McGlinchey Stafford and the Manufactured Housing Institute (MHI) are pleased to bring you the Manufactured Housing Law Update. With content prepared by McGlinchey Stafford's nationally-recognized consumer financial services team, the Update focuses on legal and regulatory actions in the manufactured housing industry. More about MHI and McGlinchey Stafford can be found at the end of the Update.

WELCOME!

We are happy to provide you with the February update. We know that soon your attention could be elsewhere—filling out your bracket and obsessively checking on game updates—so hopefully you'll have a chance to read it before the tournament starts.

If you are unable to do so and need us to direct you to the must read items:

If you are a community operator in California, we recommend reading the new regulations dealing with discriminatory housing practices.

If you are servicer in Pennsylvania and you service home-only loans, review the Pennsylvania regulations which may effectively require compliance with the RESPA servicing regulations for home-only loans.

If you are selling homes in the state of Mississippi, you should review the changes to the sales tax rates.

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Finally, if you lease manufactured homes and charge a capitalized cost reduction, we suggest reviewing the summary of a recent Department of Justice settlement requiring pro-rata rebate of the capitalized cost reduction upon early termination under the SCRA.

COMMUNITIES

CASE LAW

Taxes – Abandonment

CASE NAME: *Brown v. Chester County Tax Claim Bureau and Chester County*
DATE: *01/29/2018*
CITATION: *Commonwealth Court of Pennsylvania. --- A.3d ---- 2018 WL 576000*

Brown owned real property which Arturo Arevalos Santoyo leased for placement of his manufactured home. When Santoyo became delinquent in paying taxes on the home, the taxing districts filed liens pursuant to the Real Estate Tax Sale Law. The Bureau initiated statutory procedures for the collection of unpaid taxes by upset tax sale, but no bids were received. Santoyo vacated the home, leaving it situated on Brown's real property.

Brown provided Santoyo with a notice of abandonment pursuant to the Manufactured Home Community Rights Act (Manufactured Home Act). Brown also sent copies of the notice to the taxing authorities, including the Bureau. The Bureau's director responded to the notice, stating, in pertinent part, as follows: "Once a property is exposed at an upset sale and no bids are received, there is no right of redemption. Therefore, any subsequent action to transfer title or declare the property abandoned is a nullity. The property is currently in judicial tax sale preparation status and will be exposed at a future judicial tax sale."

Notwithstanding the Bureau's correspondence, Brown filed an action pursuant to the Manufactured Home Act. A Magisterial District Justice (MDJ) determined that Santoyo had abandoned the home and entered a money judgment in the amount of $7,646.80 against him. Consequently, pursuant to the Manufactured Home Act, Brown arranged for an auction of the home. Brown bid $5,000 at the auction and the funds were distributed to him.

The Bureau refused to certify the home as free and clear from all tax liability pursuant to the MDJ's determination of abandonment. Consequently, Brown commenced a declaratory judgment action in common pleas court.

The trial court ordered that judgment be entered against Brown. Brown appealed.

The appeals court found that after the exposure of the home at the upset tax sale under the Tax Sale Law, the Manufactured Home Act was inapplicable.

Brown improperly employed the Manufactured Home Act in his magisterial action against former owner Santoyo because, by that time, the transfer of ownership from Santoyo to the Bureau had already occurred. This transfer occurs even in the absence of a sale at an upset tax sale.

Accordingly, once the home was exposed at the upset tax sale and the Bureau assumed legal ownership under the Tax Sale Law, Brown could not sue the former owner of that property under the Manufactured Home Act and usurp the role of the Bureau as trustee and legal owner as established under the Tax Sale Law. Because the upset tax sale did not result in the actual sale of the home, it did not result in the divestiture of any liens or claims.

Affirmed.

CASE LAW

FHA – Service animals

CASE NAME: *Fleming v. Bailey*
DATE: *02/07/2018*
CITATION: *United States District Court, M.D. Florida. Slip Copy 2018 WL 904287*

The Flemings both suffered from physical disabilities. They each had a service dog necessary to help alleviate their disabilities, including providing physical support and assistance with balance and stability. Their service dogs were both trained Boxers, roughly 75 pounds each. The

Flemings purchased a home at Star–Lite Mobile Park. Bailey was the owner of Star–Lite.

Before moving into their home, the Flemings submitted a reasonable accommodation request to Star–Lite to allow them to bring their two service dogs. Star–Lite denied the request because Star–Lite's rules and regulations prohibited Boxers and did not allow for therapeutic pets over 35 pounds. The rules and regulations also stated that therapeutic animals were not allowed in any common area, recreational facility or park office.

The Flemings filed a housing discrimination complaint with the Pinellas County Office of Human Rights (OHR), alleging a violation of the Fair Housing Act. The Flemings entered into a conciliation agreement with Star–Lite with regard to their housing discrimination complaint. Because Defendants asserted that they had already granted a one-time exception to bring the two service dogs to Star–Lite, the conciliation agreement did not address the legality of Defendant's rules and regulations. Instead, the agreement dealt with only two discrete complaints: the Flemings' ability to use hand and voice commands for their service animals when off-leash, and the Flemings' agreement to remove a temporary fence they had installed.

The Flemings moved into Star–Lite with their service dogs. Within a few months, the Flemings began hearing rumors that Star–Lite was intentionally encouraging an atmosphere of hostility towards them. Then the Flemings received a Notice of Violation of Park Rules and Regulations.

The Flemings alleged both "violations" were untrue and were brought as retaliation for the housing discrimination complaint.

The Notice gave the Flemings seven days to comply, and threatened eviction.

The Flemings filed suit, asserting disability discrimination and retaliation. Bailey moved to dismiss.

The Court found there was no inherent conflict between the administrative complaint being filed based on the denial of the Flemings' request to keep service dogs at Star–Lite and the allegation that the conciliation agreement, concluding the administrative process dealt with the narrower issues of fencing and hand and voice commands only.

Also, the statute regarding conciliation agreements, 42 U.S.C. § 3613(a)(2), did not prevent the Flemings from bringing claims about subsequent acts of retaliation that did not form the basis of the earlier administrative complaint.

The Court also found that the Flemings plausibly alleged that the Notice was issued for an improper reason—to retaliate against them for initiating a FHA administrative claim.

Further, the Flemings could not cure violations they never committed. The false Notice was conceivably the first step in a scheme to wrongfully evict the Flemings.

The Court found that the rules did not make reference to or define "service animal." So it was unclear if "approved service animal" encompassed the term "therapeutic animal," or not. And Bailey only made "a one-time exception" for the current service dogs, meaning the Flemings would still plausibly be subject to the size and breed limits if they needed a new service dog.

Furthermore, the Flemings sufficiently alleged that the rule against therapeutic animals in common areas limited their ability to enjoy those areas.

The Flemings sufficiently stated a claim that Star–Lite's rules regarding "therapeutic animals" were discriminatory.

Bailey's Motion to Dismiss denied.

PROPOSED RULE
California
Discrimination

This rule proposes to add Cal. Code Regs. tit. 2, §§ 12005 - 12271 (non seq) to clarify and articulate certain discriminatory housing practices. The rule relates to how to establish direct and vicarious liability for discriminatory housing practices and to establish liability based on a practice's discriminatory effect, burdens of proof and legally sufficient justifications to allegations of intentional discrimination. The rule relates to the prohibition on financial assistance practices with discriminatory effect, and consideration of criminal history information in housing.

§ 12010, Liability for Discriminatory Housing Practices, provides:

(a) Direct Liability.

(1) A person is directly liable for:

(A) The person's own conduct that results in a discriminatory housing practice.

(B) Failing to take prompt action to correct and end a discriminatory housing practice by that person's employee or agent, where the person knew or should have known of the discriminatory conduct, including because supervisors, managers, or principals of the person had or should have had such knowledge.

(C) Failing to take prompt action to correct and end a discriminatory housing practice by a third-party, where the person knew or should have known of the discriminatory conduct and had the power to correct it. The power to take prompt action to correct and end a discriminatory housing practice by a third-party depends upon the extent of any legal responsibility or authority the person may have with respect to the conduct of such third party. The power, responsibility, or authority can be derived from sources including contracts, leases, common interest development governing documents, or by federal, California, or local laws, regulations, or practices.

(2) For purposes of determining liability under this section, prompt action to correct and end the discriminatory housing practice may not include any action that penalizes or harms the aggrieved person, such as eviction of the aggrieved person. An aggrieved person has a right to raise the discriminatory housing practice as an affirmative defense to an unlawful detainer action.

(3) An employee or agent may be directly liable for a discriminatory housing practice, regardless of whether the employee's or agent's employer or principal knew or should have known of the conduct or failed to take appropriate corrective action.

(b) Vicarious Liability. To the extent permissible by applicable California laws concerning agency, and so long as it is not inconsistent with interpretations of agency under the Fair Housing Act, a person is vicariously liable for a discriminatory housing practice by the person's agent or employee, regardless of whether the person knew or should have known of the conduct that resulted in a discriminatory housing practice.

(1) Whether liability for a discriminatory housing practice is consistent with agency law is a question of fact. However, a discriminatory housing practice can be found to occur even if it violates an agent's or employee's official duties, does not benefit the agent or employer, is willful or malicious, or disregards the agent's or employer's express orders.

(2) An agent or employee shall be considered to be acting within the course and scope of the agency or employment relationship even if his or her discriminatory housing practice occurs incidental to the agent's or employee's job-related tasks. This includes being on the premises of a dwelling for work-related reasons such as conducting repairs.

§ 12060, Practices with a Discriminatory Effect, provides:

(a) Liability may be established under the Act based on a practice's discriminatory effect, as defined in paragraph (b) of this section, even if the practice was not motivated by a discriminatory intent. The practice may still be lawful if supported by a legally sufficient justification, as defined in section 12062.

(b) A practice has a discriminatory effect where it actually or predictably results in a disparate impact on a group of individuals, or creates, increases, reinforces, or perpetuates segregated housing patterns, based on membership in a protected class. A discriminatory effect may exist even if only a single person suffers harm from the practice.

§ 12062, Legally Sufficient Justification, provides:

(a) A business establishment with a practice that has a discriminatory effect shall not be considered to have committed an unlawful housing practice in violation of the Act if the business establishment can establish that:

(1) The practice is intended to serve a substantial, legitimate, nondiscriminatory interest that is necessary to the operation of the business;

(2) The practice effectively carries out the identified business interest; and

(3) There is no feasible alternative practice that would equally or better accomplish the identified business interest with a less discriminatory effect.

(b) In cases that do not involve a business establishment, the person whose practice has a discriminatory effect shall not be considered to have committed an unlawful housing practice in violation of the Act if the person can establish that:

(1) The practice is necessary to achieve a substantial, legitimate, nondiscriminatory purpose of the non-business establishment;

(2) The practice effectively carries out the identified purpose;

(3) The identified purpose is sufficiently compelling to override the discriminatory effect; and

(4) There is no feasible alternative practice that would equally or better accomplish the identified purpose with a less discriminatory effect.

(c) A legally sufficient justification must be supported by evidence and may not be hypothetical or speculative.

(d) The determination of whether an interest or purpose is substantial, legitimate, and nondiscriminatory requires a case-specific, fact-based inquiry. There are no interests that are per se substantial, legitimate, and nondiscriminatory.

§ 12100 provides for Financial Assistance Practices with Discriminatory Effect.

§ 12120, Harassment, provides that quid pro quo and hostile environment harassment because of membership in a protected class constitute discriminatory housing practices.

Article 18., Disability, includes § 12176, Reasonable Accommodations, which provides that it is a discriminatory housing practice for any person to refuse to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford an individual with a disability an equal opportunity to use and enjoy a dwelling unit and public and common use areas, or an equal opportunity to obtain, use, or enjoy a housing opportunity unless providing the requested accommodation would constitute an undue financial or administrative burden or a fundamental alteration of its program, or if allowing an accommodation would constitute a direct threat to the health and safety of others (i.e. a significant risk of bodily harm) or would cause substantial physical damage to the property of others, as defined in Section 12179(a)(5) or 12185(d)(9).

Article 24 of the regulation covers Consideration of Criminal History Information in Housing.

LEGISLATION

Virginia

Smoke alarms – Carbon monoxide alarms

2018 VA H 609. Enacted 2/26/2018. Effective 7/1/2018.

This bill amends Va. Code Ann. § 15.2-922 to provide that any locality, notwithstanding any contrary provision of law, general or special, may by ordinance require that smoke alarms (formerly, smoke detectors) be installed in any building containing one or more dwelling units if smoke alarms have not been installed in accordance with the Uniform Statewide Building Code (Section 36-97 et seq.).

Smoke alarms installed pursuant to this section shall be installed only in conformance with the provisions of the Uniform Statewide Building Code and shall be permitted to be either battery operated or AC powered. Such installation shall not require new or additional wiring and shall be maintained in accordance with the Statewide Fire Prevention Code (Section 27-94 et seq.) and subdivision C 6 of Section 36-105, Part III of the Uniform Statewide Building Code. Nothing herein shall be construed to authorize a locality to require the upgrading of any smoke alarms provided by the building code in effect at the time of the last renovation of such building, for which a building permit was required, or as otherwise provided in the Uniform Statewide Building Code.

The ordinance may require the owner of a rental unit to provide the tenant a certificate that all smoke alarms are present, have been inspected by the owner, his employee, or an independent contractor, and are in good working order. Except for smoke alarms located in public or common areas of multifamily buildings, interim testing, repair, and maintenance of smoke alarms in rented or leased dwelling units shall be the responsibility of the tenant.

The bill amends Va. Code Ann. § 36-99.5 to provide that smoke alarms for persons who are deaf or hearing impaired shall be installed only in conformance with the provisions of the current Building Code and maintained in accordance with the Statewide Fire Prevention Code (Section 27-94 et seq.) and subdivision C 6 of Section 36-105, Part III of the Building Code. Such alarms shall be provided by the landlord or proprietor, upon request by a tenant of a rental unit or a person living with such tenant who is deaf or hearing impaired as referenced by the Virginia Fair Housing Law (Section 36-96.1 et seq.), or upon request by an occupant of all residential dwelling units, regardless of when constructed:

A tenant shall be responsible for the maintenance and operation of the smoke alarm in the tenant's unit in accordance with Section 55-225.4 or 55-248.16, as applicable.

A landlord of a rental unit shall provide a reasonable accommodation to a person who is deaf or hearing impaired who requests installation of a smoke alarm that is appropriate for persons who are deaf or hearing impaired if such accommodation is appropriate in accordance with the Virginia Fair Housing Law (Section 36-96.1 et seq.).

The bill amends Va. Code Ann. § 55-225.3, Landlord to maintain dwelling unit, to provide that the landlord shall provide a certificate to the tenant stating that all smoke alarms are present, have been inspected, and are in good working order no more than once every 12 months. The landlord, his employee, or an independent contractor may perform the inspection to determine that a smoke alarm is in good working order.

Va. Code Ann. § 55-225.4, Tenant to maintain dwelling unit, has been amended to add that, in addition to the provisions of the rental agreement, the tenant shall:

9. Not remove or tamper with a properly functioning carbon monoxide alarm installed by the landlord, including the removal of any working batteries, so as to

render the carbon monoxide alarm inoperative. The tenant shall maintain the carbon monoxide alarm in accordance with the uniform set of standards for maintenance of carbon monoxide alarms established in the Statewide Fire Prevention Code (Section 27-94 et seq.) and subdivision C 6 of Section 36-105, Part III of the Uniform Statewide Building Code (Section 36-97 et seq.);

The amendment also adds that, upon written request of a tenant in a dwelling unit, the landlord shall install a carbon monoxide alarm in the dwelling unit within 90 days. The landlord may charge the tenant a reasonable fee to recover the costs of the equipment and labor for such installation. The installation of a carbon monoxide alarm shall be in compliance with the Uniform Statewide Building Code (Section 36-97 et seq.).

The bill also amends Va. Code Ann. § 55-248.13, Landlord to maintain fit premises, to add that the landlord shall:

8. Provide a certificate to the tenant stating that all smoke alarms are present, have been inspected, and are in good working order no more than once every 12 months. The landlord, his employee, or an independent contractor may perform the inspection to determine that the smoke alarm is in good working order.

DEFAULT SERVICING

CASE LAW

FDCPA – Safe harbor

CASE NAME: *Chatman v. Alltran Education, Inc.*
DATE: *02/07/2018*
CITATION: *United States District Court, N.D. Illinois, Eastern Division. Slip Copy. 2018 WL 741465*

Alltran is an Illinois-licensed collection agency. Chatman asserted that the Debt Letter sent by Altran violated the FDCPA, 15 U.S.C. § 1692g(a)(1), because it failed to properly inform her of the amount of debt owed. Plaintiff attempted to create her claims from the absence of safe harbor language established by the Seventh Circuit in *Miller v. McCalla, Raymer, Padrick, Cobb, Nichols, & Clark, L.L.C.*, 214 F.3d 872 (7th Cir. 2000).

Chatman argued that Alltran's Debt Letter ran afoul of § 1692g(a)(1) because it did not contain the following sentence: "Hence, if you pay the amount shown above, an adjustment may be necessary after we receive your check, in which event we will inform you before depositing the check for collection."

The Court found that the Debt Letter fulfilled the requirement of § 1692g(a)(1) and satisfied the unsophisticated consumer standard applied to such cases by the Seventh Circuit. An unsophisticated consumer who received the Debt Letter with the total current balance, broken down by principal, interest, collection cost, and fees and other non-collection charges, would know "the amount of debt owed," as required.

Further, an unsophisticated consumer would not be confused reading that "Until paid in full, interest may continue to accrue on your account."

Like any unsophisticated consumer who has a "rudimentary knowledge about the financial world," Chatman knew, learned or should have asked how interest works and how it would apply to her debt when taking out her loan.

Lastly, the Debt Letter stated: "Please refer to the original loan documents for interest rate and accrual information." Chatman as the unsophisticated consumer would understand that she could check her loan documents for more information, as directed. Likewise, an unsophisticated consumer who is given the debt collection agency's contact information would understand how to follow up.

Defendant's motion to dismiss granted.

CASE LAW

RESPA – Private right of action

CASE NAME: *Vance v. Wells Fargo Bank, N.A.*
DATE: *02/20/2018*
CITATION: *United States District Court, W.D. Virginia. Slip Copy. 2018 WL 988104*

Jerry and Fran Vance sued Wells Fargo Bank, N.A., alleging that Wells Fargo (1) violated Real Estate Settlement Procedures Act ("RESPA") regulations 12 C.F.R. §§ 1024.39 and 1024.41, and (2) breached the implied covenant of good faith and fair dealing under Virginia law.

RESPA Section 1024.39 requires a servicer to "establish or make good faith efforts to establish live contact with a delinquent borrower not later than the 36th day of the borrower's delinquency and, promptly after establishing live contact, inform such borrower about the availability of loss mitigation options if appropriate."

The Court held that, because the CFPB promulgated Section 1024.39 under the authority of RESPA Section 6 and Section 6 confers a private right of action, Section 1024.39 authorizes a private right of action.

However, the Court also found that there was no evidence that Plaintiffs submitted a complete loss mitigation application more than 37 days before the foreclosure sale and dismissed the Vances' claim for a violation of Section 1024.41(c)

Further, the Vances failed to allege that Wells Fargo breached a contract.

LEGISLATION

Alabama

Redemption – Notice

2018 AL H 90. Enacted 2/22/2018. Effective immediately.

This bill amends Ala. Code § 6-5-248 to provide that under no circumstances may a right of redemption be exercised later than one year after the date of foreclosure.

The bill provides that possession or production of the proof of mailing of the notice of a mortgagee who forecloses residential property on which a homestead exemption was claimed in the tax year during which the sale occurred to the mortgagor shall constitute an affirmative defense to any action related to the notice requirement.

LEGISLATION

Michigan

Receiver - Collection of a debt

2017 MI H 4470. Enacted 2/6/2018. Effective immediately.

This bill amends Mich. Comp. Laws § 600.3204, relating to foreclosure of a mortgage by advertisement, to add that, for purposes of this subdivision, an action or proceeding for the appointment of a receiver is not an action or proceeding to recover a debt.

REGULATION

Pennsylvania

Servicing Regulations

As reported in the December 2017 Update, Pennsylvania enacted 2017 PA S 751, which requires mortgage servicers to be licensed and contains substantive compliance requirements in connection with the servicing of mortgage loans, which include home-only/chattel-only loans. On February 6, 2018 the Pennsylvania Department of Banking issued regulations incorporating the Consumer Financial Protection Bureau's servicing regulations. However, the manner in which the regulations are being adopted will likely go

beyond federal standards, making the servicing standards contained in RESPA and Regulation X applicable to home-only/chattel-only loans, as well as real estate secured loans.

The rule adopts:

TITLE 10. BANKING AND SECURITIES

PART IV. BUREAU OF CONSUMER CREDIT AGENCIES

CHAPTER TBD MORTGAGE SERVICING

The rule includes:

§ 1 Purpose.

In accordance with Section 6141 of Title 7 (Mortgage Servicers) this Chapter is intended to set forth mortgage servicing criteria and standards that incorporate the Consumer Financial Protection Bureau's mortgage servicer regulations at 12 CFR Pt. 1024, Subpt. C (relating to mortgage servicing).

§ 2 Scope.

§ 3 Definitions.

§ 4 General disclosure requirements.

§ 5 Mortgage servicing transfers.

§ 6 Timely escrow payments and treatment of escrow account balances.

§ 7 Error resolution procedures.

§ 8 Requests for information.

§ 9 Force-placed insurance.

§ 10 General servicing policies, procedures, and requirements.

§ 11 Early intervention requirements for certain borrowers.

§ 12 Continuity of contact.

§ 13 Loss mitigation procedures.

§ 14 Additional Notices.

LEGISLATION

Virginia

Foreclosure – Deceased owner

2018 VA H 755. Enacted 2/26/2018. Effective 7/1/2018.

This bill amends Va. Code Ann. § 55-59.1, Notices required before sale by trustee to owners, lienors, etc.; if note lost, to provide that, if the secured party has received notification that the owner of the property to be sold is deceased, the notice required shall be given to: (1) the last known address of such owner as such address appears in the records of the party secured; (2) any personal representative of the deceased's estate whose appointment is recorded among the records of the circuit court where the property is located, at the address of the personal representative that appears in such records; and (3) any heirs of the deceased who are listed on the list of heirs recorded among the records of the circuit court where the property is located, at the addresses of the heirs that appear in such records.

The bill amends Va. Code Ann. § 55-64, Disposition of surplus from trustee's sale after death of grantor, to provide that any surplus of the proceeds of the sale remaining in the hands of the trustee, after discharging the expenses of executing the trust, all tax liens upon the property sold, and all debts and obligations secured by the deed of trust, and, in order of their priority, if any, the remaining subsequent debts and obligations secured by the deed, and any liens of record inferior to the deed of trust under which the sale is made, with lawful interest, shall be paid by the trustee to the personal representative of the decedent.

SETTLEMENT

Department of Justice

Lease termination – Servicemembers

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The Department of Justice recently entered into a settlement with BMW Financial Services for failing to refund a pro-rata portion of the capitalized cost reduction to servicemembers who terminated leases early pursuant to the SCRA. The SCRA requires that, "Rents or lease amounts paid in advance for a period after the effective date of the termination of the lease shall be refunded to the lessee by the lessor (or the lessor's assignee or the assignee's agent) within 30 days of the effective date of the termination of the lease." 50 USC 3995. This provision applies to both premise leases (which includes consumer, business and agricultural purposes) and motor vehicle leases (personal or business purpose). The DOJ (in its first case involving the refund of lease amounts to servicemembers) interpreted capitalized cost reduction payments to be "rents or lease amounts paid in advance" and required BMW to refund over $2M to servicemembers for failing to refund.

LENDING

LEGISLATION

New York

Home replacement

☺

2017 NY A 9814. Enacted 2/23/2018. Effective immediately.

Part P of chapter 54 of the laws of 2016, relating to utilizing reserves in the mortgage insurance fund for various housing purposes, is amended by adding a new section 9-a to provide that eligible units of local government or not-for-profit corporations with substantial experience in affordable housing may apply to administer local programs to repair or replace dilapidated mobile or manufactured homes that were damaged as a result of ice jam flooding of the Saranac River between December 1, 2017 and January 31, 2018 as set forth in subdivisions (a) through (f) of this section.

(a) Mobile or manufactured homes that are sited on land owned by the homeowner can be either repaired or replaced with new manufactured, modular or site built homes.

(b) Mobile or manufactured homes that are sited on land leased by the homeowner can be either repaired or replaced with a new manufactured home.

(c) To the extent practicable, efforts shall be made to ensure energy efficient features are included in the replacement homes.

(d) The corporation shall authorize the eligible applicant to spend seven and one-half percent of the contract amount for approved planning and costs associated with administering the program. The contract shall provide for completion of the program within a reasonable period, as specified therein, which shall not exceed four years from commencement of the program. Upon request, the corporation may extend the term of the contract for up to an additional one year period for good cause shown by the eligible applicant.

(e) An eligible property must be the primary residence of the homeowner with a total household income that does not exceed one hundred percent of area median income for the county in which a project is located as calculated by the United States Department of Housing and Urban Development. Funds shall be made available for relocation assistance to eligible property owners who are unable to voluntarily relocate during the demolition and construction phases of the project. The cost of demolition and removal shall be an eligible use within the program. The total payment to repair or replace a mobile or manufactured home pursuant to any one eligible property shall not exceed one hundred thousand dollars and provide for completion not to exceed four years.

(f) Financial assistance to property owners shall be one hundred percent grants in the form of deferred payment loans (DPL). A ten year declining balance lien in the form of a note and mortgage, duly filed at the county clerk's office, will be utilized for repair or replacement projects when the homeowner owns the land upon which the mobile or manufactured home is sited. A ten year declining balance lien in the form of a note will be utilized for repair or replacement projects when the homeowner leases the land upon which the mobile or manufactured home is sited. No interest or payments will be required on the DPL unless the property is sold or transferred before the regulatory term expires. In such cases funds will be recaptured from the proceeds of the sale of the home, on a declining balance basis, unless an income-eligible immediate family member accepts ownership of and resides in the home for the remainder of the regulatory term.

LETTER
MHI
HUD Rules

On February 26, 2018, MHI sent a letter to the U.S. Department of Housing and Urban Development (HUD) in response to the Department's call for public comment as a part of a "top-to-bottom" review of its manufactured housing rules.

In its detailed letter, MHI enumerated ways that HUD has overstepped its authority in rules, directives, interpretations, actions and policies governing the design, construction, and installation of manufactured homes.

MHI recommended changes in the following areas:

- Alternative Construction (AC) Requirements;
- HUD Code Updates and Manufactured Housing Consensus Recommendations;
- Enforcement;
- Installation Requirements;
- On-Site Completion of Construction Rule;
- Paperwork Burdens;
- HUD's Preemption Guidelines;
- Energy Efficiency Standards;
- HUD's Dispute Resolution Program;
- Consumer Formaldehyde Notices; and
- FHA Financing Programs.

At the end of its letter, MHI attached 23 detailed suggestions for needed updates to the HUD Code.

LETTER
MBA
HUD Rules

The Mortgage Bankers Association (MBA) Letter to HUD. Dated 2/26/2018.

RE: Regulatory Review of Manufactured Housing Rules.

MBA offered the following recommendations to further improve HUD's manufactured housing requirements, with the objective of making these requirements more effective and sustainable.

Relocation -

MBA recommended that HUD eliminate the one-time move restriction and replace it with a requirement for an inspection following a move.

Tiered Pricing -

MBA recommended that the Tiered Pricing structure be eliminated and that lenders be allowed greater flexibility with respect to the Mortgage Charge Rate.

Engineer's Certification for Foundation -

MBA recommended that HUD streamline the process by which the engineer's certification is obtained, thereby reducing costs for lenders and consumers.

Title Evidence Required for Conveyance -

MBA recommended that HUD require all manufactured home title evidence to be completed at closing and make that process a condition of closing so that it is completed properly at that time.

Flood Elevation -

MBA recommended that flood elevation requirements on existing manufactured homes be harmonized with those of other types of existing construction.

LICENSING

LEGISLATION
Maine
Debt collectors

☹

2017 ME S 613. Enacted 2/6/2018. Effective 90 days after adjournment (which is projected to be 4/18/2018).

This bill amends Me. Rev. Stat. Ann. tit. 32, §11002, sub-§2, §101, under the Fair Debt Collection Practices Act, to repeal the requirement that a debt collector's solicitation of business from creditors in the state must be face to face before a license must be obtained.

The bill requires that a debt collector, wherever located, obtain a license before collecting debts from a consumer in the state.

PRESS RELEASE
NMLS
NMLS 2.0

😕

Posted 2/27/2018.

NMLS 2.0 Launch Date Reset for the Second Quarter 2019.

The Conference of State Bank Supervisors (CSBS) has reset the launch of NMLS 2.0 for the second quarter of 2019. In addition, the target launch for the State Examination System will be adjusted based on the new NMLS 2.0 timeline.

MANUFACTURING

FINAL RULE
EPA
Formaldehyde

😐

83 Fed. Reg. 5340 (2/07/2018).

40 CFR 770.

EPA is publishing this final rule to revise the formaldehyde standards for composite wood products regulations. The revision updates the incorporation by reference of multiple voluntary consensus standards that have been updated, superseded, or withdrawn, and provides a technical correction to allow panel producers to correlate their approved quality control test method to the ASTM E1333-14 test chamber, or, upon showing equivalence, the ASTM D6007-14 test chamber.

This final rule is effective on February 7, 2018.

You may be affected by this final rule if you manufacture (including import), sell, supply, offer for sale, test, or work with certification firms that certify hardwood plywood, medium-density fiberboard, particleboard, and/or products containing these composite wood materials in the United States. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

Manufactured home (mobile home) manufacturing (NAICS code 321991).

Other construction material merchant wholesalers (NAICS code 423390), e.g., merchant wholesale distributors of manufactured homes (i.e., mobile homes) and/or prefabricated buildings.

Manufactured (mobile) home dealers (NAICS code 45393).

SALES

ADOPTED RULE

Mississippi

Sales tax

Effective 4/1/2018, this rule amends 35-9 Miss. Code R. §§ 100 et seq. to remove the 3.4% rate language pertaining to housing and freestanding appliances and furniture. Appliances sold and shipped with the housing from the manufacturer are considered part of the manufactured home taxable at the flat 3% tax rate. Other furniture and freestanding appliances purchased and resold by the manufacturer are taxable at the 7% rate.

ABOUT THE EDITORS

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ABOUT THE MANUFACTURED HOUSING INSTITUTE The Manufactured Housing Institute (MHI) is the only national trade organization representing all segments of the factory-built housing industry. MHI members include home builders, lenders, home retailers, community owners and managers, suppliers and 50-affiliated state organizations.

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