

Rule Text

(19 NYCRR Part 1210)

Subdivision (u) of section 1210.2 of Part 1210 of Title 19 of the Official Compilation of Codes, Rules, and Regulations of the State of New York (NYCRR) is amended to read as follows:

(u) The term ‘non-retail’ sale shall mean:

(1) the sale of a manufactured home to a certified retailer for the purpose of resale by such certified retailer; or

(2) the resale of a manufactured home by a person who, in good faith, originally purchased such manufactured home for such person's personal residential use; or

(3) the sale of a manufactured home by a referee or any similar officer in connection with the foreclosure of a security interest, mortgage, or other lien in or on such manufactured home, or by a lending entity acting pursuant to a power of sale in any security agreement, mortgage, or other document creating a security interest, mortgage, or other lien in or on such manufactured home; or

(4) the sale of a manufactured home by the owner or operator of a manufactured home park to a new manufactured home tenant in such manufactured home park, provided that:

(i) such manufactured home was previously installed in such manufactured home park and was previously occupied by a former manufactured home tenant in such manufactured home park;

(ii) the owner or operator of such manufactured home park acquired such manufactured home from such former manufactured home tenant; and

(iii) such manufactured home is not moved or to be moved to a new site following the sale to such new manufactured home tenant[; and

(iv) the owner or operator of such manufactured home park has not made more than three similar sales in the 12 months preceding such sale].

Subdivision (c) of section 1210.3 of Part 1210 of Title 19 of the NYCRR is amended to read as follows:

(c) Presence of certified installer or mechanic during service. On and after July 1, 2006, no manufactured home shall be serviced in the State of New York unless at least one person certified by the Department of State as an installer or as a mechanic is present at the home site during the service. The presence of a person holding a limited certificate issued pursuant to section 1210.6(f) (Standards for certification as an installer) or 1210.7(f) (Standards for certification as a mechanic) of this Part at the home site during the service shall be deemed to satisfy this requirement if, but only if, such person was acting within the scope of his or her employment by the employer named in such person's limited certificate during such service. The presence of a person holding an owner-occupant installer certificate at the home site during the installation shall not be deemed to satisfy this requirement. Notwithstanding the foregoing, an owner-occupant shall be permitted to service a manufactured home owned and occupied by such owner-occupant without the need for certification as an installer or a mechanic.

Subdivision (c) of section 1210.4 of Part 1210 of Title 19 of the NYCRR is renumbered as subdivision (d) and a new subdivision (c) is added to read as follows:

(c) Initial training requirements.

(1) A person applying for certification as a manufacturer must have satisfied the following initial training requirements:

(i) completion of the Article 21-B introductory course at the time of applying for certification or within sixty days after obtaining such certification; and

(ii) completion of an Article 21-B introductory course intended to satisfy the initial training requirements set forth in this subdivision more than six months prior to application for certification shall not be deemed to satisfy such initial training requirements unless, in the judgment of the Department of State, the topics covered by and the information contained in the course taken by the applicant are substantially similar to the topics covered by and the information contained in the corresponding course offered at the time of such application.

(2) A business entity applying for certification as a manufacturer must employ:

(i) at least one person who has satisfied the initial training requirements set forth in paragraph (1) of this subdivision and who is certified by the Department of State as a manufacturer; or

(ii) at least one person who has satisfied the initial training requirements set forth in paragraph (1) of this subdivision and who is then applying for certification by the Department of State as a manufacturer (provided that in such case, the denial of such person's application for any reason shall be reason for the denial of the business entity's application).

Subdivisions (d) and (e) of section 1210.5 of Part 1210 of Title 19 of the NYCRR are renumbered as (e) and (f), and a new subdivision (d) is added to read as follows:

(d) Initial training requirements.

(1) A person applying for certification as a retailer must have satisfied the following initial training requirements:

(i) completion of the Article 21-B introductory course at the time of applying for certification or within sixty days after obtaining such certification; and

(ii) completion of an Article 21-B introductory course intended to satisfy the initial training requirements set forth in this subdivision more than six months prior to application for certification shall not be deemed to satisfy such initial training requirements unless, in the judgment of the Department of State, the topics covered by and the information contained in the course taken by the applicant are substantially similar to the topics covered by and the information contained in the corresponding course offered at the time of such application.

(2) A business entity applying for certification as a retailer must employ:

(i) at least one person who has satisfied the initial training requirements set forth in paragraph (1) of this subdivision and who is certified by the Department of State as a retailer; or

(ii) at least one person who has satisfied the initial training requirements set forth in paragraph (1) of this subdivision and who is then applying for certification by the Department of State as a retailer (provided that in such case, the denial of such person's application for any reason shall be reason for the denial of the business entity's application).

Subdivision (f) of section 1210.7 of Part 1210 of Title 19 of the NYCRR is amended to read as follows:

(f) Limited certificate.

A person may apply for certification as a mechanic without submitting the acceptable deposit account control agreement, acceptable letter of credit, or acceptable surety bond required under subdivision (a) of this

section if such person is employed by a person who or a business entity which is certified as [an] a manufacturer, installer, and/or mechanic and such employer has provided an acceptable deposit account control agreement, acceptable letter of credit, or acceptable surety bond in connection with such employer's certification as a manufacturer (as applicable), an installer (if applicable), or mechanic (if applicable); provided, however, that no certification shall be issued to any person pursuant to this subdivision unless such person satisfies all other standards for certification as a mechanic. An application filed pursuant to this subdivision shall satisfy the requirements set forth in section 1210.3(e) (Certification) of this Part and, in addition, shall indicate that applicant is applying for a limited certificate pursuant to this subdivision, shall identify the applicant's employer, and shall state that applicant's employer is certified as [an] a manufacturer, installer, and/or mechanic. Any certification issued to a person pursuant to this subdivision shall identify such person's employer, shall authorize such person to act as a mechanic only within the scope of his or her employment by such employer, and shall cease to be valid if such employer ceases to be certified as [an] a manufacturer, installer, and/or mechanic, or if such person ceases to be employed by such employer. For the purposes of this subdivision and in accordance with section 1210.9(c)(2) of this Part, an individual employed by a person who or a business entity which is certified as a manufacturer may only service manufactured homes manufactured by such manufacturer.

Subdivision (a) of section 1210.8 of Part 1210 of Title 19 of the NYCRR is amended to read as follows:

(a) Installers. A person certified or licensed as an installer by another State within the United States, including another State that recognizes certifications issued by the United States Department of Housing and Urban Development, will not be required to pass the examination referred to in section 1210.6(e)(1) (Standards for certification as an installer) of this Part, provided that:

(1) the requirements for certification or licensing as an installer in such other State are comparable to the requirements for certification as an installer in the State of New York; and

(2) such person otherwise meets the qualifications for certification as an installer in the State of New York.

Subdivision (m) of section 1210.16 of Part 1210 of Title 19 of the NYCRR is amended to read as follows:

(m) The installer shall check the appropriate box ("new manufactured" or "relocated manufactured") [at the top of the installer's warranty seal], type or print the appropriate information [in lines A to I, inclusive, of the installer's warranty seal], and type or print the name of the installer and the name of the authorized person signing the installer's warranty seal on behalf of the installer in the spaces provided in the installer's warranty seal, and the installer or an authorized representative of the installer shall sign the installer's warranty seal in the space provided, prior to or at the time of installation of the installer's warranty seal. Except as provided in the preceding sentence, no statement, information, or other matter shall be inserted in or otherwise added to an [installers's] installer's warranty seal, and no statement, information, or other matter shall be crossed-out, obliterated, or otherwise removed from an installer's warranty seal. An installer's warranty seal that does not comply with the requirements of this subdivision shall not be deemed to be a valid installer's warranty seal.

Subdivision (b) of section 1210.21 of Part 1210 of Title 19 of the NYCRR is amended to read as follows:

(b) Any manufacturer or retailer who violates any of the provisions set forth in section 609 of the Executive Law relating to manufactured housing, or any provisions set forth in this Part or in any other rule or regulation previously adopted or hereafter adopted by the Department of State, including provisions of the New

York State Uniform Fire Prevention and Building Code relating to manufactured housing, shall be required to pay a civil penalty in such amount, not to exceed [\$1,100] the maximum civil penalty established by section 609 of the Executive Law, for each such violation, as may be determined by the Department of State. Each violation constitutes a separate violation with respect to each manufactured housing unit. However, the civil penalty imposed pursuant to this subdivision for any related series of violations occurring within one year after the first violation in such series shall not exceed [\$1,100,000] the maximum civil penalty established by section 609 of the Executive Law.