter of credit requirement and instead requires disclosure of detailed business information to determine the net worth of a dealer. Our members are very uncomfortable with releasing detailed and private financial statements. In addition, many of our members have their businesses structured for tax purposes in a way that legally constrains their net worth on paper. In some cases, a financially sound member of our association could lose their dealer license due to their "insufficient" net worth. We ask that the rule be amended to allow licensees to choose:

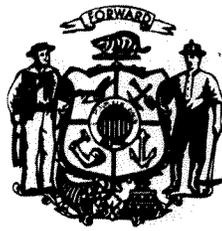
- 1) A bond.
- 2) A letter of credit.
- 3) A letter certifying a minimum net worth amount from a C.P.A.
- 4) Disclosure of net worth up to the minimum in ADM 66.09 (2).
- 5) A statement of value of fixed assets up to the minimum in ADM 66.09 (2).

Second, ADM 68.04 establishes a fee schedule which is contrary to s. 218.12 (2) (c) Stats. This statute provides for a maximum annual fee of \$4.00 for manufactured home salespersons. The proposed rule, ADM 68.04, establishes a fee of \$13.00 annually -- which exceeds the fee limitation in 218.12 (2) (c).

We respectfully request a hearing to address the above concerns.

Sincerely,


Ross Kinzler
Executive Director



TOMMY G. THOMPSON
GOVERNOR
MARK D. BUGHER
SECRETARY

November 18, 1997

Honorable Gwendolynne Moore
Chair, Committee on Economic
Development, Housing and
Government Operations
Wisconsin Senate
Room 321 Northeast, State Capitol
Madison, WI 53702

Honorable Carol Owens
Chair, Committee on Housing
Wisconsin Assembly
Room 105 West, State Capitol
Madison, WI 53702

Dear Senator Moore and Representative Owens:

Re: Clearinghouse Rule No. 96-166

On October 16, 1997, the Department of Administration sent the above-referenced rule to the Legislature in final draft form. The rule was referred to the Senate Committee on Economic Development, Housing and Government Operations on October 22, 1997, and to the Assembly Committee on Housing on October 23, 1997.

We have discovered an error in the salesperson licensing fee calculation in a section of proposed Adm 68, Licensing Periods and Fees for Manufactured Home Dealers and Salespersons. Therefore, we request the following modification to the rule in order to conform to State Statutes.

Specifically, section 218.12(2)(c), Wis. Stats., establishes that \$4 multiplied by the number of licensing years shall be the fee charged for a salesperson license. That equals \$8 for a two-year license. Proposed section Adm 68.04(1), erroneously states that \$26 shall be charged for a two-year license. This amount should be changed to \$8. Also, in proposed section Adm 68.04(2), the amount of \$13 should be amended to \$4.

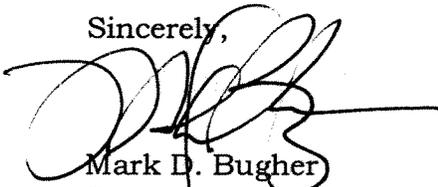
11/20
Talked to Ken -
This will extend the
committee action to
December 5th

Honorable Gwendolynne Moore
Honorable Carol Owens
November 18, 1997
Page 2

Enclosed is our proposed modified rule. We understand this extends the review period for an additional ten working days.

Please advise whether the enclosed administrative rule is acceptable to your Committees.

Sincerely,



Mark D. Bugher
Secretary

PROPOSED ORDER OF THE DEPARTMENT OF ADMINISTRATION

The Wisconsin Department of Administration proposes an order to create Chapter Adm 68.

Analysis prepared by the Department of Administration:

Statutory Authority: ss. 16.004(1), 218.11(2)(b) 1, 218.11(2)(b) 2, 218.12(2)(b) 1, and 218.12(2)(b) 2, Stats.

Statutes Interpreted: ss. 218.01(5)(a), 218.11, and 218.12

Section 218.101, Stats., was created in 1991 Wisconsin Act 269, authorizing the Department of Administration to administer subchapter VI of Chapter 218 as it relates to manufactured/mobile home dealers and salespersons engaged in the sale of primary housing units. This Chapter establishes the period, expiration date and fee for licenses issued to manufactured home dealers and salespersons. It also establishes the period, expiration date and fee for registration plates issued to dealers.

Manufactured/mobile homes dealers and salespersons have been regulated under the former chapter Trans 144 since the program was transferred to the Department of Administration in July, 1992. Chapter Trans 144 is not being repealed by the Department because it is currently used by Department of Transportation for the regulation of recreational vehicle dealers and salespersons since they continue to be licensed by the Department of Transportation, Division of Motor Vehicles.

TEXT OF RULE:

SECTION 1: Chapter Adm 68 is created to read:

Chapter Adm 68

LICENSING PERIODS AND FEES FOR MANUFACTURED HOME DEALERS AND SALESPERSONS

Adm 68.01 PURPOSE. This chapter establishes the periods, expiration dates and fees for licenses issued by the department under s. 218.11 and 218.12, Stats., to manufactured home dealers and salespersons. It also establishes the periods, expiration dates and fees for registration plates issued to dealers.

Adm 68.02 DEFINITIONS. Words and phrases in this chapter have the same meaning as found in chs. 218 and 340, Stats., unless additional interpretations are specified. In this chapter:

- (1) "Branch" means a non-adjacent sales location in the same municipality.
- (2) "Business license" means a license issued by the department under s. 218.11, Stats., to a mobile home dealer.

- (3) "Department" means the department of administration.
- (4) "Individual license" means a license issued by the department under s. 218.12, Stats., to a salesperson.
- (5) "Initial license" means a license issued to a person or business which does not have a license at the time of application.

(6) "Manufactured home" or "home" means a mobile home which is transportable in one or more sections, which in the traveling mode, is more than 8 feet 6 inches in width or more than 45 feet in length, or when erected on site, is more than 340 square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, electrical systems contained in the manufactured home. Calculations used to determine the number of square feet in a structure shall be based on the structure's exterior dimensions measured at the largest horizontal projections when erected on site. These dimensions will include all expandable rooms, cabinets, and other projections contacting the interior space, but do not include bay windows. For purposes of this chapter, the measurement of length shall be determined in accordance with s. 348.07(3), Stats.

(7) "Sublot" means a non-adjacent display lot in the same municipality.

Adm 68.03 LICENSE PERIODS AND EXPIRATION DATES. (1) BUSINESS LICENSES. (a) General licensing period and expiration dates. The license period for a business license is 2 years. The department may issue licenses that start and expire on the following dates:

<u>Date Issued</u>	<u>Date Expired</u>	
February 1	January 31	
April 1	March 31	All expiration
June 1	May 31	dates are in the
August 1	July 31	second year after
October 1	September 30	the date the
December 1	November 30	license was issued.

(b) Initial business licenses. The department may issue initial business licenses that go into effect on the dates other than the first day of an even numbered month. The licenses shall expire before the end of two years and the expiration dates shall be as follows:

<u>Month Issued</u>	<u>Expiration Date</u>
December or January	Last November 30 before the end of 2 yrs.
February or March	Last January 31 before the end of 2 yrs.
April or May	Last March 31 before the end of 2 yrs.

June or July
August or September
October or November

Last May 31 before the end of 2 yrs.
Last July 31 before the end of 2 yrs.
Last September 30 before the end of 2 yrs.

(2) INDIVIDUAL LICENSES. (a) Licensing period. The department may issue a salesperson license that remains valid until one of the following conditions occur:

1. The business license held by the person's current employer expires.
2. The person ceases employment with a licensed dealer.
3. The person's employer goes out of business
4. The department suspends or revokes the person's license.

(b) Transfer Licenses. A person whose salesperson license is invalidated by ceasing employment with a licensed dealer may request the department to transfer their salesperson license to a new employer without charge, as long as the department receives the application before the new employer's dealer license expires.

(3) REGISTRATION PLATES. The department may register and issue plates to business licensees for periods concurrent with the license periods described in this section.

Adm 68.04 LICENSE AND REGISTRATION PLATE FEES. (1) The department shall collect the fees established in the following table from applicants before issuing their licenses or registration plates.

<u>Type of License</u>	<u>Type of Fee</u>	<u>Amount</u>
Manufactured home dealer	License	\$100
	Registration--2 plates	\$230
	Additional plates	\$ 25
	Replacement plates	\$ 25
Branch	License	\$100
Sublot	License	\$ 50
Salesperson	License	\$ 8

(2) When the department issues a salesperson license for less than the employer's business license period, it may reduce the license fee by \$4 for each full year reduction in the salesperson license period.

Final Regulatory Flexibility Analysis:

1. Types of small businesses that will be affected by the rule:

There are currently 158 licensed mobile home dealers who employ less than 25 individuals. We are unable to determine the gross annual sales for each mobile home dealer.

2. Reason for failing to include in the rule any of the methods specified in s. 227.114(2), Stats.:

The proposed rule increases the licensing fee by an average of \$40 per year in order to increase revenue to fully fund the program. In response to concerns raised, the department revised the fee increases to affect all dealers equally.

3. Summary of issues raised by small businesses during the hearing of the rule, any changes in proposed rule as a result of alternatives suggested by small businesses and the reasons for rejecting any alternatives suggested by small businesses:

Attached is a summary of all comments received and the Department's response to each comment.

4. Reporting, bookkeeping, and other procedures required for compliance with the rule:

None.

5. Nature and cost of other measures and investments that will be required for compliance with the rule:

None.

6. Additional cost, if any, to the agency of administering or enforcing a rule which includes any of the methods specified under s. 227.114(2), Stats.:

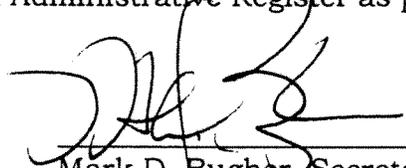
None.

7. Impact on public health, safety and welfare, if any, caused by including in the rule any of the methods specified under s. 227.114(2), Stats.:

None.

This rule shall take effect on the first day of the month commencing after the date of publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro)., Stats.

Dated: 11/17/97



Mark D. Bugher, Secretary
Department of Administration

FISCAL ESTIMATE DOA-2048 (R10/92)	<input type="checkbox"/> ORIGINAL <input checked="" type="checkbox"/> UPDATED <input type="checkbox"/> CORRECTED <input type="checkbox"/> SUPPLEMENTAL	1996 Session LRB or Bill No./Adm. Rule ADM 66-68 Amendment No. if applicable
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Subject
 Transfer of mobile home regulation administrative rules from DOT to DOA under the Division of Housing, including increase of dealer fees.

Fiscal Effect State: <input type="checkbox"/> No State Fiscal Effect Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation. <input type="checkbox"/> Increase Existing Appropriation <input checked="" type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriation	<input type="checkbox"/> Increase Costs - May be possible to absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs
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Local: <input type="checkbox"/> No local government costs 1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> VTAE Districts
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Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input checked="" type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	Affected Ch. 20 Appropriations s. 20.505(7)(j)
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Assumptions Used in Arriving at Fiscal Estimate

The regulation of mobile home dealers was transferred from the DOT to DOA, Division of Housing (DOH), beginning fiscal 1993 in an effort to centralize mobile home programs under one office. Since then DOA has had until now to carry out the routine, administrative matter of transferring the administrative rules from DOT to DOA. Three DOT chapters covered the regulation of mobile home dealers: Trans 140, 141, & 144. To accomplish the transfer three new DOA rules are created under this proposal: Adm 66, 67, & 68.

The new Adm rule language is identical to the language used under the old Trans chapters with the exception of Chapter Adm 68, which defines the fees that dealers must pay. The new rule proposes a dealer fee increase.

Since DOH took over the responsibility of administering the mobile home dealer program the fund has been inadequately funded due to insufficient fee revenue to cover the costs necessary to administer the program. Fund shortfalls in FY 93 and FY 95 have been prevented through cost shifts or by using limited GPR funds. To eliminate the annual program funding deficiency, the new rule proposes that dealer fees be increased.

Under the existing rule dealers with two salespeople would pay \$266, under the new rule they would pay \$346, or an additional \$80 every two years. On average the change results in an additional \$40 per year per dealer. Assuming 158 dealers, DOH estimates that the new fees would generate an additional \$6,320 annually (158 x 40), which is the amount needed to meet the costs required to administer the program based on FY 98 projections.

Long-Range Fiscal Implications
 None.

Agency/Prepared by: (Name & Phone No.) Ryan Gill, 6-6497	Authorized Signature/Telephone No.  Paul McMahon 6-1359	Date November 18, 1997
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CAROL OWENS

WISCONSIN STATE REPRESENTATIVE

P.O. Box 8953, State Capitol
Madison, Wisconsin 53708-8953
(608) 267-7990 • Toll-Free (800) 362-9472

144 County Road C
Oshkosh, Wisconsin 54904
(414) 589-4262

TO: Assembly Committee on Housing Members
FROM: Representative Carol Owens, Chairperson
DATE: October 23, 1997
RE: **CLEARINGHOUSE RULES**

Today, the following rules were referred to the Assembly Committee on Housing:

Clearinghouse Rule 96-164, relating to financial qualifications of manufactured home dealer license applicants.

Clearinghouse Rule 96-165, relating to manufactured home dealer trade practices, facilities and records.

Clearinghouse Rule 96-166, relating to length, expiration date and fee for licenses issued to manufactured and mobile home dealers and salespersons and for registration plates issued to dealers.

Please contact my office (267-7990) if you would like a copy of the rules. The deadline for committee action on these rules is **November 24, 1997**. If you are interested in requesting a hearing or submitting comments on any of these rules, please do so prior to the deadline date.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
101 East Wilson Street, Madison, Wisconsin

TOMMY G. THOMPSON
GOVERNOR
MARK D. BUGHER
SECRETARY



Mailing Address:
Post Office Box 7864
Madison, WI 53707-7864

October 16, 1997

Honorable Fred A. Risser, President
Wisconsin Senate
119 M.L. King Jr. Blvd., Rm. 102
Madison, WI 53702

Honorable Ben Brancel, Speaker
Wisconsin Assembly
211 West, State Capitol
Madison, WI 53702

Dear Senator Risser and Representative Brancel:

Re: Clearinghouse Rules Nos. 96-164, 96-165 and 96-166

Enclosed, in final draft form are Chapters Adm 66, 67 and 68 relating to Manufactured Home Dealer Financial Eligibility; Manufactured Home Dealer Trade Practices, Facilities and Records; and Licensing Periods and Fees for Manufactured Home Dealers and Salespersons.

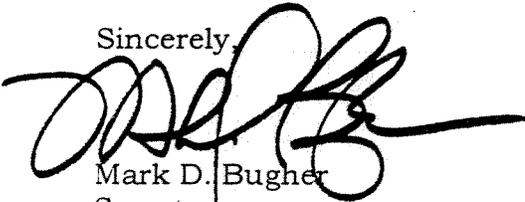
Section 218.101, Stats., created in 1991 Wisconsin Act 269, authorizes the Department of Administration to administer subchapter VI of Chapter 218 as it relates to manufactured/mobile home dealers and salespersons engaged in the sale of primary housing units. In July, 1992, the Mobile Home Program was transferred from the Department of Transportation to the Department of Administration. The proposed rules address the statutory responsibilities and obligations of the Department under Chapter 218, Wis. Stats., and adopt the standards from the rules originally created by the Department of Transportation for the regulation of the mobile home program. Regulations for financial qualifications for applicants for mobile home dealer licenses were delineated in Chapter Trans 140; the regulations for mobile homes dealer trade practices, facilities and records were enumerated in Chapter Trans 141; and licensing periods and fees for mobile home dealers and salespersons were found in Chapter Trans 144.

Chapters Trans 140 and 144 are not being repealed by the Department because the Department of Transportation has amended those chapters to regulate recreational vehicle dealers and salespersons which are licensed by the Department of Transportation, Division of Motor Vehicles.

Honorable Fred A. Risser
Honorable Ben Brancel
October 16, 1997
Page 2

Enclosed are copies of the Legislative Council staff clearinghouse reports. All of the comments of the Clearinghouse have been addressed in the rules. A public hearing was held on April 24, 1997, in Madison, at which Scott Slattery of the Wisconsin Manufactured Housing Association appeared in opposition to the rules. Attached is a summary of the testimony received by the Department at that hearing. In addition to the testimony provided at the hearing, written comments (attached) were also received from Terry Funk of Future Homes. All of the comments have been addressed in an attached summary.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. D. Bugher', with a long horizontal flourish extending to the right.

Mark D. Bugher
Secretary

cc: Revisor of Statutes
Joint Committee for Review of Administrative Rules

PROPOSED ORDER OF THE DEPARTMENT OF ADMINISTRATION

The Wisconsin Department of Administration proposes an order to create Chapter Adm 68.

Analysis prepared by the Department of Administration:

Statutory Authority: ss. 16.004(1), 218.11(2)(b) 1, 218.11(2)(b) 2, 218.12(2)(b) 1, and 218.12(2)(b) 2, Stats.

Statutes Interpreted: ss. 218.01(5)(a), 218.11, and 218.12

Section 218.101, Stats., was created in 1991 Wisconsin Act 269, authorizing the Department of Administration to administer subchapter VI of Chapter 218 as it relates to manufactured/mobile home dealers and salespersons engaged in the sale of primary housing units. This Chapter establishes the period, expiration date and fee for licenses issued to manufactured home dealers and salespersons. It also establishes the period, expiration date and fee for registration plates issued to dealers.

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TEXT OF RULE:

SECTION 1: Chapter Adm 68 is created to read:

Chapter Adm 68

**LICENSING PERIODS AND FEES FOR
MANUFACTURED HOME DEALERS AND SALESPERSONS**

Adm 68.01 PURPOSE. This chapter establishes the periods, expiration dates and fees for licenses issued by the department under s. 218.11 and 218.12, Stats., to manufactured home dealers and salespersons. It also establishes the periods, expiration dates and fees for registration plates issued to dealers.

Adm 68.02 DEFINITIONS. Words and phrases in this chapter have the same meaning as found in chs. 213 and 340, Stats., unless additional interpretations are specified. In this chapter:

- (1) "Branch" means a non-adjacent sales location in the same municipality.
- (2) "Business license" means a license issued by the department under s. 218.11, Stats., to a mobile home dealer.
- (3) "Department" means the department of administration.
- (4) "Individual license" means a license issued by the department under s. 218.12, Stats., to a salesperson.
- (5) "Initial license" means a license issued to a person or business which does not have a license at the time of application.
- (6) "Manufactured home" or "home" means a mobile home which is transportable in one or more sections, which in the traveling mode, is more than 8 feet 6 inches in width or more than 45 feet in length, or when erected on site, is more than 340 square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, electrical systems contained in the manufactured home. Calculations used to determine the number of square feet in a structure shall be based on the structure's exterior dimensions measured at the largest horizontal projections when erected on site. These dimensions will include all expandable rooms, cabinets, and other projections contacting the interior space, but do not include bay windows. For purposes of this chapter, the measurement of length shall be determined in accordance with s. 348.07(3), Stats.
- (7) "Sublot" means a non-adjacent display lot in the same municipality.

Adm 68.03 LICENSE PERIODS AND EXPIRATION DATES. (1) BUSINESS LICENSES. (a) General licensing period and expiration dates. The license period for a business license is 2 years. The department may issue licenses that start and expire on the following dates:

<u>Date Issued</u>	<u>Date Expired</u>	
February 1	January 31	
April 1	March 31	All expiration

June 1	May 31	dates are in the
August 1	July 31	second year after
October 1	September 30	the date the
December 1	November 30	license was issued.

(b) Initial business licenses. The department may issue initial business licenses that go into effect on the dates other than the first day of an even numbered month. The licenses shall expire before the end of two years and the expiration dates shall be as follows:

<u>Month Issued</u>	<u>Expiration Date</u>
December or January	Last November 30 before the end of 2 yrs.
February or March	Last January 31 before the end of 2 yrs.
April or May	Last March 31 before the end of 2 yrs.
June or July	Last May 31 before the end of 2 yrs.
August or September	Last July 31 before the end of 2 yrs.
October or November	Last September 30 before the end of 2 yrs.

(2) INDIVIDUAL LICENSES. (a) Licensing period. The department may issue a salesperson license that remains valid until one of the following conditions occur:

1. The business license held by the person's current employer expires.
2. The person ceases employment with a licensed dealer.
3. The person's employer goes out of business
4. The department suspends or revokes the person's license.

(b) Transfer Licenses. A person whose salesperson license is invalidated by ceasing employment with a licensed dealer may request the department to transfer their salesperson license to a new employer without charge, as long as the department receives the application before the new employer's dealer license expires.

(3) REGISTRATION PLATES. The department may register and issue plates to business licensees for periods concurrent with the license periods described in this section.

Adm 68.04 LICENSE AND REGISTRATION PLATE FEES. (1) The department shall collect the fees established in the following

table from applicants before issuing their licenses or registration plates.

<u>Type of License</u>	<u>Type of Fee</u>	<u>Amount</u>
Manufactured home dealer	License	\$100
	Registration--2 plates	\$230
	Additional plates	\$ 25
	Replacement plates	\$ 25
Branch	License	\$100
Sublot	License	\$ 50
Salesperson	License	\$ 26

(2) When the department issues a salesperson license for less than the employer's business license period, it may reduce the license fee by \$13 for each full year reduction in the salesperson license period.

Final Regulatory Flexibility Analysis:

1. Types of small businesses that will be affected by the rule:

There are currently 162 licensed mobile home dealers who employ less than 25 individuals. We are unable to determine the gross annual sales for each mobile home dealer.

2. Reason for failing to include in the rule any of the methods specified in s. 227.114(2), Stats.:

The proposed rule increases the licensing fee by an average of \$58 per year in order to increase revenue to fully fund the program. In response to concerns raised, the department revised the fee schedule to increase dealer registration fees and lower the salesperson fees. As a result, the fee increase should affect all dealers equally.

3. Summary of issues raised by small businesses during the hearing of the rule, any changes in proposed rule as a result of alternatives suggested by small businesses and the reasons for rejecting any alternatives suggested by small businesses:

Attached is a summary of all comments received and the Department's response to each comment.

4. Reporting, bookkeeping, and other procedures required for compliance with the rule:

None.

5. Nature and cost of other measures and investments that will be required for compliance with the rule:

None.

6. Additional cost, if any, to the agency of administering or enforcing a rule which includes any of the methods specified under s. 227.114(2), Stats.:

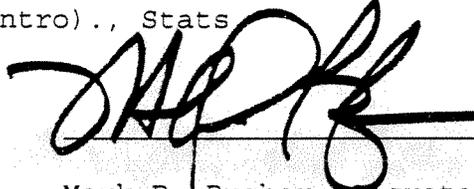
None.

7. Impact on public health, safety and welfare, if any, caused by including in the rule any of the methods specified under s. 227.114(2), Stats.:

None.

This rule shall take effect on the first day of the month commencing after the date of publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro) ., Stats

Dated: Oct 14, 1997



Mark D. Bugher, Secretary
Department of Administration

FISCAL ESTIMATE DOA-2048 (R10/92)	<input type="checkbox"/> ORIGINAL <input checked="" type="checkbox"/> UPDATED <input type="checkbox"/> CORRECTED <input type="checkbox"/> SUPPLEMENTAL	1996 Session
		LRB or Bill No./Adm. Rule ADM 66-68
Amendment No. if applicable		

Subject
 Transfer of mobile home regulation administrative rules from DOT to DOA under the Division of Housing, including increase of dealer fees.

Fiscal Effect State: <input type="checkbox"/> No State Fiscal Effect Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation. <input type="checkbox"/> Increase Existing Appropriation <input checked="" type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriation	<input type="checkbox"/> Increase Costs - May be possible to absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs
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Local: <input type="checkbox"/> No local government costs 1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> VTAE Districts
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Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input checked="" type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	Affected Ch. 20 Appropriations s. 20.505(7)(j)
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Assumptions Used in Arriving at Fiscal Estimate

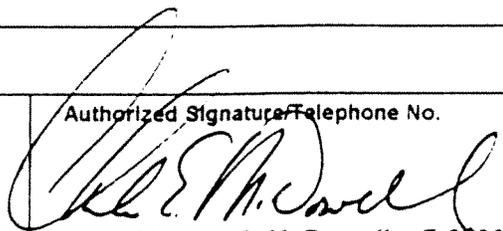
The regulation of mobile home dealers was transferred from the DOT to DOA, Division of Housing (DOH), beginning fiscal 1993 in an effort to centralize mobile home programs under one office. Since then DOA has had until now to carry out the routine, administrative matter of transferring the administrative rules from DOT to DOA. Three DOT chapters covered the regulation of mobile home dealers: Trans 140, 141, & 144. To accomplish the transfer three new DOA rules are created under this proposal: Adm 66, 67, & 68.

The new Adm rule language is identical to the language used under the old Trans chapters with the exception of Chapter Adm 68, which defines the fees that dealers must pay. The new rule proposes a dealer fee increase.

Since DOH took over the responsibility of administering the mobile home dealer program the fund has been inadequately funded due to insufficient fee revenue to cover the costs necessary to administer the program. Fund shortfalls in FY 93 and FY 95 have been prevented through cost shifts or by using limited GPR funds. To eliminate the annual program funding deficiency, the new rule proposes that dealer fees be increased.

Under the existing rule dealers with two salespeople would pay \$266, under the new rule they would pay \$382, or an additional \$116 every two years. On average the change results in an additional \$58 per year per dealer. Assuming 158 dealers, DOH estimates that the new fees would generate an additional \$9,164 annually (158 x 58), which is the amount needed to meet the costs required to administer the program based on FY 98 projections.

Long-Range Fiscal Implications
 None

Agency/Prepared by: (Name & Phone No.) Ryan Gill, 6-6497	Authorized Signature/Telephone No.  Charles E. McDowell 7-3036	Date July 16, 1997
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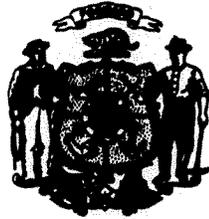
WISCONSIN LEGISLATIVE COUNCIL STAFF



RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 96-166

AN ORDER to create chapter Adm 68, relating to length, expiration date and fee for licenses issued to manufactured and mobile home dealers and salespersons and for registration plates issued to dealers.

Submitted by **DEPARTMENT OF ADMINISTRATION**

10-21-96 RECEIVED BY LEGISLATIVE COUNCIL.

11-15-96 REPORT SENT TO AGENCY.

RNS:MM:kjf;ksm

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

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CLEARINGHOUSE RULE 96-166

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

a. In the first sentence of s. Adm 68.01, "describes" should be replaced with "establishes." A similar change should be made in s. Adm 68.04 (1).

b. Throughout the analysis and the text of the rule, the terms "manufactured home" and "manufactured/mobile home" are used, apparently in reference to what the statutes refer to as mobile homes which are "primary housing units." Perhaps an appropriate definition of "manufactured home" should be added to s. Adm 68.02 and that term should be used consistently throughout the rule. See Clearinghouse Rules 96-164 and 96-165.

c. Various provisions in the rule refer to a "representative license" or "representative." This term is not defined in the rule or the statutes. The term "representative license" should either be deleted or defined.

d. In s. Adm 68.03 (1) (b), "The" should replace "Such."

e. Section Adm 68.03 (2) (b) 1. should end with a period.

f. The terms "branch" and "sublot" in s. Adm 68.04 (1) should be defined.

4. Adequacy of References to Related Statutes, Rules and Forms

a. The citation of the statutory authority for promulgation of the rule should include ss. 218.11 (2) (b) 2. and 218.12 (2) (b) 2., Stats., as those sections grant the department authority to

establish a uniform expiration date for all licenses issued to mobile home dealers and salespersons.

b. In s. Adm 68.02 (intro.), it appears that the reference should be to "chs. 218 and 340, Stats. Chapter 341, Stats., merely cross-references the definitions in ch. 340, Stats. Also, the (intro.) should end with "In this chapter:".

c. The rule does not repeal ch. Trans 144. Is this intentional? See Clearinghouse Rule 96-165.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. Adm 68.03 (1) (b), a period should be placed after "yrs".

b. There appears to be a conflict between s. Adm 68.03 (2) (a) 2. and par. (b) (intro.). Section Adm 68.03 (2) (a) 2. provides that a salesperson license remains valid until "(t)he person ceases employment with the dealer or other licensed business." It appears that under this provision, a salesperson license remains valid as long as the salesperson is employed by any licensed mobile home dealer. In other words, the salesperson may change his or her place of employment, but as long as he or she is employed by a licensed mobile home dealer, his or her salesperson license is valid. In contrast, s. Adm 68.03 (2) (b) (intro.) refers to a person whose salesperson license is "invalidated by ceasing employment with a licensed dealer" and requires the person to apply to the department for a reissuance of the salesperson license. This apparent discrepancy should be corrected.

In addition, s. Adm 68.03 (2) (b) (intro.) refers to licenses being invalidated by "ceasing employment with a licensed dealer" and sets forth the conditions which must be met for reissuance of the license. However, the previous paragraph sets forth two other scenarios under which the license may become invalid: when the business license held by the person's current employer expires and when the person's employer goes out of business. It is unclear whether the procedure set forth in par. (b), which applies to those persons whose licenses are invalidated by "ceasing employment" apply to the other situations described in par. (a) as well. If so, par. (b) should be rewritten to make this explicit; if not, the rule should set forth the procedure, if any, to be followed for reissuance of a license under those scenarios.

c. In s. Adm 68.03 (2) (b) 1., what is the purpose of making the reissuance of a salesperson's license dependent upon the date of expiration of the previous employer's business license? What assurance is there that a salesperson is aware of the date of expiration of an employer's business license? Would it be preferable to base the timing of the application for reissuance of a salesperson's license on the period of time for which he or she has been employed by the new employer?

d. Section Adm 68.03 (2) (b) 2. requires that the person's current employer hold "the same type of business license" as a person's previous employer in order to be eligible for reissuance of his or her salesperson's license. It is unclear what is meant by the phrase "the same type of business license," because the term "business license" is a defined term and by virtue of that definition, there is only one type of "business license."

Summary of DOA Public Hearing
For Adm 66, 67 and 68
April 24, 1997

In attendance: Scott Slattery, Wisconsin Manufactured Housing Association (WMHA), appearing in opposition.

Mark Saunders, Lee Martinson, Terri Lenz and Gary Gorlen of DOA.

Listed below is a summary of the testimony presented by Mr. Slattery of the WMHA and the Department's responses.

Comments regarding Adm 66

1. The former Trans 140 referenced that the rule applied to mobile home dealers who were selling recreational vehicles - in 218.11(3) - in licensing for mobile homes relating to the sale of recreational vehicles. The question was raised whether the Department is creating a whole new body of regulation for the industry or if it a transfer of regulations?

Department's Response to No. 1: The regulations in Trans 140 for the mobile home program transferred to the Department of Administration from the Department of Transportation. The Department is adopting new standards based on the former Chapters Trans 140, 141 and 144.

2. A member of the WMHA indicated that they sell both modular and manufactured homes and if they sell only modular homes, there is no financial requirement in Adm 66. Is there any public policy rationale for treating manufactured homes differently than modulars?

Department's Response to No. 2: The Department of Commerce, Division of Safety and Buildings regulates modular homes and the manufacture of "manufactured homes" pursuant to Chapter 101 of the Wisconsin Statutes. The Department of Administration regulates and licenses dealers of manufactured home. In short, the Department has no jurisdiction over modular homes. This is the scheme provided by the Legislature which the Department must follow.

3. In Adm 66.03(1), the word "may" was changed to "shall" making it mandatory to provide all of the items listed on the financial sheet. What is the reason for this change?

Department's Response to No. 3: The Department has determined that applicants must provide all of the items listed in Adm 66.03(1)(a) through (g), in order to properly evaluate applicants; therefore, the "may" has been changed to "shall" to make this information mandatory.

4. Adm 66.08 references only mobile home dealers. Suggest adding mobile or manufactured home to be consistent with the rest of the code.

Department's Response to No. 4: The words "mobile home" have been deleted in Adm 66.08. The section now applies to "dealers" as defined in Adm 66.02(8).

5. In Adm 66.09(2), the Department eliminated the option of a bond. The Association believes that under certain circumstances there may be a need for a bond in order to pay off judgments. An example would be a long-time dealer who has substantial assets but because of how the books are handled, it shows little or no net worth. The Association would like to go to bonding.

Department's Response to No. 5: The Department agrees that the bonding option would be a good idea if there was also a review process for claims and a hearing examiner for handling disputed claims. However, the department is not equipped for a bonding process and, therefore, suggests another option for responding to this concern. The Department has amended Adm 66.09(2)(a) to reduce the financial statement requirements for the number of homes sold and net worth requirements.

Comments Regarding Adm 67

1. In Adm 67.03, the language regarding relocation was eliminated and placed in Adm 67.07. The Association requests moving the language regarding relocation back to Adm 67.03.

Department's response to No. 1: The rule has been amended as requested.

2. In Adm 67.04(1)(f), homes that go onto private property do not pay a sales tax but it is put into a use tax. The dealer can't disclose the sales tax per DOR regulations. In addition, there is no title or title fees for homes on private property. Recommends adding "if applicable" to the sales tax and titling section.

Department's response to No 2: The requested language has been added to this section.

3. Adm 67.04(4), includes a section regarding "cooling off period" which appears to create a 3 day right to cancel on any sale (such as a park listing). Recommend moving language to Adm 67.07(5) under "temporary sales locations."

Department's response to No. 3: The rule has been amended as requested.

4. Recommend adding the words "if applicable" in Adm 67.07(6)(c), because the MV 1 and MV 11 title and registration forms do not need to be completed for realty transactions, which are over 50% of the sales, and title fees are not assessed.

Department's response to No. 4: The requested language has been added to this section.

5. In Adm 67.07(7), recommend deleting the word "books" and making the word "record" plural.

Department's response to No. 5: The language has been amended as requested.

Comments regarding Adm 68

The Association reviewed the fees and it appears there is a segregation of programs but they are co-mingled. It appears there is some evidence that the dealer program has a smaller pool of revenues. The Association would like the Department to justify the large increase.

The Association objects to the large increase in salesperson fees from \$8 to \$50. The Association used Steenberg Homes as an example of a dealership with a large number of salespeople who would be impacted more. They also used the example of modular housing which doesn't have licensing fees for salespersons. The Association stated that if there is a large increase in the registration and plates, it would impact everyone equally, not just larger businesses with a higher number of salespeople. The Association also stated that the increase in branch and sublots is acceptable because it is outside of the regular scope of licensing.

The Association requests the Department to review the current amounts and bring them in line with normal increases. Most groups use the Consumer Price Index or other indexes for references.

The Association observed that the Department's mobile home programs combined have \$100,000 in revenue and as a whole, they are running at a surplus. The industry just saw an increase in park fees and they feel many are getting socked. They request further justification for increases.

The Association is looking for evidence that general program revenue monies were used to supplement the mobile home programs and request

documentation to that effect. If such documentation exists, they would support the licensing function.

Department's response. The Mobile Home Program has been running a deficit since the program was transferred from the Department of Transportation. General purpose revenues have been supplementing the program and staffing has been reduced to ensure continued operation. Attached is a memo dated April 4, 1997, from Bev Tucker to John Eldredge, which provides a summary of the Mobile Home Program revenue and expenditure history.

In response to the concerns raised, the department revised the proposed fee schedule to reflect a higher increase in the dealer registration fee (original amendment was \$200, now \$230) and dropped the salesperson fees (original amendment was \$50, now \$26). These changes will result in a decrease in revenues of \$1,422 from the original amendment request. The fee increase will affect dealers across the board.

Summary of Written Comments
on Adm 66, 67 and 68
and Department's Response

1. Change the term "mobile home" to "manufactured home."

Department's Response to No. 1: "Mobile home" is the term used and defined by the Legislature in s. 218.10, Wis. Stats. However, for clarification, the rules include a definition for "manufactured home." See sections Adm 66.02(7), 67.02(6) and Adm 68.02(6).

2. The 3 day cooling off period should only apply to manufactured homes sold away from the dealership.

Department's Response to No. 2: The language relating to the cooling off period has been moved to Adm 67.07(5), in order to clarify that it applies only to sales away from the dealership, such as expos and trade shows.

3. Object to the proposed hike in license and registration fees.

Department's response to No. 3: The Mobile Home Program has been running a deficit since the program was transferred from the Department of Transportation. General purpose revenues have been supplementing the program and staffing has been reduced to ensure continued operation. Attached is a memo dated April 4, 1997, from Bev Tucker to John Eldredge, which provides a summary of the Mobile Home Program revenue and expenditure history.

The department has revised the original fee schedule to reflect a higher increase in the dealer registration fee (original amendment was \$200, now \$230) and dropped the salesperson fees (original amendment was \$50, now \$26). These changes will result in a decrease in revenues of \$1,422 from the original amendment request. The fee increase will affect dealers across the board.

CORRESPONDENCE/MEMORANDUM

State of Wisconsin
Department of Administration
Division of Housing

Date: April 4, 1997
To: John Eldredge
From: Bev Tucker
Subject: Mobile Home Dealers

FY96:

The Mobile Home Dealers annual legislative authority is \$37,000. The revenue received in FY96 was \$20,792. Combined with the prior year revenue carryover of \$6,533, provided a total of \$27,325 available. The FY96 expenses totaled \$27,628, creating a \$304 deficit. This does not include the \$2,000 of expenditures transferred out of dealers in April which would put the actual deficit at \$2,304.

FY95:

In FY95 revenue of \$24,714 was received and combined with the FY94 carryover of \$9,902, had a total of \$34,616 available. The legislative authority was \$37,000. Total expenses were \$28,083 leaving a balance of \$6,533.

FY94:

Revenues received in FY94 were \$23,982 and with the negative carryover from FY93 of \$913 totaled \$23,069 available. The legislative authority was \$34,000. Expenditures in FY94 totaled \$13,167 leaving a balance of 9,902.

FY93:

This was the first year the program was in DOA. Revenues of \$21,430 were received. Legislative authority was \$31,000. The total expenditures of \$22,343 created a deficit of \$913.

The low or no deficits in each fiscal year is deceiving. In the first three fiscal years many of the mobile home costs were picked up by the divisions GPR Admin budget. It is difficult to say what these costs were without spending a lot of time researching it. In addition, we were very careful in keeping the budget to be within the projected revenue. The costs to actually effectively run the program are not necessarily what we budgeted.

cc Terri Schmidt

DOA Public Hearing for
ADM 66, 67, 68

April 24, 1997

REGISTRATION FOR TESTIMONY

Name: SCOTT SLATTERY
Address: 202 STATE ST.
Phone: 608-255-3131
Representing: WI MANUFACTURED HOUSING ASSOC.

Please place a check mark by the appropriate statement.

- () Appearing in favor.
() Appearing in opposition.
() Appearing for informational purposes only.

FUTURE HOMES
W6474 MOON SHADOW DRIVE
GREENVILLE, WI 54942
(414) 730-2594
(414) 757-1025 FAX #

Ms. Donna Sorenson
Department of Administration
P.O. Box 7864
Madison, WI 53707-7864

Dear Ms. Sorenson:

Enclosed are some comments regarding the proposed changes in the mobile home dealer regulations:

- A. Change the term "MOBILE HOME" to "MANUFACTURED HOME". This updates the terminology within our industry.
- B. ADM 67.03 Advertising and Sales Representations:
 - a. Update term "USED" to "PRE-OWNED". More inline with our industry.
- C. ADM 67.05 Selling Agreements:
 - a. #4 - Cooling off Period - There should not be a 3-day cooling off period on manufactured homes sold away from the dealership. My reasoning; first of all customers are coming to us, we are not going door to door selling. A dealer who sells only Consignment Homes would face a hardship; first to his own dealership and second to his customer who he is the acting agent for. Furthermore, if people decide to sell their home on their own they would not be subjected to this 3-day cooling off period so why bother listing the home with a dealership. Again, the customer initiated the sale by calling or coming into the dealership therefore it shouldn't matter where the sale is consummated. All consignment sales are usually sold in the home when the home is consigned or set up in a park.
- D. ADM 68.04 License and Registration Fees:
 - a. I am against the proposed hike in fees. The current fees are already substantial. The percentage hike that is proposed is way too high. This is more like a penalty to dealerships and salespersons than the actual cost of doing business. Perhaps the funds that are needed to meet your projections could be obtained through other sources or revenues.

These are my views and suggestions which I hope would be considered and would be equitable to all parties concerned.

Sincerely,

TERRY FUNK, OWNER
FUTURE HOMES

**Wisconsin Department of Transportation**Tommy G. Thompson
GovernorCharles H. Thompson
SecretaryDIVISION OF MOTOR VEHICLES
4802 Sheboygan Avenue
P.O. Box 7949
Madison, WI 53707-7949

November 13, 1992

Terry Funk
Future Homes
W 6490 Greenville Rd
Appleton, Wisconsin 54915

Dear Mr. Funk:

Thanks for your follow up letter to your original inquiry of June 1, 1992. I apologize that you've not received a response any sooner.

You need to know when a 3-day right to cancel applies to the sale of a mobile home offered for sale in a park. The answer is as follows:

The 3-day right to cancel does not apply anytime the customer initiates the sale by contacting the dealer at the dealership regardless of where the sale is consummated.

The 3-day right to cancel does not apply anytime the dealer initiates the sale with a particular customer and consummates the sale at the dealership.

The 3-day right to cancel does apply anytime the dealer initiates the sale with a particular customer and consummates the sale away from the dealership.

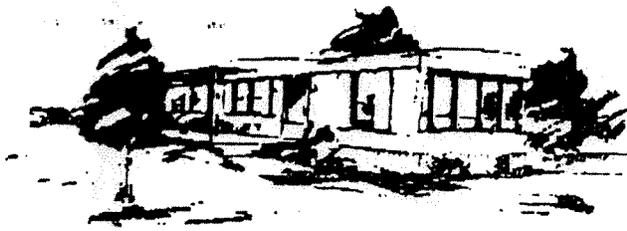
If I understand the situation you've described in the letter, the 3-day right to cancel does not apply because the customer initiated the sale by calling you at the dealership. When that happens, it doesn't matter where the sale is consummated.

We tried to recognize the special situations when there wasn't a straight yes or no answer to when the 3-day right to cancel applies, and further explain those situations below the chart. It wasn't as clear as we'd hoped it would be. I hope this explanation clarifies the situation for you. If you've got more questions, please feel free to give me a call at (608) 267-0404.

Sincerely,

Handwritten signature of Joan Loden.

Joan Loden
Supervisor
Business Licensing, Dealer Section



Future Homes

W6474 Moon Shadow Drive
GREENVILLE, WISCONSIN 54942
(414) 730-2594 • Fax: (414) 757-1025

TRANSMITTAL COVER LETTER

NAME Donna Sorenson
COMPANY Dept. of Administration
FROM Terry Funk
DATE 4.25.97

TOTAL PAGES (INCLUDING THIS COVER PAGE) 2

MESSAGE My Future Home Views.

ON 3 PM call - F can
See Dealers GOING AGAINST
EACH other. This happens
Now.

RESPONSE REQUIRED

YES _____ **BY FAX** _____ **BY LETTER** _____ **BY PHONE** _____
NO _____