

58-4211. Same; denial, suspension and revocation of licenses, when; procedure; civil penalties.

(a) A license may be denied, suspended or revoked or a renewal may be refused by the director on any of the following grounds:

- (1) Proof of financial unfitness of the applicant;
- (2) material false statement in an application for a license;
- (3) filing a materially false or fraudulent tax return as certified by the director of taxation;
- (4) negligently failing to comply with any applicable provision of the Kansas manufactured housing act or any applicable rule or regulation adopted pursuant thereto;
- (5) knowingly defrauding any retail buyer to the buyer's damage;
- (6) negligently failing to perform any written agreement with any buyer;
- (7) failure or refusal to furnish and keep in force any required bond;
- (8) knowingly making a fraudulent sale or transaction;
- (9) knowingly engaging in false or misleading advertising;
- (10) willful misrepresentation, circumvention or concealment, through a subterfuge or device, of any material particulars, or the nature thereof, required by law to be stated or furnished to the retail buyer;
- (11) negligent use of fraudulent devices, methods or practices in contravention of law with respect to the retaking of goods under retail installment contracts and the redemption and resale of such goods;
- (12) knowingly violating any law relating to the sale, distribution or financing of manufactured homes or mobile homes, as the case may be;
- (13) being a manufactured home manufacturer or factory representative, officer, agent or any representative thereof, who has:
 - (A) Induced or has attempted to induce, by coercion, intimidation or discrimination, any dealer to involuntarily accept delivery of any manufactured home or mobile home, parts or accessories therefor, or any form of advertisements or other commodities which shall not have been ordered by the dealer;
 - (B) unfairly, without due regard to the equities of the dealer, and without just provocation, canceled, terminated or failed to renew a manufactured home sales agreement with any new manufactured home dealer;
 - (C) induced, or has attempted to induce, by coercion, intimidation or discrimination, any dealer to involuntarily enter into any manufactured home sales agreement with such manufacturer, factory branch or any representative thereof, or to do any other act to a dealer which may be deemed a violation of the Kansas manufactured housing act, or the rules and regulations adopted or orders promulgated under authority of this act, by threatening to cancel or not renew a manufactured home sales agreement existing between such parties;
- (14) being a manufacturer who fails to specify in writing for the protection of the buying public the delivery and preparation obligations of its dealers prior to delivery of new manufactured homes or mobile homes to new manufactured home dealers. A copy of such writing shall be filed with the division by every licensed manufacturer of manufactured homes and the contents thereof shall constitute the dealer's only responsibility for product liability as between the dealer and the manufacturer. Any mechanical, body or parts defects arising from any express or implied warranties of the manufacturer shall constitute the product or warranty liability of the manufacturer. The manufacturer shall reasonably compensate any authorized dealer for the performance of delivery and preparation obligation;
- (15) being a manufactured home manufacturer or factory branch who fails to supply a new manufactured home dealer with a reasonable quantity of new manufactured homes, parts and accessories, in accordance with the manufactured home sales agreement. It shall not be deemed a violation of the Kansas manufactured housing act, if such failure is attributable to factors reasonably beyond the control of such manufacturer or factory branch;
- (16) knowingly used or permitted the use of dealer license plates contrary to law;
- (17) has failed or refused to permit an agent of the division, during the licensee's regular business hours, to examine or inspect such dealer's records pertaining to titles and purchases and sales of manufactured homes and mobile homes;
- (18) failure to notify the division within 10 days of dealer's plates that have been lost, stolen, mutilated or destroyed;
- (19) failure or refusal to surrender a dealer's license or dealer's plates to the division or its agent upon demand;
- (20) has demonstrated that such person is not of good character and reputation in the community in which the dealer resides;
- (21) has, within five years immediately preceding the date of making application, been convicted of a felony or any crime involving moral turpitude, or has been adjudged guilty of the violations of any law of any state or the United States in connection with such person's operation as a dealer or salesperson;
- (22) has cross-titled a title to any purchaser of any manufactured home or mobile home. Cross-titling shall include, but not by way of limitation, a dealer or broker or the authorized agent of either selling or causing to be sold, exchanged or transferred any manufactured home or mobile home and not showing a complete chain of title on the papers necessary for the issuance of title for the purchaser. The selling dealer's name must appear on the assigned manufacturer's statement of origin or reassigned certificate of title;
- (23) has changed the location of such person's established place of business prior to approval of such change by the division;
- (24) having in such person's possession a certificate of title which is not properly completed, otherwise known as an "open title";
- (25) failure to provide adequate proof of ownership for manufactured homes and mobile homes in the dealer's possession.

(b) The director may deny the application for a license within 30 days after receipt thereof by written notice to the applicant, stating the grounds for such denial. Upon request by the applicant whose license has been so denied, the applicant shall be granted an opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act.

(c) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension or revocation of a license that any officer, director or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be good cause for refusing, suspending or revoking a license to such party as an individual. Each licensee shall be responsible for the acts of its salespersons or representatives while acting as its agents.

(d) When any licensee is found to be allegedly violating any of the applicable provisions of the Kansas manufactured housing act, or any order or rule and regulation adopted pursuant thereto, the director, upon the director's own motion or upon complaint, may commence a hearing against the licensee, which hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(e) Any person who is found to have violated any applicable provisions of the Kansas manufactured housing act, any rule and regulation adopted pursuant thereto or any applicable order of the director shall be subject to a civil penalty of not less than \$50 nor more than \$1,000 for each violation or such person's license may be suspended or revoked or both civil penalty and license suspension or revocation.

(f) Any licensee or other person aggrieved by a final order of the director may appeal to the district court as provided by the Kansas judicial review act.

(g) The revocation or suspension of a manufacturer's license may be limited to one or more municipalities or counties or any other defined trade area.

History: L. 1991, ch. 33, § 11; L. 2010, ch. 17, § 109; July 1.