

**John R. Ashcroft**

Secretary of State  
Administrative Rules Division

**RULE TRANSMITTAL**

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JUL 06 2017

SECRETARY OF STATE  
ADMINISTRATIVE RULES

Rule Number 4 CSR 240-126.020

Use a "SEPARATE" rule transmittal sheet for EACH individual rulemaking.

**COPY**

Name of person to call with questions about this rule:

Content Nancy Dippell Phone 573-751-8518 FAX 573-526-6010

Email address nancy.dippell@psc.mo.gov

Data Entry Chris Koenigsfeld Phone 573-751-4256 FAX 573-526-6010

Email address Christine.koenigsfeld@psc.mo.gov

Interagency mailing address Public Service Commission, 9<sup>th</sup> Fl., Gov. Ofc. Bldg., JC, MO

**TYPE OF RULEMAKING ACTION TO BE TAKEN**

- ☐ Emergency rulemaking, include effective date  
☒ Proposed Rulemaking  
☐ Withdrawal ☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration  
☐ Request for Non-Substantive Change  
☐ Statement of Actual Cost  
☐ Order of Rulemaking

Effective Date for the Order \_\_\_\_\_

☐ Statutory 30 days OR Specific date \_\_\_\_\_

Does the Order of Rulemaking contain changes to the rule text? ☐ NO

☐ YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:

Small Business Regulatory  
Fairness Board (DED) Stamp

SMALL BUSINESS  
REGULATORY FAIRNESS BOARD

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JOINT COMMITTEE ON

JUL 06 2017

ADMINISTRATIVE RULES



ERIC R. GRETTENS  
GOVERNOR

GOVERNOR OF MISSOURI  
JEFFERSON CITY  
65102

P.O. Box 720  
(573) 751-3222

June 29, 2017

Daniel Hall  
Public Service Commission  
200 Madison Street  
P.O. Box 360  
Jefferson City, Missouri 65102

Dear Chairman Hall:

This office has received your rulemaking for new manufactured homes: 4 CSR 240-120.011; 4 CSR 240-120.031; 4 CSR 240-120.060; 4 CSR 240-120.065; 4 CSR 240-120.070; 4 CSR 240-120.080; 4 CSR 240-120.085; 4 CSR 240-120.090; 4 CSR 240-120.100; 4 CSR 240-120.110; 4 CSR 240-120.120; 4 CSR 240-120.130; and 4 CSR 240-120.140.

This office also has received your rulemaking for pre-owned manufactured homes: 4 CSR 240-121.010; 4 CSR 240-121.020; 4 CSR 240-121.030; 4 CSR 240-121.040; 4 CSR 240-121.050; 4 CSR 240-121.060; and 4 CSR 240-121.180.

This office also has received your rulemaking for modular units: 4 CSR 240-123.010; 4 CSR 240-123.020; 4 CSR 240-123.030; 4 CSR 240-123.040; 4 CSR 240-123.050; 4 CSR 240-123.060; 4 CSR 240-123.065; 4 CSR 240-123.070; 4 CSR 240-123.080; 4 CSR 240-123.090; and 4 CSR 240-123.095.

This office also has received your rulemaking for manufactured home tie-down systems: 4 CSR 240-124.010; 4 CSR 240-124.020; 4 CSR 240-124.030; 4 CSR 240-124.040; 4 CSR 240-124.045; 4 CSR 240-124.050; and 4 CSR 240-124.060.

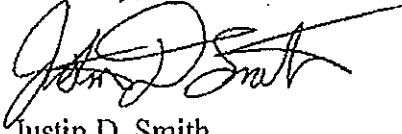
This office also has received your rulemaking for manufactured home installers: 4 CSR 240-125.010; 4 CSR 240-125.020; 4 CSR 240-125.040; 4 CSR 240-125.050; 4 CSR 240-125.060; 4 CSR 240-125.070; and 4 CSR 240-125.090.

This office also has received your rulemaking for the manufactured housing consumer recovery fund: 4 CSR 240-126.010 and 4 CSR 240-126.020.

Finally, this office has received your rulemaking for manufactured homes and modular units, 4 CSR 240-127.010.

Executive Order 17-03 requires this office's approval before state agencies release proposed regulations for notice and comment, amend existing regulations, or adopt new regulations. After our review of this rulemaking, we approve the rules' submission to JCAR and the Secretary of State.

Sincerely,

A handwritten signature in black ink, appearing to read "Justin D. Smith", with a long horizontal flourish extending to the right.

Justin D. Smith  
Deputy Counsel



Commissioners

DANIEL Y. HALL  
Chairman

STEPHEN M. STOLL

WILLIAM P. KENNEY

SCOTT T. RUPP

MAIDA J. COLEMAN

*Missouri Public Service Commission*

POST OFFICE BOX 360  
JEFFERSON CITY, MISSOURI 65102  
573-751-3234  
573-751-1847 (Fax Number)  
<http://www.psc.mo.gov>

SHELLEY BRUEGGEMANN  
General Counsel

MORRIS WOODRUFF  
Secretary

LOYD WILSON  
Director of Administration

NATELLE DIETRICH  
Staff Director

July 6, 2017

John Ashcroft  
Secretary of State  
Administrative Rules Division  
600 West Main Street  
Jefferson City, Missouri 65101

Re: 4 CSR 240-126.020 Consumer Recovery Fund

Dear Secretary Ashcroft,

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the proposed amendment lawfully submitted by the Missouri Public Service Commission.

The Public Service Commission has determined and hereby certifies that this proposed amendment will not have an economic impact on small businesses. The Public Service Commission further certifies that it has conducted an analysis of whether there has been a taking of real property pursuant to section 536.017, RSMo 2016 that the proposed amendment does not constitute a taking of real property under relevant state and federal law, and that the proposed amendment conforms to the requirements of 1.310, RSMo, regarding user fees.

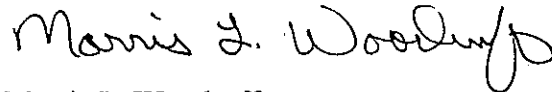
The Public Service Commission has determined and hereby also certifies that this proposed amendment complies with the small business requirements of 1.310, RSMo, in that it does not have an adverse impact on small businesses consisting of fewer than fifty full or part-time employees or it is necessary to protect the life, health, or safety of the public, or that this rulemaking complies with 1.310, RSMo, by exempting any small business consisting of fewer than fifty full or part-time employees from its coverage, by implementing a federal mandate, or by implementing a federal program administered by the state or an act of the general assembly.

Mr. John Ashcroft  
July 6, 2017  
Page 2

Statutory Authority: sections 700.040 and 700.041, RSMo 2016.

If there are any questions regarding the content of this proposed rule, please contact:

Nancy Dippell, Senior Regulatory Law Judge  
Missouri Public Service Commission  
200 Madison Street  
P.O. Box 360  
Jefferson City, MO 65102  
(573) 751-8518  
Nancy.Dippell@psc.mo.gov

A handwritten signature in black ink, reading "Morris L. Woodruff". The signature is written in a cursive, flowing style.

Morris L. Woodruff  
Chief Regulatory Law Judge

Enclosures

**AFFIDAVIT  
PUBLIC COST**

STATE OF MISSOURI )  
 )  
COUNTY OF COLE )

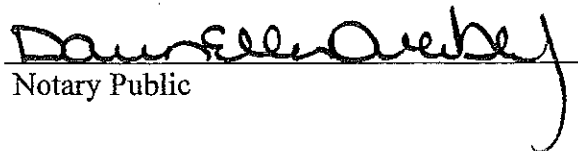
I, Mike Downing, Director of the Department of Economic Development, first being duly sworn, on my oath, state that it is my opinion that the cost of proposed amendment to rule, 4 CSR 240-126.020, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

  
\_\_\_\_\_  
Mike Downing  
Director  
Department of Economic Development

Subscribed and sworn to before me this 3<sup>rd</sup> day of August, 2016, I am commissioned as a notary public within the County of Moniteau, State of Missouri, and my commission expires on Dec. 13, 2019



DAWN ELLEN OVERBEY  
My Commission Expires  
December 13, 2019  
Moniteau County  
Commission #15456865

  
\_\_\_\_\_  
Notary Public



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Title 4—DEPARTMENT OF  
ECONOMIC DEVELOPMENT  
Division 240—Public Service  
Commission

Chapter 126—Manufactured Housing Consumer Recovery Fund

Proposed Amendment

COPY

**4 CSR 240-126.020 Consumer Recovery Fund.** The Commission proposes amending sections (1), (2), (3), (4), (5), (6), (7), (9), (12); and propose rescinding Section (13).

*PURPOSE: The purpose of this amendment is to modify guidelines for the Manufactured Housing Consumer Recovery Fund.*

(1) The Recovery Fund is established for the purpose of paying unsatisfied claims as approved by the commission under the procedures established by this rule. The commission shall administer the Recovery Fund, and all monies in the fund shall be used solely as prescribed in this rule and pursuant to section 700.041, RSMo.

(2) The advisory committee shall assist the commission in the administration and investigation of all claims submitted by consumers under this rule. The advisory committee shall consist of three (3) members[*: two (2) employees of the commission*] with one (1) member being the [*program director*] **manager**, one (1) member from the commission's [*general*] **staff** counsel's office, and one (1) member of the Missouri Manufactured Housing Association.

(3) In order to receive a disbursement of funds from the Recovery Fund, the following criteria shall be met:

(A) A consumer must have purchased a new manufactured home or residential modular unit as those terms are defined in Chapter 700, RSMo, and the commission's rules;

(B) The new manufactured home or residential modular unit must have been purchased from a manufacturer or dealer as those terms are defined in Chapter 700, RSMo, and the commission's rules;

(C) At the time of purchase, the manufacturer or dealer must have been registered with the commission pursuant to sections 700.010 to 700.692, RSMo Supp. 2008;

(D) If a consumer is seeking a disbursement from the Recovery Fund resulting from the actions of an installer, at the time of installation, such installer must have been licensed with the commission pursuant to sections 700.650 to 700.692, RSMo Supp. 2008;

(E) A consumer must have an unsatisfied claim resulting from a violation of—

1. Chapter 700, RSMo; or

2. Any rule adopted by the commission; or

3. The National Manufactured Housing Construction and Safety Standards in 24 CFR Part 3280 or the Manufactured Home Procedural and Enforcement Regulations in Part 3282[.] or **the Manufactured Home Installation Standards and Manufactured Housing Installation Rules and Regulations in parts 3285 and 3286; or**

4. The standards that govern modular units defined in 4 CSR 240-123.080;

(F) A consumer must have exhausted all legal remedies **as set forth in Section (6)** prior to submitting a claim form;

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(G) A consumer must file a claim with the commission on a claim form provided by the commission and within one (1) year from the date of exhaustion of legal remedies; and

(H) The amount requested by the consumer must reflect the actual cost of repairs **or additional costs incurred as a result of a manufacturer, dealer, or installer is out-of-business, bankrupt, closed, dissolved, or no longer subject to the jurisdiction of the commission.** *[in]* In no event shall a **reimbursement amount be made from the Recovery Fund in excess of** *[exceed]* five thousand dollars (\$5,000) for single section homes and seven thousand five hundred (\$7,500) for multi-section homes. No claim shall include attorney's fees, double, treble, punitive, or exemplary damages.

(4) Upon receipt of a claim form, the advisory committee shall be responsible to investigate and determine whether the requirements of this rule have been met and shall present its findings to the commission in the form of a recommendation *[within sixty (60) days from receipt of the claim form]*.

(5) *[All recommendations]* **Recommendations** of the advisory committee *[and all]* **for** *[disbursements]* **disbursement** of funds from the Recovery Fund shall be subject to the approval of the commission. No funds shall be distributed without prior commission approval.

(6) In determining whether an applicant's legal remedies have been exhausted, the advisory committee may consider **any of** the following:

(A) Evidence demonstrating that the consumer has obtained a judgment from a circuit court against a manufacturer, dealer, or installer and that the consumer has been unable to satisfy this judgment; **or**

(B) Information indicating that a manufacturer, dealer, or installer, against whom legal action may be taken, is out-of-business, bankrupt, closed, dissolved, or no longer subject to the jurisdiction of the commission; **or**

(C) Information indicating that legal action against a manufacturer, dealer, or installer is futile or is barred by statute or equitable principle, or any other relevant factor.

(7) A claim form submitted to the commission must be completed in its entirety. *[Information contained on the]* **The** claim form shall contain, but may not be limited to, the following:

(A) The name, physical address, and telephone number of the consumer who purchased the home;

(B) A copy of the purchase agreement or bill of sale;

(C) Any other information the consumer has regarding the purchase and installation of the home, including a description of any defect, work orders, invoices, or other information;

(D) The business name and physical address of the dealer; and

(E) The business name and physical address of the manufacturing plant where the home was manufactured and any other information deemed necessary by the commission.

(8) The advisory committee may request or obtain estimates from approved or registered industry representatives to determine the actual repair costs.

(9) *[Neither the Recovery Fund, the]* **The** advisory committee, the *[program director]* **manager,** *[nor]* **or** the commission shall **not** be liable if the Recovery Fund does not have sufficient funds to cover all the damages and/or repair costs.



(10) Should the Recovery Fund contain insufficient funds to pay approved claims, claims shall be processed in the order in which the approved claims were submitted by the applicant.

(11) If the claim arises directly from the sale, lease-purchase, exchange, brokerage, or installation of a manufactured or modular home before July 1, 2009, the consumer will not be eligible to file a claim against the Recovery Fund.

(12) Nothing in this chapter shall limit the ability of the *[program director]* **manager** to inspect a manufactured home or modular unit at any reasonable time **before or during pendency of the claim or as directed by the commission.**

*[(13) Notwithstanding the limitations and terms of any home warranty, the program director may, whenever the program director identifies any aspect of an installation that does not conform to the applicable requirements, order the installer who performed the installation to correct nonconformity, or if that installer is no longer licensed, reassign correction to a registered dealer or licensed installer and reimburse the same from the Recovery Fund for the cost of the correction.]*

*AUTHORITY: sections 700.040[, RSMo 2000] and [section] 700.041, RSMo [Supp. 2008]2016.\* Original rule filed April 6, 2009, effective Oct. 30, 2009.*

*\*Original authority: 700.040, RSMo 1973, amended 1976, 1978, 1982, 1984, 1989, 1993, 1995, 1999 and 700.041, RSMo 2008.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed amendment with the Missouri Public Service Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received no later than September 15, 2017, and should include a reference to Commission Case No. MX-2016-0317. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for 10:00 a.m., September 22, 2017, in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TOO Hotline 1-800-829-7541.*

# **Small Business Regulator Fairness Board Small Business Impact Statement**

**Date:** May 24, 2016

**Rule Number:** 4 CSR 240-126.020

**Name of Agency Preparing Statement:** Missouri Public Service Commission

**Name of Person Preparing Statement:** Natelle Dietrich

**Phone Number:** 573-751-7427

**Email:** natelle.dietrich@psc.mo.gov

**Name of Person Approving Statement:** Natelle Dietrich

**Please describe the methods your agency considered or used to reduce the impact on small businesses** (*examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique*).

This rule pertains to the Consumer Recovery Fund, mandated by § 700.040, RSMo. (2015), and does not affect small businesses.

**Please explain how your agency has involved small businesses in the development of the proposed rule.**

The Commission held a workshop and received comments from affected stakeholders and representatives from the Missouri Manufactured Housing Association, including small businesses.

**Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.**

None.

**Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.**

N/A

**Please list direct and indirect costs (in dollars amounts) associated with compliance.**

None identified.

**Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.**

N/A

**Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?**

Yes\_\_\_ No\_X\_\_

**If yes, please explain the reason for imposing a more stringent standard.**

*For further guidance in the completion of this statement, please see §536.300, RSMo.*