

John R. Ashcroft

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

Administrative Rules Stamp

Rule Number 4 CSR 240-126.020

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

Name of person to call with questions about this rule:

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

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

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TYPE OF RULEMAKING ACTION TO BE TAKEN

☐ Emergency Rulemaking __ Rule __ Amendment __ Rescission __ Termination

Effective Date for the Emergency _____

☐ Proposed Rulemaking __ Rule __ Amendment __ Rescission

☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration

☐ Request for Non-Substantive Change

☐ Statement of Actual Cost

☒ Order of Rulemaking __ Withdrawal __ Adopt x Amendment __ Rescission

Effective Date for the Order _____

☐ Statutory 30 days OR Specific date _____

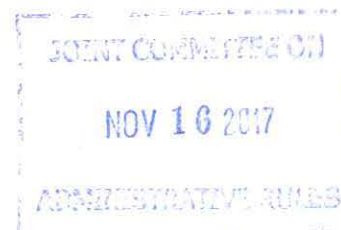
Does the Order of Rulemaking contain changes to the rule text? ☐ NO

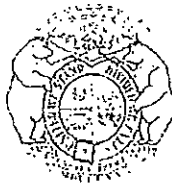
☒ YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:

Sections (2), (3), (4), and (5)

Small Business Regulatory
Fairness Board (DED) Stamp

JCAR Stamp





ERIC R. GREJTENS
GOVERNOR

GOVERNOR OF MISSOURI
JEFFERSON CITY
65101

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

November 9, 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.

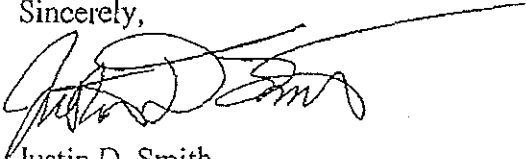
This office also has received your rulemaking for manufactured home installers: 4 CSR 240-125.010; 4 CSR 240-125.020; 4 CSR 240-125.040; 4 CSR 240-125.050; 4 CSR 240-125.060; 4 CSR 240-125.070; and 4 CSR 240-125.090.

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 line extending from the end of the signature.

Justin D. Smith
Deputy Counsel



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Chairman
STEPHEN M. STOLL
WILLIAM P. KENNEY
SCOTT T. RUPP
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Missouri Public Service Commission

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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 order of rulemaking lawfully submitted by the Missouri Public Service Commission.

Statutory Authority: section 700.040 and 700.041, RSMo 2016.

If there are any questions regarding the content of this order of rulemaking, 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

Morris L. Woodruff
Chief Regulatory Law Judge

Enclosures

**Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 126 – Manufactured Housing Consumer Recovery Fund**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 700.040, RSMo 2016, the commission amends a rule as follows:

4 CSR 240-126.020 is amended.

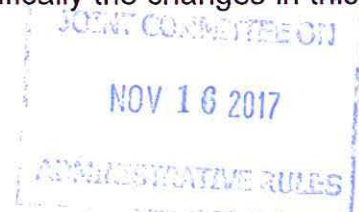
A notice of proposed rulemaking containing the proposed amendment was published in the *Missouri Register* on August 15, 2017 (42 MoReg 1193). Changes to the proposed amendment are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended September 15, 2017, and the commission held a public hearing on the proposed amendment on September 22, 2017. The commission received timely written comments regarding this rule from three manufactured housing industry representatives including: Thomas Hagar, Executive Director, Missouri Manufactured Housing Association (MMHA); Timothy L. DeVine, Your Home Center L.L.C.; and Jamie Smith, Managing Partner/General Manager, Clayton Homes of Lebanon, and Vice-President-Board of Directors of MMHA. The commission also received timely written comments about this rule from the Staff of the Missouri Public Service Commission (staff). At the public hearing, comments about this rule were received from four commenters: Mark Johnson, Staff Counsel representing staff; Rich AuBuchon, an attorney representing MMHA; Bryan Crump, Cedar Creek Homes; and Jamie Smith. The industry representatives opposed many of the proposed amendments to rules filed simultaneously with this rule on the grounds that they would be burdensome on the manufactured housing industry. Staff explained the reason for the amendments and supported the amendments.

COMMENT #1: Mr. Hagar made a general written comment regarding the amendments proposed to the entire package of manufactured housing rules. He expressed concern that the date set for the hearing did not allow the MMHA members sufficient time to review and prepare comments on the rule amendments. Mr. Hagar requested the hearing be delayed.

RESPONSE: The date for the hearing had already been published in the *Missouri Register* when the comment was received, and could not be postponed. Members of the MMHA participated in the hearing and filed written comments.

COMMENT #2: Mr. Smith and Mr. DeVine filed written comments opposing the complete package of rule changes in general, though not specifically the changes in this



rule. The commenters stated that the changes to manufactured housing rules would add excessive regulations on the manufactured housing industry, deter business growth, and add costs to consumers.

RESPONSE: Numerous changes have been made to other manufactured housing rules in response to industry and staff comments. However, no changes have been made to this particular rule as a result of these comments.

COMMENT #3: Mr. AuBuchon commented at the hearing on behalf of the MMHA. Mr. Crump and Mr. Smith commented at the hearing that they agreed with Mr. AuBuchon's comments. Mr. AuBuchon gave general comments about and a history of the rulemaking process for all the manufactured housing rules that are being simultaneously promulgated with this rule. Mr. AuBuchon also made suggestions about how the commission could have communicated better with the industry.

RESPONSE: The comments of the manufactured housing industry representatives are appreciated by the commission. However, because the process was completed in accordance with the statutory requirements and the comments were general in nature, no changes to the rules were made as a result of these general comments. The comments specific to other manufactured housing rules are addressed in the context of those rules.

COMMENT #4: Staff supported the proposed amendments to this rule and explained that the amendments were being proposed to add federal regulations to the list of governing standards that may constitute grounds for a claim, add how to address costs incurred as a result of a defunct entity, add the word "or" to section (6) to show that one requirement must be met instead of all requirements, and to remove the 60-day timeframe for the advisory committee to submit a recommendation because it was found to be unworkable in practice. Additionally, staff proposed further wording changes to subsections (2), (4), and (5) in order to remove unnecessarily restrictive language and to clarify the sections.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with staff's proposed changes except that, the commission has rewritten section (2) further for clarity. Therefore, the commission further amends sections (2), (4), and (5). Additionally, the commission will correct a grammatical error in the proposed subsection (3)(H).

4 CSR 240-126.020 Consumer Recovery Fund

(2) The advisory committee shall consist of three (3) members to assist the commission in the administration and investigation of all claims submitted by consumers under this rule. The committee members shall include, the manager, one (1) person from the commission's 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:

(H) The amount requested by the consumer must reflect the actual cost of repairs or additional costs incurred because a manufacturer, dealer, or installer is out-of-business, bankrupt, closed, dissolved, or no longer subject to the jurisdiction of the commission. In no event shall a reimbursement amount be made from the Recovery Fund in excess of 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 will 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.

(5) Recommendations of the advisory committee for disbursement of funds from the Recovery Fund shall be subject to the approval of the commission.