

TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION

**RULES AND REGULATIONS
(Unofficial)**

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CHAPTER 1. ORGANIZATION AND METHOD OF OPERATIONS

765:1-1-1. Purpose

The rules of this Chapter have been adopted for the purpose of complying with the provisions of 75 O.S. Section 250 et seq., 75 O.S. Section 302, and 47 O.S. Section 582 (E). This Chapter will provide a description of the Commission, a statement of the types of meetings of the Commission and the procedures for the meetings, and the methods whereby the public may obtain information or make submissions or requests.

765:1-1-2. Description of Commission

(a) **Creation.** The Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission (hereinafter "Commission") is created by 47 O.S. Section 581 et seq. Applicable definitions and the powers and the duties of the Commission are set forth in 47 O.S. Section 581 et seq. and 47 O.S. Section 591.1 et seq.

(b) **Members.** The Commission shall consist of ten (10) members, one from each of the congressional districts of the state, a chair and all other members selected from the state at large.

(c) **Quorum.** Six (6) members of the Commission shall constitute a quorum and may transact any business or hold any hearing by a simple majority vote of the quorum. If a quorum is not present, the Chairman may postpone or cancel the meeting for lack of a quorum.

765:1-1-2.1 Meetings of the Commission

(a) Monthly meeting.

(1) The Commission shall hold at least one regular meeting each month of each calendar year at its office in Oklahoma City.

(2) The Commission shall meet at its offices in Oklahoma City, Oklahoma, on the second Tuesday in each month to transact such business as may properly come before it. Notice of any change of any monthly meetings schedule will be in accordance with the Oklahoma Open Meeting Act.

(b) **Special meetings.** Special meetings shall be held upon call of the Chairman by notice given to the members of the Commission at least forty-eight (48) hours prior to the time the meeting is to be held; such notice to be given by telephone, letter, fax or email. Special meetings shall be held in compliance with the Oklahoma Open Meeting Act.

(c) **Emergency meetings.** The Commission may hold an emergency meeting for any purpose authorized in the Open Meeting Act, 25 O.S. Section 301 et seq.

(d) **Continued or reconvened meetings.** Any meeting may be continued or reconvened as authorized in the Open Meeting Act, 25 O.S. Section 301 et seq.

(e) **Other meetings.** The Commission may hold other meetings as it deems necessary, at the same location monthly meetings may be held. All meetings shall be held in compliance with the provision of its enabling act, the Open Meeting Act and the Oklahoma Administrative Procedures Act.

(f) **Procedure for meetings.** The Commission may adopt such rules of procedure as the Commission deems appropriate. In absence of a specified procedure, the Chair may determine whether a specific action may be taken and the procedure therefore. The action or procedure shall not conflict with any statutory procedural meeting requirements.

(g) **Effect of vote denying application.** An application which is considered by the Commission for approval or denial and upon which a vote is taken which has the effect of denying the application, need not be reconsidered by the Commission for a period of three (3) months from the date of the original vote.

765:1-1-3. Executive Director

The Executive Director shall be in charge of the Commission's office and shall conduct and direct the activities thereof in the manner as directed by the Commission.

765:1-1-4. Office location

The office of the Commission is in Oklahoma City, Oklahoma.

765:1-1-5. Office hours

The Commission office shall be open to the public a minimum of eight hours each day, except Saturday and Sunday, and any legal holiday established by statute or proclamation of the Governor.

765:1-1-6. Official seal

(a) The official seal of the Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission shall be as follows: The official Star of the State of Oklahoma bordered by the inscription, "Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission."

(b) The Executive Director shall be the custodian of the official seal and shall affix the imprint or the facsimile thereof to all license certificates issued by the Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission.

765:1-1-7. Communications

Every communication in writing to the Commission shall be addressed to the Executive Director of the Commission at the principal office unless the Commission directs otherwise.

765:1-1-8. Public inspection of records

(a) All rules and other written statements of policy or interpretations formulated, adopted, or used by the Commission in the discharge of its functions, and all final orders, decisions, and opinions will be made available for public inspection at the Commission's principal office during regular office hours.

(b) Financial Statements submitted to the Commission as part of an application for a license shall not be deemed public records. Social Security numbers and Driver's License numbers shall not be public records.

765:1-1-9. Copies of records

(a) Copies of official records of the Commission may be made, and may be certified by the Executive Director and his/her designee. A fee for such copies and certification may be charged as provided in a fee schedule enacted by the Commission. The fee for each of the following items shall be as follows:

- (1) \$.25 mechanical copy
- (2) \$1.00 certified mechanical copy
- (3) \$5.00 list of Wholesale Used Motor Vehicle Dealers
- (4) \$10.00 list of Automotive Dismantlers or Rebuilders
- (5) \$10.00 list of Crushers
- (6) \$10.00 list of Manufactured Home Dealers or Salespersons
- (7) \$25.00 list of Used Motor Vehicle Dealers
- (8) \$35.00 list of Used Motor Vehicle Salesmen
- (9) \$50.00 label list of any kind
- (10) \$10.00 hourly research fee
- (11) Actual cost of transcription of hearings as submitted by transcriber.
- (12) \$100.00 Deposit to begin transcription of an individual proceeding.

(b) Requests for copies of Commission files must be made between the hours of 9:00AM and 4:00PM Monday through Friday (excluding holidays), providing the copier is available and authorized personnel is available for copy service. Otherwise copying will be scheduled upon request. Any requests requiring research will have to be scheduled with authorized personnel as time permits. Any material in the office of the Commission which is privileged or protected from publication by state law, shall not be copied, nor be available for public inspection.

CHAPTER 2. INFORMAL AND FORMAL PROCEDURES

SUBCHAPTER 1. INFORMAL PROCEDURES - CONSUMER COMPLAINTS

765:2-1-1. Purpose

The rules of this Chapter have been adopted for the purpose of complying with the provisions of 75 O.S. Section 250 et seq., specifically 75 O.S. Section 302, and 47 O.S. Section 582 (E). This Chapter will provide a description of the nature and requirements of all formal and informal procedures available, including a description of all forms and instructions issued by this Commission for use by the public.

765:2-1-2. Form

All consumer complaints must be made on the complaint form provided by the Commission.

765:2-1-3. Procedure

If a complaint cannot be resolved in any other manner, an informal conference may be conducted by the Executive Director or his designee to attempt to resolve the complaint. If the informal conference does not resolve the complaint and the complaint concerns a matter which may give rise to disciplinary proceedings against a dealer, the matter may become the subject of a formal proceeding for disciplinary action.

SUBCHAPTER 3. FORMAL PROCEDURES

765:2-3-1. Parties to proceeding

(a) The Executive Director or the Commission's legal counsel shall file a sworn complaint for every individual proceeding. The style of the complaint shall be: STATE OF OKLAHOMA, ex rel. THE OKLAHOMA USED MOTOR VEHICLE, DISMANTLER, AND MANUFACTURED HOUSING COMMISSION vs. PARTY'S NAME.

(b) A Respondent in an individual proceeding shall be the legal entity holding a license. A person that is a stockholder, member of a limited liability company, or stockholder in the legal entity conducting business, may also be named as a party Respondent. Any sanction which may be imposed against a licensee may be imposed against the individual Respondent where the acts giving rise to the imposition of the sanction were committed by or are legally attributable to the individual Respondent.

765:2-3-2. Notice of hearing

(a) **General statement.** All parties shall be given reasonable notice of hearing in every individual proceeding.

(b) **Content of notice.** The notice shall include:

- (1) a statement of the time, place and nature of the hearing,
- (2) a statement of the legal authority and jurisdiction under which the hearing is to be held,
- (3) a reference to the particular sections of the statute and rules involved, and
- (4) a short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application a more definite and detailed statement shall be furnished.

765:2-3-3. Persons to be notified

(a) Every party to an individual proceeding shall be entitled to notice of the proceeding.

(b) If the applicant or licensee is a salesman, the Commission shall notify the person, firm, association, corporation or trust with whom the salesman is or will be associated.

765:2-3-4. Method of service

(a) **Service.** All notices or other papers requiring service in an individual proceeding shall be served in one of the following manners:

- (1) personally, by a person appointed by the Commission for such purpose, in any manner authorized by the law of this state for the personal service of summons in proceedings in a state court, or
- (2) by certified mail mailed by the Executive Director or his/her designee, addressed to the noticee at such post office address as he/she may have filed with the Commission, or if no such address is in file, at the noticee's last known post office address, or
- (3) if no known post office address can be discovered, and after exercise of due diligence, by publication in such newspapers and for such time, or by posting in such places for such time, as the Executive Director may determine and direct as most likely to give the noticee timely notice.
- (4) personally, by any employee of the Commission.

(b) **Completion.** Service of notice shall be complete upon personal service, upon the receipt of the card showing receipt of certified mail by the addressee, or upon the posting of notice or first publication thereof, as the case may be.

765:2-3-5. Time for hearing

(a) **Setting hearing.** The time set for a hearing, specified in the notice, shall not be less than ten (10) days after the date the notice is completed.

(b) **Continuances.** Written motions for any continuances or extensions of time shall state the time desired and the reasons for the request. The Commission hereby authorizes the Executive Director to rule on said motions. Said application shall be

served upon the Executive Director. If the extension is denied, the party may renew the request and make proper showing for continuance at the hearing.

765:2-3-5.1. Pre-hearing Conference

As part of the individual proceeding, a pre-hearing conference may be conducted at the initiative of the Movant, to be conducted by the Executive Director or his designee, or in appropriate circumstances by legal counsel for the Commission, for the purpose of identifying the issues and evidence to be considered or introduced at the hearing. Said pre-hearing conference may be used for negotiation of a proposed Consent Order or other disposition of the proceeding.

765:2-3-6. Hearing

(a) **Presiding officer.** The hearing shall be conducted by the Chairman of the Commission or his designate.

(b) **Order of procedure.** Each individual proceeding shall proceed as follows:

(1) Any party shall at all times have the right to counsel. Counsel must be licensed to practice law by the Oklahoma Supreme Court.

(2) All parties shall be afforded the opportunity to present witnesses, evidence, and argument on all issues involved.

(3) A party may cross-examine witnesses.

(4) The Commission or hearing officer may ask questions of all parties.

(c) **Objections and motions.** The Chairman or hearing officer shall rule on the admissibility of evidence and objections to evidence, and shall rule on motions or objections raised in the course of the hearing. In the exercise of this function, the Commission or officer may rely on the advice of counsel present and serving in an advisory capacity. In making a ruling on evidence, the Chairman or hearing officer shall not be required to follow Rules of Evidence, but may use his/her own judgment whether the evidence should be admitted. Any party may object to a ruling which the party considers erroneous, and an exception to such ruling shall be noted of record. Failure to timely object to any alleged error or irregularity shall be deemed as a waiver of such objection.

(d) **Burden and standard of proof.** The burden of proving the allegations contained in its Complaint shall be upon the Movant. The standard of proof required to sustain the imposition of any sanction against a Respondent shall be by clear and convincing evidence.

(e) **Ruling.**

(1) The Commission or Hearing Officer shall prepare Findings of Fact and Conclusions of Law. The Commission or Hearing Officer may request the parties to submit proposed Findings and Conclusions before making a final ruling. Any party may file proposed Findings and Conclusions. Disposition of any individual proceeding may be by stipulation, agreed settlement, consent order, default or majority vote.

(2) The Commission by majority vote, may deny, suspend, or revoke a license or impose a fine, if authorized, for any of the reasons provided in 47 O.S. Section 581

et seq. The Commission, by majority vote, may deny, suspend, cancel, or revoke a license or impose a fine, if authorized, for any of the reasons provided in 47 O.S. Section 591.1 et seq. and 47 O.S. Section 592 et. seq.

765:2-3-7. Hearing officer

(a) **Selection.** A hearing may be conducted by a hearing officer designated by the Chairman.

(b) **Hearing.** The hearing officer shall swear witnesses, hear testimony, admit evidence, and make rulings on objections and motions, and prepare proposed Findings of Fact and Conclusions of Law and submit the Findings and Conclusions to the Commission.

(c) **Ruling.** When a hearing officer is used and a majority of the Commissioners have not heard the case or read the record, any decision adverse to any party other than the Commission shall be postponed until a copy of the proposed Order is served upon all parties and each is given an opportunity to reply, either orally or in writing. The proposed order shall be prepared by the person(s) who conducted the hearing. A statement of the reasons for the order and each issue of fact or law necessary to the order shall accompany the proposed order. This requirement may be waived by the written stipulation of all parties.

765:2-3-8. Failure to appear

Any defendant or accused who fails to appear as directed, after having received proper notice, may be determined to have waived his/her right to present a defense to the charges alleged in the complaint and a denial, suspension, or revocation of a license, or other disciplinary action may be ordered by the Commission if it appears, after having reviewed the evidence, that the violation alleged did in fact occur.

765:2-3-9. Subpoenas

(a) **Witnesses.** Subpoenas for the attendance of witnesses, and/or for the furnishing of information required by the Commission, and/or for the production of evidence or records of any kind shall be issued by the Executive Director of the Commission. Subpoenas shall be served and a return made in any manner prescribed by general civil law.

(b) **Sanctions.** Upon the failure of any person to obey a subpoena, upon the refusal of any witness to be sworn or make an affirmation, or to answer a lawful question put to him/her in the course of the hearing, the Executive Director may institute appropriate judicial proceedings under the laws of the state for an order to compel compliance with the subpoena or the giving of testimony, as the case may be. The hearing shall proceed, so far as it is possible, but the hearing officer or the Commission, in its discretion, at any time may continue the proceedings for such time as may be necessary to secure a final ruling in the compliance proceeding.

765:2-3-10. Depositions

The Commission, or any party to a proceeding before it, may take the deposition of witnesses, within or without the state, in the same manner as provided by law for the

taking of depositions in civil actions in courts of record. The admissibility of a deposition and objections to all or part of a deposition shall be determined by the Commission in accordance with the standards for such evidence as provided in the Administrative Procedures Act.

765:2-3-11. Record of hearing

(a) **Contents of record.** The record in every individual proceeding shall include the following:

- (1) all pleadings, motions, and intermediate rulings,
- (2) evidence received and considered,
- (3) a statement of matters officially noticed,
- (4) questions and offers of proof, objections and rulings thereon,
- (5) proposed findings and exceptions,
- (6) any decision, opinion, or report by the person(s) presiding at the hearing, and
- (7) all staff memoranda or data submitted to the hearing officer or the Commission in connection with their consideration of the case.
- (8) the recording of the individual proceeding made by the Commission.

(b) **Recording.**

- (1) A record of the hearing, by means of recording or court reporter's transcript, will be made of all hearings conducted by the Commission or a hearing officer unless the presiding officer designates otherwise.
- (2) The record of the hearing and the file containing the pleadings will be maintained in a place designated by the Executive Director. The recordings of the proceedings shall be maintained for a period of one (1) year.

(c) **Transcript.** A transcript of the proceeding shall not be transcribed except upon written application by any party to the action. The party requesting transcription will bear the cost and will pay a fee according to a schedule established by the Commission. An initial deposit set by the Commission also must be paid by said party.

(d) **Final order.** All final orders in individual proceedings shall be in writing. The final order shall include Findings of Fact and Conclusions of Law, separately stated. A copy of the final order will be mailed forthwith to each party and to his/her attorney of record. A Final Order may be signed by the Chairman or his designee without approval or review of the Commission, so long as said Order fairly represents the action taken. No other signatures shall be required.

765:2-3-12. Rehearing

(a) **Petition.** A petition for rehearing is not required before an appeal may be perfected in accordance with 47 O.S. Section 585. A petition for rehearing, reopening, or reconsideration of a final order may be filed with the Executive Director within ten (10) days from the entry of the order. It must be signed by the party or his/her attorney or representative and must set forth with particularity the statutory grounds upon which it is based. However, a petition for rehearing based upon fraud by any party or procurement of the order by perjured testimony or fictitious evidence may be filed at any time.

(b) **Disposition.** An order of the Commission granting a rehearing shall set forth the grounds which justify such action. The hearing shall be confined to the grounds upon which the rehearing was ordered.

765:2-3-13. Appeal

The licensee may appeal the decision of the Commission within thirty (30) days from the date thereof. Such appeal shall be done in the manner provided in 47 O.S. Section 581 et seq., and the Administrative Procedures Act.

765:2-3-14. Summary proceedings

Any matter which could be the subject of a Formal Proceeding may be disposed of by a summary proceeding when agreed to by all parties. Such summary proceeding may include, but not limited to, Consent Agreement, or Consent Orders, signed by all affected parties.

SUBCHAPTER 5. ARBITRATION

765:2-5-1. Agreement required

Any party submitting a matter in controversy to this Commission pursuant to the provisions of 47 O.S. 1997 Supp. Section 582(E)(2)(f) shall execute an agreement consenting to binding arbitration by this Commission. Said agreement shall be on a form promulgated by the Commission, which form shall state the procedure to be followed in the arbitration proceeding, the rights of the parties in said proceeding, the method of assessing costs to each party, and the costs which may be assessed.

765:2-5-2. Parties to proceeding

The party seeking affirmative relief against another party shall be the Complainant. The party against whom relief is sought shall be the Respondent.

765:2-5-3. Pleadings

The Complainant shall file a sworn statement of facts and the relief sought which shall be entitled "Complaint". The Respondent shall, within twenty (20) days thereafter, answer said complaint by a sworn statement which shall be entitled "Response". The Response shall also contain Respondent's request for relief sought, if any. No other pleadings shall be required.

765:2-5-4. Notice of hearing

All parties shall be given reasonable notice of hearing on every proceeding. The notice shall include a statement of the time and place of the hearing. Said hearing shall, if practicable, be held at a time and place agreed to by the parties.

765:2-5-5. Persons to be notified

Each party to an arbitration proceeding shall be entitled to notice of any proceeding and the time and date of any hearing in said proceeding. Any party

represented by an attorney shall be deemed to be notified by notice to the party's attorney.

765:2-5-6. Method of service

- (a) **Service.** Notices to each party shall be served in one of the following manners:
 - (1) personally, by a person appointed by the Commission for such purpose, or
 - (2) by certified mail, return receipt requested, to the party's address as stated to the Commission, or in case a party is represented by an attorney, to the party's attorney at the address provided to the Commission by said attorney.
- (b) **Completion.** Service of the notice shall be complete upon personal service or upon the receipt of the card showing receipt of certified mail by the addressee, as the case may be.

765:2-5-7. Time for hearing

- (a) **Setting hearing.** The time set for a hearing, specified in the notice, shall not be less than ten (10) days after the date the notice is completed.
- (b) **Continuances.** Written motions for any continuances or extensions of time shall state the time desired and the reasons for the request. The Executive Director or his designate may rule on said motions, or in the case of proceeding before the Commission en banc, the Chairman or his designate may make said ruling. Said application shall be served upon the Executive Director. If the request is denied, the moving party may renew the request for continuance at the hearing.

765:2-5-8. Initial hearing

- (a) **Presiding officer.** The initial hearing shall be conducted by the Executive Director of the Commission or his designate. If the hearing is conducted by a designate, the person so designated shall be licensed to practice law in the State of Oklahoma.
- (b) **Order of procedure.** Each individual proceeding shall proceed as follows:
 - (1) Any party shall at all times have the right to counsel. Counsel must be licensed to practice law by the Oklahoma Supreme Court.
 - (2) All parties shall be afforded the opportunity to present witnesses, evidence, and argument on all issues involved. The presiding officer shall swear witnesses and admit evidence.
 - (3) A party or counsel may cross-examine witnesses.
 - (4) The presiding officer or any Commissioner may ask questions of all parties.
- (c) **Objections and motions.** The presiding officer shall rule on the admissibility of evidence and objections to evidence, and shall rule on motions or objections raised in the course of the hearing. In the exercise of this function, the Commission or officer may rely on the advice of counsel present and serving in an advisory capacity. Any party may object to a ruling which the party considers erroneous, and an exception to such ruling shall be noted of record. Failure to timely object to any alleged error or irregularity shall be deemed as a waiver of such objection.
- (d) **Summary.** The presiding officer shall prepare Findings of Fact and Conclusions of Law. The parties may submit proposed Findings of Fact and Conclusions of Law to the

presiding officer to be included in the case record. The presiding officer shall prepare a summary of the case, together with Findings of Fact and Conclusions of Law which shall be presented to the Commission en banc at its next available meeting. The summary, Findings and Conclusions shall be provided to all parties and each shall be given the opportunity to reply, either in writing or orally before the Commission en banc.

(e) **Negotiated settlement.** The presiding officer may suggest to the parties a proposed settlement of the controversy and may attempt to resolve the controversy by negotiating with the parties prior to termination of the hearing.

765:2-5-10. Subpoenas

(a) **Witnesses.** Subpoenas for the attendance of witnesses, and/or for the furnishing of information required by the Commission, and/or for the production of evidence or records of any kind shall be issued by the Executive Director or his designate. Subpoenas shall be served and a return made in any manner prescribed by general civil law.

(b) **Sanctions.** Upon the failure of any person to obey a subpoena, upon the refusal of any witness to be sworn or make an affirmation, or to answer a lawful question put to him/her in the course of the hearing, the Executive Director may institute appropriate judicial proceedings under the laws of the state for an order to compel compliance with the subpoena or the giving of testimony, as the case may be. The hearing shall proceed, so far as it is possible, but the presiding officer or the Commission, in its discretion, at any time may continue the proceedings for such time as may be necessary to secure a final ruling in the compliance proceeding.

765:2-5-11. Depositions

A party to a proceeding may take the deposition of witnesses, within or without the state, in the same manner as provided by law for the taking of depositions in civil actions in courts of record. The admissibility of a deposition and objections to all or part of a deposition shall be determined by the presiding officer in accordance with rules of evidence provided in the Administrative Procedures Act.

765:2-5-12. Record of hearing

(a) **Contents of record.** The record in every proceeding shall include the following:

- (1) all pleadings, motions, and intermediate rulings,
- (2) evidence received and considered,
- (3) a statement of matters officially noticed,
- (4) questions and offers of proof, objections and rulings thereon,
- (5) proposed findings and exceptions, and
- (6) any report by the presiding officer,
- (7) the recording of the hearing made by the Commission.

(b) **Recording.**

(1) A record of the hearing, by means of recording or court reporter's transcript, will be made of all hearings conducted by the Commission or a hearing officer unless the presiding officer designates otherwise.

(2) The record of the hearing and the file containing the pleadings will be maintained in a place designated by the Executive Director. The recordings of the proceedings shall be maintained for a period of one (1) year.

(c) **Transcript.** A transcript of the proceeding shall not be transcribed except upon written application by any party to the action. The party requesting transcription will bear the cost and will pay a fee according to a schedule established by the Commission. An initial deposit set by the Commission also must be paid by said party.

(d) **Final decision.** All final decisions shall be in writing. A copy of the final decision will be mailed forthwith to each party and to his/her attorney of record.

765:2-5-13. Commissioners to act as arbitrators

The Commissioners en banc shall act as arbitrators of the controversy. A quorum of the Commissioners may act and decide the controversy if any Commissioners are absent. A decision by a majority of the quorum shall be deemed the decision of the Commission en banc. The Commission shall be entitled to deliberate upon its decision in Executive Session, following appropriate motion and vote. For purposes of deliberation in Executive Session, said proceeding shall be deemed an individual proceeding for which Executive Sessions are authorized.

765:2-5-14. Decision by the Commission

The Commission en banc shall review the summary, Findings of Fact and Conclusions of Law prepared by the presiding officer and any summaries or proposed Findings of Fact and Conclusions of Law by any of the parties. Before reaching a decision, the Commission en banc may request additional information from any of the parties or the presiding officer. The Commission may also suggest continued negotiations by the parties to resolve the controversy, or remedies it deems appropriate for the parties to consider as an agreed settlement in lieu of a decision by the Commission. The Commission may vote to accept any negotiated settlement or agreement between the parties made at the initial hearing. In the event the parties cannot agree to a negotiated settlement, the Commission shall decide the matter as it deems fair and just and make an award consistent with its judgment.

765:2-5-15. Awards

The Commissioners acting as arbitrators shall determine the award due in their judgment. The award shall be in writing and signed by the Commissioners making the award. The award shall be made within thirty (30) days of the arbitration hearing. Notice of the award shall be delivered to the parties either personally or by certified mail, return receipt requested.

765:2-5-16. Costs

The cost of the arbitration shall be borne by the parties. The costs shall be the actual cost to the Commission of the initial hearing designate and the administrative cost to the Commission incurred in conducting the arbitration. The cost shall be divided among the parties as set forth in their arbitration agreement.

CHAPTER 3. PROMULGATION, AMENDMENT, AND REPEAL OF RULES

765:3-1-1. Purpose

The rules of this Chapter have been adopted for the purpose of complying with the provisions of 75 O.S. Section 250 et seq., specifically 75 O.S. Section 305, and 47 O.S. Section 582 (E). This Chapter will provide the form for petitions by interested persons for the promulgation, amendment or repeal of rules and for the filing of prompt disposition of petitions for declaratory rulings as to the applicability of any rule of the Commission.

765:3-1-2. By Commission

The Commission may promulgate, amend, and repeal rules, including emergency rules, in accordance with the Administrative Procedures Act.

765:3-1-3. By interested parties

An interested person may petition the Commission requesting the promulgation, amendment, or repeal of a rule. The petition shall be filed with the Executive Director of the Commission and shall set forth in writing, clearly and concisely, all matters pertaining to the requested action, the reasons for the request, and the name of those persons known to petitioner who are concerned with the subject matter of the petition and should be notified of the filing of the petition. The Commission shall act upon the petition within a reasonable time. No action will be taken on such petitions until the notice requirements established by these rules and regulations and the Oklahoma Administrative Procedures Act have been satisfied.

765:3-1-4. Notice

Prior to the adoption, amendment or repeal of any rule, the Commission shall give notice, in accordance with the requirements of the Administrative Procedures Act. This notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved. The time, place and manner in which interested persons may present their views on the intended action shall be

specified in the notice. This notice shall be published in the OKLAHOMA REGISTER, or its successor publication, and shall be mailed to all persons who have made a timely request of the Commission to receive advance notice of its rule-making proceedings.

765:3-1-5. Public hearing

(a) Should proposed action on a rule possibly affect substantive rights, the opportunity for an oral hearing will be granted if requested in writing by at least twenty-five (25) persons, by a governmental subdivision, agency, or by an association having not less than twenty-five (25) members. If no substantive rights are involved, the opportunity for oral arguments or views is in the discretion of the Commission. The Commission shall decide whether any substantive rights may be involved.

(b) The Commission shall afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing, to it concerning proposed action on a rule.

765:3-1-6. Emergency rules

The Commission may adopt an emergency rule if it determines that there is an imminent peril to the public health, safety, or welfare or for any reason authorized by Oklahoma law for the promulgation and adoption of emergency rules. Action on such a rule shall be done in accordance with the requirements of the Administrative Procedures Act.

765:3-1-7. Adoption

All rules of the Commission shall be filed and shall take effect according to the provisions of the Administrative Procedures Act.

765:3-1-8. Statement of interpretation and construction

The rules of the Commission shall be given a fair and impartial construction. The rules shall be interpreted according to the purposes of simplifying or clarifying procedure, avoiding delays, saving expenses, and facilitating the administration of the Commission.

CHAPTER 4. GENERAL LICENSING PROVISIONS

765:4-1-3. Bonds

(a) All bonds required for licensing shall expire on the 31st day of December of the odd numbered year after the issuance of the bond, except as provided hereinafter. Upon proof that the cost of the required bond for the entire license period exceeds Two Thousand Dollars (\$2,000.00), an applicant or licensee may request that the

Commission allow the applicant or licensee to submit a one (1) year bond which expires December 31st of the year of the issuance of the license and a separate bond for the second license year. In the event that the licensee fails to submit a bond for the second license year, the license shall expire and be revoked coterminously with the expiration of the bond.

(b) Any bond required for any license to be issued by this Commission may be submitted by electronic means, provided the electronic bond provides sufficient information to allow the Commission to determine that the bond is a good and valid bond issued by the bonding company providing the bond.

765:4-1-4. Criminal Record Report

Every applicant for a license to be issued by the Commission shall be required to submit a current report from the Oklahoma State Bureau of Investigation (OSBI Report) which indicates whether the applicant has been charged or convicted of a felony. The report shall include information showing whether any of the charges or convictions were violent or sex offender felonies. An applicant who has a felony conviction in another state or in federal court within the last twenty (20) years shall submit a copy of the Judgement and Sentence for such conviction.

765:4-1-6. Electronic verification

Every application which requires a verification or notary signature may be performed by electronic verification when the database of the Commission is sufficiently developed to accept such verification.

CHAPTER 10. USED MOTOR VEHICLE DEALERS

SUBCHAPTER 1. LICENSING QUALIFICATIONS, PROCEDURES AND FEES

765:10-1-1. Purpose

The rules of this Chapter have been adopted for the purpose of complying with the provisions of the Administrative Procedures Act, 75 O.S. Section 250 et seq. and 47 O.S. Section 582 (E). This Chapter will provide a description of the qualifications for obtaining a used motor vehicle dealer's license, operation under the license, and the grounds and procedures for denial, suspension, or revocation of a used motor vehicle dealer's license or imposition of a fine.

765:10-1-2. Fees

The fees required for an initial application, renewal, and additional location for a used motor vehicle dealer's license are recited in 47 O.S. Section 583. A fee will be returned to the applicant in the event the license applied for is denied.

765:10-1-3. Place of business

(a) An applicant must have an established place of business. An established place of business means a location which includes at a minimum:

(1) a display area for vehicle(s) that are for retail easily accessible, and readily distinguishable from vehicles parked on the premises for purposes other than for sale of the vehicle by the licensed dealer,

(2) sufficient parking for the public,

(3) an office for conducting business where the books, records and files are kept,

(4) an office which is a building or is a separate room within a building on the premises devoted exclusively to the operation of the used motor vehicle business. that is considered a permanent structure with access to a restroom for the public. Such place of business shall not include an occupied residence and shall not include the use of vacant lots, tents, temporary stands, or other temporary office facilities.

(5) place of business shall meet all zoning, occupancy, and other requirements of the appropriate local government, and shall be regularly occupied by a person, firm, or corporation engaged in the business of selling used motor vehicles,

(6) a sign, not less than thirty-two (32) square feet in size, unless restricted to a smaller size by the applicable zoning regulations of the governmental body in which the business is located. The sign shall not be a banner or portable sign, but must be permanently affixed to the property and shall have permanently affixed legible letters of a size not smaller than six (6) inches in height. The sign and letters thereof shall be visible from the roadway nearest to the entrance of the place of business, and

(7) a business telephone, listed with directory assistance and usable at the place of business. Said telephone may include a cellular or digital telephone listed and usable at the place of business,

(b) An applicant may apply for a used motor vehicle dealer's license at the same address or location as another applicant or licensee. In addition to the requirements listed in subparagraph (a) above, such applicant shall be required to show that the location is of sufficient size, space and configuration for the operation of the dealership separate and apart from any other dealership at the same address or physical location without confusion by those with whom the applicant or licensee will be dealing as to with which licensee they are dealing.

(c) In the event an applicant is granted a license at the same address or location as another licensee, each licensee shall keep their vehicles segregated from those of the other licensee.

(d) It shall be solely within the discretion of the Commission whether it is appropriate that more than one applicant shall be licensed at the same location or address. If it

appears after licensing that the licensees do not or cannot continue to fulfill the terms and conditions of licensing, the license of the offending licensee may be suspended or revoked.

(e) An applicant for a used motor vehicle dealer's license for the purpose of conducting a classic or antique automobile auction may apply for a license at a location which the applicant will use to conduct the auction, even if the location is temporary, or to be used only for the purpose of that auction. The applicant shall provide information satisfactory to the Commission relating to the applicant's permanent business address and for purpose of service of summons or other legal notice. The Commission shall not approve any other type of application for a temporary business location.

765:10-1-4. Applicant

(a) **Information required.** An applicant shall provide sufficient information on the application or otherwise to enable the Commission to determine whether the applicant should be granted a license. The information shall include:

- (1) Information relating to the applicant's financial standing,
- (2) Information relating to the applicant's business integrity, the applicant's experience in the same or similar businesses, and his business history,
- (3) Whether the applicant will be engaged in the pursuit, avocation, or business for which a license is applied,
- (4) Whether the applicant will devote full or part time to the business,
- (5) Whether the applicant is able to properly conduct the business for which the license is applied, and
- (6) Any other pertinent information consistent with the safeguarding of the public interest and welfare.

(b) **Application required.** Applications for license shall be verified by the oath or affirmation of the applicant and shall be on forms prescribed by the Commission and furnished to such applicants. The applications shall contain such information as the Commission deems necessary to enable it to fully determine the qualifications and eligibility of the applicant for the license.

765:10-1-5. Bond and insurance

(a) **Dealer bond.** Each applicant for a used motor vehicle dealer's license, used motor vehicle auction or for the purpose of conducting a used motor vehicle business which will consist primarily of non-auction consignment sales shall procure and file with the Commission a good and sufficient bond in the amount required by law. The bond shall be approved as to form by the Attorney General. The bond form shall contain provisions relating to the bond amount, parties responsible for payment of bond claims, parties who may make claims on bonds and priorities of claimants, if applicable.

(b) **Liability insurance.** Each applicant for a used motor vehicle dealer's license shall be required to furnish and in the event a license is issued, keep in force, a minimum of

Twenty-five Thousand Dollars (\$25,000) single limit liability insurance coverage on all vehicles offered for sale or used in any other capacity in demonstrating or utilizing the streets and roadways of Oklahoma in accordance with the financial responsibility laws of the State of Oklahoma. The insurance as required by this section shall be maintained throughout the period of licensure. Should the insurance be cancelled or expire for any reason, the license shall be revoked as of the date of cancellation or expiration unless new insurance is furnished prior to such date.

765:10-1-6. Issuance of license

(a) **Name.** A used motor vehicle dealer's license will be issued in the legal name of the individual proprietorship, partnership, corporation, limited liability company or other legal entity, as identified on the application for dealer license. A license shall not be issued in a name which does not reflect the nature of the licensee's business nor any name which is misleading or confusing to those with whom the licensee deals. For example, a dealer shall not use the term "leasing" in his name if the dealer's business does not include that activity.

(b) **Certificate.** A used motor vehicle dealer's license consisting of a signed certificate bearing the official seal of the Commission and specifying the name and location of the place of business and assigned dealer number, is to be posted in a conspicuous place in the dealer's place or places of business. The used motor vehicle dealer's license number will be prefixed with UD, followed by a five digit number and then the current year of license (UD-00000-00).

(c) **Titles.** The valid used motor vehicle dealer's license permits the dealer to transfer and assign titles and purchase and sell used motor vehicles without paying excise tax.

(d) **Card.** The dealer or designated managing officer will receive a gratis salesman's identification card which shall be carried upon his person at all times while acting as a used motor vehicle dealer.

(e) **Beginning business.** No applicant for a used motor vehicle dealer's license can conduct business until such time as the Commission has issued him a license.

765:10-1-6.1. Used motor vehicle dealer plates

(a) The issuance of used motor vehicle dealer plates by the Oklahoma Tax Commission shall be subject to the verification by this Commission that the applicant is licensed as a used motor vehicle dealer and that the number of plates requested is appropriate for the size and nature of the licensee's business.

(b) A metal dealer's plates may be used for demonstrating, transporting or any other normal business of a dealer. Normal business of a dealer includes use of the dealer plate on a vehicle regularly driven by the dealer or the dealer's spouse or any licensed salesperson, provided the title to the vehicle driven is in the name of the dealer's licensed used motor vehicle dealership on the front of the title or by assignment.

765:10-1-6.2. Education program

The dealer principal, general manager or person in charge of the operation of the used motor vehicle dealer's business shall attend an Education Program presented by Commission personnel before beginning operation of the business. Used motor vehicle salesmen or office personnel may attend said program as space allows. The Education Program shall be without cost to any participant.

765:10-1-7. Renewal of license

All bonds and licenses issued under the provisions of the Commission's statutory authority shall expire on the 31st day of December of the odd numbered year, following the date of issue and shall be nontransferable. All applications for renewal should be submitted by the 1st day of November of each odd numbered year, and licenses shall be issued by January 10th of the following year. If application has not been made for renewal of license, such license shall expire on December 31st, and it shall be illegal for any person to represent himself and act as a dealer thereafter.

765:10-1-8. Changes

(a) **Ownership.** A change of ownership, including a change in a primary stockholder in the case of a corporation, or membership in the case of a limited liability company, shall require a new application and approval by the Commission before the business may begin operation.

(b) **Notification.** A change of ownership or any other change, such as change of name or address, which makes Commission records no longer accurate must be reported to the Commission immediately in writing on forms prescribed by the Commission for approval by the Commission. The dealership must meet all the requirements as prescribed for licensing. The Commission may revoke or suspend a license after it has been granted for change of condition resulting in failure to maintain the qualifications for license. Failure to complete the requirements for licensing at the new location within thirty (30) days shall result in suspension of the dealer's license until the licensing requirements are met.

SUBCHAPTER 3. OPERATION

765:10-3-1. Forms required

(a) **Retail Sales Forms.** The following forms shall be required in the sale of a used motor vehicle by a used motor vehicle dealer to anyone other than a licensed dealer:

- (1) Sales contract or bill of sale,
- (2) Odometer statement,
- (3) Federal Trade Commission Buyer's Guide conforming to FTC and state standards,
- (4) Written notice of thirty (30) day title-transfer requirement and receipt for

- delivery of certificate of title to buyer,
- (5) Used motor vehicle dealer's temporary tag,
 - (6) Condition of sale:
 - (A) warranty, or
 - (B) vehicle service contract, or
 - (C) warranty disclaimer,
 - (7) Finance or security agreement, if applicable, and
 - (8) Consignment agreement, if applicable,
 - (9) Spot delivery form, if applicable,
 - (10) 'We Owe' form, if applicable,
 - (11) Any other form which affects the rights of either party.

(b) **Dealer to dealer forms.** The following forms shall be required in dealer to dealer transactions:

- (1) Bill of sale, and
- (2) Odometer statement, if required.

(c) **Approval.** All forms must be approved by the Commission. The content and forms to be used shall be filed thirty (30) days prior to use, and if not rejected in thirty (30) days from the filing date, the forms will be conditionally approved.

(d) **Standards.** The forms required shall contain substantially the following information:

(1) **Sales contract or bill of sale.**

(A) The sales contract or bill of sale shall state the names of the parties, the make, model, tag number and vehicle identification number (VIN) of the vehicle subject to the transaction, a statement of the selling amount, a description of the vehicle traded in, if any, and the consideration given therefore, and the statement referring to the FTC Buyer's Guide as required by federal law or rule, and proper signatures of the parties.

(B) Said form shall also contain or have attached a statement of any terms that create any contingencies in the completion of the contract, including contingencies relating to financing, whether by the dealer or a third party, and any limitations to which the contingencies may be subject.

(C) Said form shall also state, in clearly understandable terms, the type of title the purchaser shall receive, whether it be an "original" green title; an insurance loss dated title; a title with a theft or flood damage notation; or a rebuilt, salvage or junk title, or any other disclosures or discrepancies noted on the face of the title, including special notations regarding mileage or odometer readings, but shall not include a "repossessed" or "repo" title, together with some form of written acknowledgment by the purchaser that the purchaser is aware of the type of title to be received. Failure to make said disclosure shall create a presumption that the type of title to be received shall be an "original" green title without discrepancies of any sort.

(D) Said form shall not contain statements such as "trade in value does

not reflect actual cash value of trade in" or any language that suggests the amounts stated are not the true value agreed upon by the parties.

(2) **Odometer statement.** The odometer statement must conform to the requirements of federal and state law.

(3) **Federal Trade Commission Buyer's Guide.**

(A) From and after May 9, 1985, in all sales to consumers, as defined in Title 16 Code of Federal Regulations Section 455.1(4), it shall be required that dealers display and complete the "Buyer's Guide" form required by the Federal Trade Commission. Display and completion of the "Buyer's Guide" as required by Federal Trade Commission Used Motor Vehicle Trade Regulation Rule shall be deemed compliance with this rule.

(B) The "Buyer's Guide" required herein shall not be used in lieu of warranty disclaimer forms to disclaim warranties, actual or implied. In order to disclaim any warranties, a separate warranty disclaimer form must be used.

(C) From and after May 9, 1985, conditions of sale forms must include the following language, conspicuously written on that form: "The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale." Condition of sale contracts which do not contain this language shall not be approved by this Commission. Nothing in this rule shall be construed to make any additional informational or substantive requirements as to warranties, implied warranties or service contracts beyond that presently required by the Used Motor Vehicle Trade Regulation Rules or state law.

(4) **Title, tax stamp and tax transfer notice requirement.** It is the duty of every person licensed to sell new or used motor vehicles to advise each purchaser in writing about his title requirements and payment of any taxes due. It is the duty of the selling dealer to affix the applicable used motor vehicle dealer's tax stamp in the appropriate place on the assignment or re-assignment area of the certificate of title. Dealers failing to comply with provisions of this section is responsible for all taxes due on such sales or on such vehicles.

(5) If a prospective purchaser makes a deposit of anything of value to obtain the option to complete a purchase (of a used motor vehicle) in the future, the dealer shall acknowledge the deposit in writing, the time period for which the option to purchase is valid, whether the deposit is refundable in whole or in part, and the conditions, if any under which the deposit may be refunded. The deposit shall be deemed refundable unless it is clearly stated in writing that the deposit or a portion thereof is non-refundable.

(e) **Used motor vehicle dealer's temporary tags.** Misuse of the used motor vehicle dealer's temporary tag may be grounds for the assessment of a fine or, suspension or

revocation of the used motor vehicle dealer's license.

765:10-3-2. Consignment sales

(a) **Consignment.** A used motor vehicle dealer, whether acting as principal or agent, or by power of attorney, shall be responsible for complying with 765:10-3-1 et seq. with regard to all vehicles purchased, sold, or transferred by the dealer whether or not any other party has any interest in the vehicle being purchased, sold, or transferred. The dealer need not disclose to a potential purchaser if the vehicle offered for sale has been consigned to the dealer by an individual. The individual consigning the vehicle shall provide a copy of the certificate of title to the dealer-consignee at the time of the execution of the consignment agreement. The certificate of title of a used motor vehicle owned by an individual consigned to a used motor vehicle dealer for sale by that dealer shall be assigned by the individual to the dealer, and shall be assigned to the purchaser contemporaneously with the transfer of funds from the buyer to the dealer, provided a consignment form approved by this Commission is used in the consignment transaction, and any other state and federal forms required are properly executed at the time of sale by the dealer as agent for the consignor. A used motor vehicle dealer's tax stamp shall be required in the assignment of the certificate of title from the dealer to the purchaser. The consignor shall have primary responsibility for the truthfulness of the information concerning the vehicle unless the dealer willfully, knowingly, or negligently with reckless disregard of the true facts, misrepresents or misstates the information on the forms and/or the certificate of title. The dealer, by acting as agent for the consignor, is deemed to be a transferor with regard to 49 U.S.C. Section 32701 et. seq. (Federal Odometer Act). The dealer and the consignor shall both be responsible to the consignor's lender, if any, to satisfy the lender's interest in the vehicle. A used motor vehicle dealer who has taken a used motor vehicle on consignment from an individual seller shall not consign the vehicle for sale to another used motor vehicle dealer without the knowledge and written consent of the individual seller and the execution of a consignment form among the three parties.

(b) **Consignments between dealers.** A used motor vehicle dealer who takes another used motor vehicle dealer's vehicle on consignment to sell the vehicle at the first dealer's licensed location shall be responsible for complying with 765:10-3-1 et. seq. in all particulars, including execution of all forms required for the transaction. There shall be a written document of consignment of the vehicle from the consigning dealer to the selling dealer which may set forth the benefits, responsibilities, and duties of each dealer arising from the consignment transaction, and shall include a statement that the vehicle is subject to a lender's interest or that it is not. Both dealers shall be responsible to the lender to satisfy the lender's interest after the sale of the vehicle. The certificate of title to the vehicle consigned and sold shall be assigned from the consigning dealer to the selling dealer at the time of the sale of the vehicle and the certificate of title shall then be re-assigned to the purchaser. The selling dealer shall be responsible to the

purchaser for any liability which may arise from or because of the sale of the vehicle, regardless of any statements to the contrary in the consignment form executed between the dealers. A used motor vehicle dealer's tax stamp shall be required in both transactions.

(c) **Consignments at auction.** In lieu of the procedure set forth in (a) and (b) above, a used motor vehicle dealer acting as an auction shall follow the procedure in this subsection. Sales by used motor vehicle dealers shall be evidenced by execution of an auction form approved by the Commission. An auction may provide by its own rules, the terms and conditions of sale and purchase between the consignor and the buyer. Said rules shall apply in all instances except where said rules are in conflict with state or federal statute or the Rules of this Commission. An auction, by acting as agent for the consignor, is not deemed to be a transferor with regard to Motor Vehicle Information and Cost Saving Act 15 U.S.C. Section 1981 et seq. (Federal Odometer Act.) A used motor vehicle dealer consigning a vehicle for sale at auction shall be responsible for complying with all record keeping requirements under the Rules of this Commission.

765:10-3-3. Records

(a) Each dealer shall keep for a period of three (3) years from the date of sale (or as required by any other federal, state, or local regulations), a record of the purchase and sale of each motor vehicle he buys or sells, which shall show the name of the seller or buyer as the case may be, and a complete description of the vehicle purchased or sold, and which shall include a copy of the front and back of the completely assigned certificate of title to each vehicle sold, and such other information as the Commission may prescribe. A public auction which allows non-dealers to sell or purchase vehicles at its auction shall also be required to keep a copy of the front and back of the certificate of title to each vehicle sold or purchased by a non-dealer. The records and title of vehicles shall be available upon request to authorized agents or employees of the Commission or any law enforcement officer of the State of Oklahoma. If it is determined that a licensee has knowingly provided false or misleading information when requested to provide records, the licensee may be subjected to any appropriate sanction authorized by rule or statute.

(b) Records shall include but not be limited to bills of purchase or sale, odometer statements, invoices of repair or expense, certificates of title, and accounting records for the operation of the business, including, but not limited to, checking accounts, checks, drafts, and/or financing agreements for inventory.

765:10-3-4. Disclosures

Any disclosures material to the final terms of the contract shall be disclosed prior to or during negotiation of the contract.

765:10-3-5. Prohibited Acts

(a) A used motor vehicle dealer shall not solicit or offer compensation for referrals of prospective buyers from used motor vehicle salespersons employed by another used motor vehicle dealer.

(b) A used motor vehicle dealer shall not fail to execute any of the forms required in a used motor vehicle transaction. A used motor vehicle dealer who fails to execute the required forms or who violates the terms of any contractual obligation in the sales transaction shall be subject to the appropriate fine for violation of the Rules of the Commission.

(c) A used motor vehicle dealer shall not display or offer a used motor vehicle for sale at any location, other than the location for which the dealer has been issued a license or at the location of another licensed used motor vehicle dealer by consignment. Provided, this prohibition shall not restrict a dealer from taking a vehicle to an identified prospective buyer for inspection and demonstration for the convenience of the parties.

(d) A used motor vehicle dealer shall not offer a used motor vehicle for sale or lease to option to purchase on Sundays, unless the dealer is conducting a classic, antique, or special interest automobile auction.

(e) A used motor vehicle dealer shall not allow an unlicensed individual or a salesperson to act as a dealer using the dealer's license, or allow any unlicensed person to use the dealer's name, license, or dealer number for any prerogative reserved to a dealer.

SUBCHAPTER 5. ASSESSMENT OF FINE OR DENIAL, SUSPENSION, OR REVOCATION OF LICENSE

765:10-5-1. Grounds

(a) The Commission may deny an application for a license, or revoke or suspend a license after it has been granted for any of the reasons listed in 47 O.S. Sections 584 (1) through (7); for violation of any statute or regulation relating to the purchase, sale, display for sale, or transfer of a used motor vehicle; or if it is determined that the license is being or has been issued for the benefit of a person who would not or could not qualify for the license in his or her own right.

(b) The Commission may in addition to any other sanction or penalty assessed, impose a fine as authorized by law.

765:10-5-2. Prohibition

A person whose license has been revoked or denied or whose license was surrendered in lieu of revocation or under circumstances such that said license could have been revoked, shall not have a financial interest of any kind in a used motor vehicle business, nor shall that person participate in any way, including in an advisory position, in the operation of a used motor vehicle business. The Commission may, in

addition, revoke or suspend a used motor vehicle dealer's license for employing unlicensed persons as salesmen.

CHAPTER 11. USED MOTOR VEHICLE REBUILDERS

SUBCHAPTER 1. LICENSING QUALIFICATIONS, PROCEDURES AND FEES

765:11-1-1. Purpose

The rules of this chapter have been adopted for the purpose of complying with the provisions of 75 O.S. Section 250 et seq. and 47 O.S. Section 582(E). This Chapter will provide a description of the qualifications for obtaining a rebuilder's certificate, operation under this certificate, and the grounds and procedures for denial, suspension or revocation of a Rebuilder's Certificate.

765:11-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning:

"Rebuilder" means a used motor vehicle dealer who is engaged in the business of rebuilding repairable motor vehicles and who has paid the fee for and has been issued a rebuilder certificate as provided in 47 O.S. Section 591.5 et seq.

"Rebuilder's certificate" means the license granted by the Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission to a qualified rebuilder.

"Rebuilding" means the process of reconstructing and repairing a repairable motor vehicle to roadworthy condition, including the completion of cosmetic or aesthetic repairs.

"Repairable motor vehicle" means damaged vehicles with an original or salvage certificate of title, vehicles for which a junked title has been issued; or which meet the statutory definition of a junked vehicle; or which is sold without a certificate of title; or is sold on a bill of sale or Affidavit of Ownership; or other document which indicates the vehicle is being sold for the sole purpose of dismantling the vehicle or for parts only.

765:11-1-3. Fees

The fees required for an initial application and renewal for a rebuilder's certificate are recited in 47 O.S. Section 591.5.

765:11-1-4. Place of business

(a) An applicant for a rebuilder's certificate shall have an established place of business

at the same location for which he is licensed to sell used motor vehicles. An applicant may have a facility separate from the licensed location where the rebuilding or repair of damaged vehicles takes place. Such facility shall be subject to inspection by employees of the Commission or law enforcement personnel to the same extent as authorized by 47 O.S. §581 et seq. and/or 47 O.S. § 591.1 et seq.

(b) The place of business of an applicant for a rebuilder's certificate shall also meet any applicable zoning, occupancy, and other requirement of the appropriate local government for the repair or reconstruction of motor vehicles at the rebuilder's location.

(c) In addition to complying with any local zoning ordinances, the Commission may require that the rebuilder's place of business have sight proof or opaque screening from adjoining property where it appears the use of the property by the rebuilder may be offensive to or detrimental to the adjoining properties.

765:11-1-5. Application

(a) **Form.** The application for a rebuilder's certificate shall be on a form prescribed by the Commission and shall contain such information as the Commission deems necessary to enable it to fully determine the qualifications and eligibility of the applicant for a rebuilder's certificate.

(b) **Verification.** Applications for rebuilder's certificate shall be verified by the oath or affirmation of the applicant.

765:11-1-6. Qualifications

An applicant for a rebuilder's certificate shall:

- (1) have sufficient facilities or access to sufficient facilities for the rebuilding and reconstructing of repairable motor vehicles to safe and operable condition;
- (2) have sufficient knowledge of the process of rebuilding and reconstructing vehicles to directly supervise said rebuilding process; and
- (3) perform said rebuilding or supervise said rebuilding to insure that the vehicle is safe for operation on the public roadways.

765:11-1-7. Records

(a) In addition to the record keeping requirements for a used motor vehicle dealer, a rebuilder shall keep a separate record of all vehicles bought at salvage pools or salvage disposal sales. The records shall include where and from whom the vehicle was purchased, where and to whom the vehicle was sold, the parts used to repair the vehicle to a roadworthy condition, and the disposition of the parts of the vehicle removed or not used in the repair of the vehicle.

(b) Said records shall be available for inspection by agents of this Commission in the same manner as all other records of a used motor vehicle dealer.

SUBCHAPTER 3. AUTHORITY

765:11-3-1. Authority of a rebuilder

(a) A rebuilder who has been issued a rebuilder's certificate card pursuant to 47 O.S. Section 591.5, shall be authorized to purchase repairable motor vehicles at salvage pools or salvage disposal sales for the purpose of rebuilding those vehicles. A rebuilder shall also be authorized to buy wrecked vehicles for the purpose of using the parts thereof to repair or rebuild the rebuilder's own vehicles.

(b) The holder of a rebuilder's certificate shall not have the authority to act as an automotive dismantler.

765:11-3-3. Authority to dispose of parts

A rebuilder is authorized to dispose of the parts not used from a repairable motor vehicle in the rebuilding of the vehicle by selling said parts to a licensed automotive dismantler or selling said parts to a metal processor or crusher for scraps in accordance with applicable state laws. Any other disposition of said parts requires a rebuilder to first be licensed as an automotive dismantler.

SUBCHAPTER 4. OPERATION

765:11-4-1. Disclosure

A rebuilder shall disclose to any prospective purchaser on a form approved by the Commission if the rebuilt vehicle was manufactured with or without air bags, whether the air bags were not deployed and are operable, or were deployed and replaced and are operable, or the air bags were deployed and not replaced, or if the air bags are missing and inoperable.

SUBCHAPTER 5. ASSESSMENT OF FINE OR DENIAL, SUSPENSION, OR REVOCATION OF LICENSE

765:11-5-1. Grounds

(a) A rebuilder's certificate may be denied, suspended, or revoked for the following reasons:

(1) Any of the grounds enumerated in 47 O.S. Section 584 for which a used motor vehicle dealer's license may be denied, suspended, or revoked.

(2) Committing any of the following acts may be deemed grounds for denial, suspension, or revocation of a rebuilder's certificate or assessment of fines pursuant to 47 O.S. Section 584(6)(d) and/or 47 O.S. Section 584(6)(e):

(A) Failure of the rebuilder to disclose in writing to the purchaser of the vehicle that the vehicle has been rebuilt;

(B) Failure of the rebuilder to disclose in writing to the purchaser of the

- vehicle that the vehicle has a rebuilt certificate of title;
- (C) Selling a rebuilt vehicle on a salvage certificate of title;
- (D) Failing to obtain a rebuilt vehicle inspection and/or obtain a rebuilt certificate of title prior to the sale of the rebuilt vehicle.

(b) The Commission may in addition to any other sanction or penalty assessed, impose a fine as authorized by law.

CHAPTER 12. SALVAGE POOLS AND SALVAGE DISPOSAL SALES

SUBCHAPTER 1. LICENSING QUALIFICATIONS, PROCEDURES AND FEES

765:12-1-1. Purpose

The rules of this Chapter have been adopted for the purpose of complying with the provisions of 75 O.S. Section 250 et. seq. and 47 O.S. Section 582 (E). This chapter will provide a description of the qualifications for obtaining a used motor vehicle dealer's license for the purpose of conducting salvage disposal sales and/or sales by salvage pools.

765:12-1-2. Fees

The fees required for an application or renewal of a used motor vehicle dealer's license for the purpose of conducting salvage disposal sales and/or sales by salvage pools shall be the same as those paid by used motor vehicle dealer applicants. An application fee will be returned to the applicant in the event the license is denied.

765:12-1-3. Applicant

Any person or business which regularly conducts a salvage disposal sale or acts as a salvage pool shall be licensed as a used motor vehicle dealer.

765:12-1-4. Bond and insurance

(a) **Dealer bond.** A salvage pool or salvage disposal sale shall be required to obtain and maintain the used motor vehicle dealer surety bond required for a used motor vehicle auction.

(b) **Liability insurance.** A salvage pool or salvage disposal sale shall be required to obtain and maintain liability insurance as required for a used motor vehicle dealer.

SUBCHAPTER 5. PERMITTED BUYERS

765:12-5-1. Qualifications

Sales at a salvage pool or salvage disposal sale shall be open only to any person who is a resident of the state of Oklahoma, a company representative of a business that is based in this state, or any person who may legally purchase salvage vehicles in his or her home state or country.

765:12-5-2. Verification

It shall be the duty of the owner, manager or person in charge of any salvage pool or salvage disposal sale to prohibit bidding by, and refuse to sell to, any person who is not qualified to purchase salvage vehicles as provided by Oklahoma statute or the Rules of this Commission.

SUBCHAPTER 6. TITLING

765:12-6-1. Titles

Prior to the sale of any motor vehicle at salvage pool or salvage disposal sales, a salvage title or junked title shall be issued for any salvage or junked vehicle as defined in 47 O. S. Section 1105. The salvage pool or salvage disposal sale shall be responsible for determining whether a vehicle to be sold at its sale has the appropriate type of title, when the owner authorizes the salvage pool or salvage disposal sale to obtain the appropriate type of title, or the vehicle is owned by the salvage pool or salvage disposal sale. Provided further, that no penalty may be assessed unless it is proven the salvage pool or salvage disposal sale failed to act in good faith.

SUBCHAPTER 7. REPORTS

765:12-7-1. Reports of salvage vehicle sales transactions

(a) A salvage pool or salvage disposal sale shall provide a register or report to the Commission of all salvage vehicle sales transactions. Said register or report shall be provided to the Commission without cost or charge. The register or report shall be provided by electronic transmission in a form compatible to the Commission so that said report may be accessed and reviewed by Commission personnel without substantial modification or reformatting.

(b) The register or report shall contain the year, make, model, style and vehicle identification number of each vehicle sold in a salvage vehicle sales transaction and the name and addresses of the seller and the purchaser. The register or report shall be in alphabetical order by purchaser. If more than one person purchases vehicles using the name of a company, business or other entity, the register or report shall list the name of the company, business or other entity followed by the name of the individual.

(c) Submission of the information required in said report or register shall not relieve the salvage pools or salvage disposal sales from any of the record keeping requirements of a used motor vehicle dealer or producing said records for Commission personnel as requested.

(d) The report shall be submitted to the Commission within seven (7) working days of the sale of the salvage vehicle sales transaction.

765:12-7-2. Pre-sale information

When offering a vehicle for sale for an insurance company, a salvage pool or salvage disposal sale must provide on its web site the full seventeen-digit vehicle identification number (VIN) of the vehicle and the name of the insurance company selling the vehicle.

765:12-7-3. Post sale information

After completion of bidding on a salvage vehicle offered for sale by an insurance company, the salvage pool or salvage disposal sale shall show the identifying or registration number of the winning bidder on any sale that takes place on the Internet or by on-line bidding.

SUBCHAPTER 9. PAYMENTS TO THE COMMISSION

765:12-9-1. Fees Report

Salvage pools or salvage disposal sales shall remit to the Commission a fee as provided by statute for each salvage vehicle sales transaction. Said fee shall be paid by the tenth of each month following the month in which the salvage vehicle sales transaction occurred. A summary report of all salvage vehicle sales transactions for the previous month shall accompany said remittance.

CHAPTER 13. TEMPORARY LICENSE PLATES

SUBCHAPTER 1. APPLICATION

765:13-1-1. Application

The rules enacted herein regarding temporary license plates shall apply only to dealers regulated by the Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission and shall not apply to dealers in non-motorized vehicles or trailers regulated by another agency.

SUBCHAPTER 3. DESIGN

765:13-3-1. Purpose

The rules of this Chapter have been adopted for the purpose of complying with the provisions of 75 O.S. Section 250 et. seq. and 47 O. S, Section 1137.1, as amended. This chapter will provide a description of the design and use of the temporary license plate for used motor vehicle sales.

765:13-3-2. Form and substance of the temporary license plate

- (a) The temporary license plate for all used motor vehicles except motorcycles shall be 11 ½ inches in length and 6 inches in height.
- (b) A temporary license plate for a motorcycle shall be 7 inches in length and 4 inches in height.
- (c) The temporary license plate shall be of a weatherproof non-glare plastic-impregnated white substance with ink absorbing characteristics capable of withstanding continual exposure to the natural elements such as water, mud and wind without loss of form or content for a period in excess of thirty (30) days.
- (d) Fastener holes for placing the temporary license plate to the vehicle shall be at an appropriate location for use of the factory installed mounting holes on the vehicle on which the temporary license plate shall be placed.

765:13-3-3. Content of the temporary license plate

- (a) There shall be two rectangular shaped blocks for the month, two rectangular shaped blocks for the day of the month, and two rectangular shaped blocks for the year indicating the date of the sale of the vehicle. The blocks shall be of a size of at least 1 ¾ inches in height and 1 ½ inches in width and pale or light toned green in color. The rectangular blocks for the motorcycle temporary license plates shall be 1 inch in height and ¾ inch in width. Preprinted below the two blocks on the left shall be the words "SOLD MONTH"; below the middle two blocks shall be the words "SOLD DAY"; and below the two blocks on the right shall be "SOLD YEAR".
- (b) Any writing on the temporary license plate not preprinted shall be applied by an instrument using indelible black ink. The ink marker for writing in the date blocks should be capable of making a mark of at least ¼ inch in width.
- (c) The temporary license plate shall have the following preprinted language: The selling dealer's company name, the word "Oklahoma" or "Okla", and the words "30 Day Temporary Tag", and a line with the words "Vehicle Year, Make, Model, below the line.
- (d) In addition to the preprinted information recited in paragraphs (a) and (c), the temporary license plate shall have a preprinted sequential number of no fewer than six digits approximately one inch in height. The height of the preprinted unique sequential number for a motorcycle temporary license plate shall be no less than ½ inch. The dealer shall record the temporary license plate's unique sequential number on the front

of the vehicle's bill of sale in a conspicuous location. A dealer shall not issue more than one unique sequentially numbered temporary license plate for the same vehicle sale.

(e) The name of the purchaser shall be written on the temporary license plate or in lieu of the name of the purchaser the words "see bill of sale" may be used. If the term "see bill of sale" is used, the purchaser shall retain the bill of sale in the vehicle at all times until the vehicle has been registered in the purchaser's name.

765:13-3-4. Location of the temporary license plate

Upon the sale of a used motor vehicle, the temporary license plate shall be placed on the vehicle at the location provided for the permanent license plate.

765:13-3-5. Records

The dealer shall maintain a record of temporary license plates issued. The record shall include the unique sequential number, the date issued, the name of the purchaser and the year, make, model and vehicle identification number of the vehicle for which the temporary license plate was issued. The record shall be available to Commission and law enforcement personnel upon request. Failure to maintain a record of temporary license plates issued and/or failure to account for temporary license plates shall subject the dealer to a fine not to exceed One Thousand Dollars (\$1,000.00) per violation and/or suspension or revocation of the dealer's license.

CHAPTER 15. USED MOTOR VEHICLE SALESPERSONS

**SUBCHAPTER 1. CERTIFICATE OF REGISTRATION QUALIFICATIONS,
PROCEDURES AND FEES**

765:15-1-1. Purpose

The rules of this Chapter have been adopted for the purpose of complying with the provisions of 75 O.S. Section 250 et seq 47 O.S. Section 582 (E), and 47 O.S. 583.1 A (2019 Supp). This Chapter will provide a description of the qualifications for obtaining a used motor vehicle salesperson's certificate of registration, authority of a salesperson, and the grounds and procedure for assessment of a fine or denial, suspension, or revocation of a used motor vehicle salesperson's certificate of registration.

765:15-1-2. Fees

The fees required for an application or renewal of used motor vehicle salesperson's certificate of registration are recited in 47 O.S. Section 583.1. A fee will be returned to the applicant in the event the certificate of registration is denied.

765:15-1-3. Applicant

(a) **Activities requiring certificate of registration.** A used motor vehicle salesperson is anyone who:

- (1) receives gain or compensation of any kind, directly or indirectly, regularly or occasionally for, or negotiates for, sale or trade of a specified used motor vehicle for a specified used motor vehicle dealer, or
- (2) operates as a broker only for a specified used motor vehicle dealer, or
- (3) receives compensation for referral of a prospective buyer to his employer or acts on behalf of the dealer in the purchase or sale of a used motor vehicle, or
- (4) is authorized to transfer and/or sign titles for the dealership, or
- (5) displays or offers used motor vehicles for sale for the dealership at a licensed location,
- (6) acts in the capacity of sales manager or finance and insurance manager or acts in any capacity as part of the sales process,
- (7) does not otherwise come under the definition of a wholesale used motor vehicle dealer and/or is not required to obtain a license as a wholesale used motor vehicle dealer, but is authorized by a person licensed by the Oklahoma Motor Vehicle Commission to sell new or unused motor vehicles,(franchise dealer) to purchase and sell used motor vehicles without direct supervision by the "franchise dealer," whether at auction or otherwise, to-wit: a "wholesaler" or individual who pays the "franchise dealer" a draft or check fee for vehicles purchased using the "franchise dealer's" used motor vehicle dealer's license; or who is required to compensate the "franchise dealer" for any loss arising from the sale of a vehicle; or who in any manner operates independently of the ordinary business of the "franchise dealer."

(b) **Information required.** An applicant shall provide sufficient information on the application or otherwise to enable the Commission to determine whether the applicant should be granted a certificate of registration. The information shall include:

- (1) information relating to the applicant's business integrity, the applicant's experience in the same or similar businesses, and his business history,
- (2) whether the applicant will devote full or part time to the business, and
- (3) any other pertinent information consistent with the safeguarding of the public interest and welfare.

(c) **Application required.** Applications for certificate of registration shall be verified by the oath or affirmation of the applicant and shall be on forms prescribed by the Commission and furnished to such applicants. The applications shall contain such

information as the Commission deems necessary to enable it to fully determine the qualifications and eligibility of the applicant for the certificate of registration.

(d) **Activity not requiring a certificate of registration.** A dealer, by written instrument, may authorize another licensed individual or dealer to purchase vehicles for the dealer. Said authorization shall not authorize the individual to conduct any other business for the dealer or represent the dealer in any other manner.

(e) **Activity not authorized.** A salesperson's certificate of registration shall not authorize the person to refer a prospective customer or consumer to another used motor vehicle dealer and obtain compensation therefor without an employment relationship with the other used motor vehicle dealer.

765:15-1-5. Issuance of certificate of registration

(a) **Prerequisite.** A certificate of registration for a used motor vehicle salesperson will not be issued, renewed, or endorsed until the employing dealer is licensed and has certified that the applicant for said certificate is in his employ. Dealers' payrolls and other evidence will be checked to ascertain that all salespersons for such dealers are registered. The dealer shall be required to pay for certificates of registration for its salespersons but may do so on a reimbursable basis, or any other plan satisfactory to its dealership organization. All salespersons certificates of registration will be sent to the dealer for distribution to the respective applicants, and the dealer will determine that all its personnel required to obtain certificates of registration have done so.

(b) **Temporary certificate of registration.**

(1) A temporary salesperson's certificate of registration, salesperson's renewal, or reissue of a salesperson's certificate shall be deemed to have been issued when the appropriate application and fee have been properly addressed and mailed to the Commission, except as follows:

(A) in the case of incomplete application,

(B) in the case of proper fee not being submitted,

(C) in the case of applicant's having been previously denied a license or certificate of registration with this Commission, or

(D) in the case of applicant's having been convicted of a crime that substantially relates to the occupation of a used motor vehicle dealer and poses a reasonable threat to public safety, committed any unlawful act which resulted in revocation of similar license in another state, or committed a fraudulent act in selling or purchasing motor vehicles in such a manner as to cause injury to the public.

(2) All temporary salesperson certificate of registration applications shall be submitted for approval to issue a permanent certificate of registration at the first monthly Commission meeting following receipt of a completed application.

(c) **Permanent certificate of registration.** A permanent salesperson's certificate shall be issued after approval of the applicant by the Commission. A salesperson's certificate

shall consist of an identification card bearing the name, name of employer, address, signature of the Executive Director, and the dealer's license number. The card shall be carried upon his person at all times when acting as a used motor vehicle salesperson.

765: 15-1-6. Renewal of certificate of registration

All certificates shall expire on the 31st day of December of each odd numbered year following the date of issue and shall be nontransferable.

765:15-1-7. Changes

(a) **Employer.** If the salesperson changes employer, the certificate holder shall immediately mail the certificate of registration to the Commission for its endorsement of the change of employer. The holder shall keep his certificate on his person while engaged in his business and shall display it upon request; however, there shall be no penalty for not having the certificate upon his person when he has submitted it to the Commission for its endorsement of a change of employer.

(b) **Notice.** The dealer will notify the Commission in writing when a salesperson's employment is terminated. The dealer may be liable for actions of the salesperson until proper notice is filed with the Commission.

(c) **Salesperson's card.** Each salesperson shall surrender his identification card to the Commission for endorsement of change of employer, before again engaging in the business as a salesperson for another used motor vehicle dealer or as a used motor vehicle dealer.

SUBCHAPTER 3. AUTHORITY OF SALESPERSONS

765:15-3-1. Authority

(a) **Salesperson only.** A used motor vehicle salesperson's certificate of registration shall permit the holder to engage in the activities of a used motor vehicle salesperson. A salesperson's certificate does not entitle the holder to perform as a dealer as defined in 47 O.S. Section 581 (4). A used motor vehicle salesperson's license does not entitle a person to separately own vehicles for sale or any interest in the vehicles or dealer business without first qualifying as a partner, corporate member, or part owner of the dealership and meeting the qualifications of a dealer as prescribed in 47 O.S. Sections 581-583.

(b) **One card only.** A salesperson may not hold more than one used motor vehicle salesperson's certificate at any one time or be employed by or sell for any dealer other than the dealer and at the address designated on the salesperson's certificate, with the exception that the licensed dealer has more than one location. Then the licensed dealer and salesperson may sell on each location properly licensed as additional locations.

(c) **Restrictions.** A salesperson's certificate shall not be issued for an individual who is not actively engaged in the activities of a used motor vehicle salesperson, nor shall it be issued for the purpose of allowing an individual to operate a vehicle with a used motor vehicle dealer's plate for any use not benefitting the dealer's business.

SUBCHAPTER 5. ASSESSMENT OF FINE OR DENIAL, SUSPENSION, OR REVOCAION OF CERTIFICATE OF REGISTRATION

765:15-5-1. Grounds

- (a) The Commission may deny an application for, certificate of registration, or suspend or revoke a certificate of registration after it has been granted for violation of any statute or regulation relating to the purchase, sale, display for sale, or transfer of a used motor vehicle; or if it is determined that the certificate of registration is being or has been issued for the benefit of a person who would not or could not qualify for the certificate in his or her own right and;
- (b) On satisfactory proof of unfitness of the applicant or the holder of the certificate of registration under the standards established under Title 47 Oklahoma Statutes § 581 et. seq. or the Rules of the Commission,
- (c) For fraudulent or material misstatements made by the applicant in any application for license or certificate of registration,
- (d) For any willful failure to comply with, or continued or flagrant violation of, any provision of Title 47 Oklahoma Statutes § 581 et. seq. or with any rule promulgated by the Commission,
- (e) A change of condition after a certificate is issued resulting in failure to maintain the qualifications for license,
- (f) Conviction of a crime involving moral turpitude or any felony which in the opinion of the Commission may have a direct bearing on the ability of the applicant or holder to act as a used motor vehicle salesperson without endangering those with whom the applicant or holder may deal in the conducting of the duties of a used motor vehicle salesperson.
- (g) Committing any act within the preceding ten (10) years, which resulted in the revocation of a similar license in another state,
- (h) Engaging in business under a past or present license or certificate of registration in such a manner as to cause injury to the public or those with whom the holder is dealing,
- (i) For violation of any statute or regulation relating to the purchase, sale, display for sale, or transfer of a used motor vehicle; or if it is determined that the certificate is being or has been issued for the benefit of a person who would not or could not qualify for the certificate in his or her own right.
- (j) The Commission may in addition to any other sanction or penalty assessed, impose a fine as authorized by law

765:15-5-2. Prohibitions

A person whose certificate of registration has been revoked or denied or whose certificate was surrendered in lieu of revocation or under circumstances such that said certificate could have been revoked, shall not have a financial interest of any kind in a used motor vehicle business, nor shall that person participate in any way, including in an advisory position, in the operation of a used motor vehicle business.

CHAPTER 16. ADVERTISING

SUBCHAPTER 1. GENERAL PROVISIONS

765:16-1-1. Purpose

The purpose of this Chapter is to implement the intent of the legislature as declared in the Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission Law by regulating the advertising of the Commission licensees by requiring truthful and accurate advertising practices for the benefit of the citizens of this State. These rules apply to all licensees engaging in business under any of the industries regulated by this Commission, unless the rule is directed toward a specific industry or practice only engaged in by that specific industry licensee.

765:16-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Advertisement" means an oral, written, graphic, or pictorial statement made in the course of soliciting business, including, without limitation, a statement or representation made in a newspaper, magazine, or other publication, or contained in a notice, sign, poster, display, circular, pamphlet, or letter, or on radio or on television or on the Internet.

"Bait advertisement" means an alluring but insincere offer to sell a product but which has as its primary purpose of obtaining leads of persons interested in buying the advertised product in order to sell some other product at a higher price or on a basis more advantageous to the advertiser.

"Clear and conspicuous" means that the statement, representation, or disclosure is of such size, color, contrast, and audibility and is presented so as to be readily noticed and understood. All language and terms, including abbreviations, shall be used in accordance with their common or ordinary usage and meaning. This standard shall be met by the following:

- (1) In print advertisement:

- (A) The type size of 5 ½ caps or larger shall be used in all disclosures.
 - (B) Disclosures shall be located adjacent to the price or in an area clearly marked with reference symbols. All reference symbol marks, such as asterisks, must be type size 5 ½ caps or larger.
- (2) In an audio advertisement:
- (A) The disclosure shall be clear and understandable in pace and volume; and,
 - (B) The disclosure shall be placed at the end of the advertisement.
- (3) In a television advertisement:
- (A) The disclosure shall be in visual form so that the average viewer may easily read and understand it.
 - (B) The disclosure size shall be at least twenty (20) scan lines and each disclosure shall appear continuously on the screen for at least ten (10) seconds.

"Demonstrator" means those vehicles that are of the current or previous model year which have not been sold, titled, or registered to any type of purchaser and are used by dealership personnel for demonstration purposes. Service vehicles, courtesy cars, daily rentals, loners, driver education and factory executive cars shall not be described as "demonstrator" vehicles. Demonstrators may be advertised for sale, as such, only by a franchised dealer of the same line-make of vehicle.

"Disclosure" means required information that is clear, conspicuous, and accurate.

"Factory Executive/Official Vehicle" means a new motor vehicle with an original Manufacturer's Statement of Origin or used motor vehicle with a Certificate of Title that has been used exclusively by an executive or official of the dealer's franchising manufacturer, distributor, or their subsidiaries. The advertiser shall state clearly whether the vehicle is a new or used vehicle.

"Licensee" means any person required to obtain a license from the Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission.

"Program vehicle" means a vehicle that is purchased at a manufacturer's closed auction or sold by or directly from the manufacturer or distributor which is a current or previous year model that has been previously tagged and/or titled, and returned to the manufacturer for disposal.

"Rebate or cash back" means a sum of money refunded to a purchaser or for the benefit of the purchaser. The purchaser may choose to reduce the amount of the purchase price by the sum of money or the purchaser may opt for the money to be returned to the purchaser for his or her benefit.

SUBCHAPTER 3. SPECIFIC ADVERTISING REGULATIONS

765:16-3-1. General prohibitions

A licensee shall not use false or misleading advertising.

765:16-3-2. Availability of vehicles

(a) **Specific advertising.** A licensee may advertise a specific vehicle for sale if:

(1) the specific vehicle is in the possession of the licensee at the time the advertisement is placed, or the vehicle may be obtained from the manufacturer or distributor or some other source, and this information is disclosed in the advertisement; and,

(2) the advertisement sets forth the number of vehicles available if the dealer does not have a supply of the advertised vehicles available to satisfy a reasonable expectable public demand. If an advertisement pertains to only one specific vehicle, then the advertisement must disclose that vehicle's stock number.

(b) **General advertising.** This section does not prohibit general advertising of vehicles by a manufacturer, dealer advertising association, or distributor, and the inclusion of the names and addresses of the dealers selling such vehicles in the particular area.

765:16-3-3. Accuracy

All advertised statements shall be accurate, clear and conspicuous.

765:16-3-4. Bait advertisement

Any advertising of a "Bait" or "Bait and Switch" nature is prohibited.

765:16-3-5. Layout

The layout, headlines, illustrations, or type size of a printed advertisement and the broadcast words or pictures of radio/TV advertisements shall not convey or permit an erroneous or misleading impression as to which vehicle or vehicles are offered at featured prices. No advertised offer, expression, or display of price, terms, down payment, trade-in allowance, cash difference, savings, or other such material terms shall be misleading and any necessary qualifications shall be clearly, conspicuously, and accurately set forth to prevent any misunderstandings.

765:16-3-6. Dealer price advertising

(a) **Selling price.** The most conspicuous price of a used motor vehicle, when advertised by a dealer, must be the full and total selling price for which the dealer will sell the vehicle. An advertisement may not list only a down payment price in lieu of the full price of the vehicle, manufactured home or installation of manufactured home. The only charges that may be excluded from the advertised price are:

- (1) state and local taxes,
- (2) license,
- (3) title,
- (4) processing fee, and

- (5) delivery and installation cost on the sale of a manufactured home.
- (b) **Qualification.** A qualification may not be used when advertising the cash price of a vehicle such as "with trade", "with acceptable credit", "with dealer-arranged financing", or "with down payment".
- (c) **Rebate or savings claim.** If a price advertisement discloses a rebate, cash back, discount savings claim, or other incentive, the full cash price of the vehicle must be disclosed as well as the price of the vehicle after deducting the incentive.

765:16-3-7. Identification

- (a) when the price, payment or savings claim of a vehicle is advertised, the following must be disclosed:
- (1) model year;
 - (2) make;
 - (3) trade, brand or style name; and
 - (4) if other than a new vehicle, the vehicle must be identified as a used, demonstrator, factory executive/official vehicle, or a program vehicle.
- (b) An illustration of a motor vehicle used in an advertisement must be that of the motor vehicle advertised. If an illustration of the advertised vehicle is not available then the dealer must clearly and conspicuously disclose the difference between the illustration and the vehicle being advertised.

765:16-3-8. Auction

Terms such as "auction" or "auction special" and other terms of similar import shall be used only in connection with a vehicle offered or sold at bona fide auction.

765:16-3-9. Lease advertisements

Vehicle lease advertisements shall clearly and conspicuously disclose that the advertisement is for the lease of a vehicle. Statements such as "alternative financial plan", "drive away for \$_____ per month", or other terms or phrases that do not use the term "lease", do not constitute adequate disclosure of a lease. Lease terms that are not available to the general public shall not be included in advertisements directed at the general public. All limitations and qualifications applicable to the lease terms advertised shall be clearly and conspicuously disclosed as per Federal Trade Commission Regulation "M".

765:16-3-10. Payment disclosure

All payment advertising shall be in compliance with Federal Trade Commission Regulations "M"(Lease Regulation) and "Z" (Truth in Lending act).

765:16-3-11. Prohibited statements

The following statements are presumptively false and misleading, and the burden of proving otherwise shall be on the advertiser/licensee:

(1) Statements such as 'write your own deal', 'name your own price', 'name your own monthly payment', or statements with similar meaning.

(2) Statements such as 'everybody financed', 'no credit rejected', 'guaranteed approval', you are 'pre-approved', and other similar statements representing or implying that no prospective credit purchaser will be rejected because of his inability to qualify for credit.

(3) Statements representing that no other dealer grants allowances for trade-ins, however stated, unless such is the case.

(4) Statements representing that because of its large sales volume a dealer is able to purchase vehicles for less than another dealer, unless such is the case.

(5) No merchandise or enticement may be described as 'free' if the vehicle can be purchased for a lesser price without the merchandise or enticement, or if the price of the vehicle has been increased to cover the cost or any part of the cost of the merchandise or enticement. The advertisement shall clearly and conspicuously disclose the conditions under which the 'free' offer may be obtained.

(6) The term "dealer's cost", or other reference to the cost of the vehicle to the dealer shall not be used.

(7) No trade-in amount or range of amounts shall be advertised.

(8) A used vehicle shall not be advertised in any manner that creates the impression it is new.

(9) The use of the terms 'liquidation', 'going out of business', or statements with similar meaning, are prohibited unless a dealer is actually going out of business and ceasing its operations at the licensed location. If a dealer is going out of business, these terms may only be advertised during the period between the execution of a buy-sell agreement with the proposed buyer and the actual effective date of the sale.

(10) An offer of a buy down rate is prohibited without the appropriate disclaimer: 'This is a buy down rate. The amount of the buy down may affect the price of the vehicle.'

(11) Terminology such as 'we pay off your trade no matter how much you owe' or statements with similar meaning shall not be used, unless accompanied by a disclaimer indicating that payoff is dependent upon approved credit.

765:16-3-12. Dealership name

All advertisements must conspicuously display the licensed name of the used motor vehicle dealership.

SUBCHAPTER 5. FINDING OF VIOLATION

765:16-5-1. Violation

The violation of an advertising rule shall be considered by the Commission as a violation of the Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission Law, created by Title 47 of Oklahoma State Statute. In addition to the specific advertising regulations, referenced in Subchapter 3, any other advertising or advertising practices found by the Commission to be false or misleading shall be deemed violations of the law, and shall also be considered violations of the general prohibition.

765:16-5-2. Penalty

No licensee shall be held to be in violation of the foregoing rules of this Chapter except upon a finding thereof made by the Commission as provided in the Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission Law.

CHAPTER 20. WHOLESALE USED MOTOR VEHICLE DEALERS

SUBCHAPTER 1. LICENSING QUALIFICATIONS, PROCEDURES AND FEES

765:20-1-1. Purpose

The rules of this Chapter have been adopted for the purpose of complying with the provisions of the Administrative Procedures Act, 75 O.S. Section 250 et seq. and 47 O.S. Section 582 (E). This Chapter will provide a description of the qualifications for obtaining a wholesale used motor vehicle dealer's license, operation under said license, and grounds for assessment of fines, denial, suspension, or revocation of a wholesale used motor vehicle dealer's license.

765:20-1-2. Additional definitions

The following words or terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Approved location" means the physical property location of the wholesale used motor vehicle dealer's office which meets local zoning requirements and other requirements for licensing as a wholesale used motor vehicle dealer's place of business.

"Office" means a permanent room or building separate and apart from any other business, devoted exclusively to the operation of the wholesale used motor vehicle dealer's business.

"Principal business" means the business of wholesaling used motor vehicles with the intent to make a profit, which shall be a primary source of income or support for

the wholesale used motor vehicle dealer and shall not include a business which has the primary purpose to avoid payment of excise tax, license fees or other state fees for vehicles used primarily for personal use.

"Records" means bills of purchase or sale, odometer statements, invoices of repair or expense, certificates of title, and accounting records for the operation of the business, including, but not limited to, checking accounts, checks, drafts, and/or financing agreements for inventory.

"Sign" means a means of identifying the location of the wholesale used motor vehicle dealer's business.

"Telephone" means any telephonic device for communication which can be business listed in a telephone directory for the telephone service area in which the wholesale used motor vehicle dealer's business is located and may include cell "phones".

"Wholesale used motor vehicle dealer" means any person who, for a commission or with intent to make a profit or gain of money or other thing of value, sells, brokers, exchanges, rents with option to purchase, or offers or attempts to negotiate a sale or exchange of interest in used motor vehicles exclusively to used motor vehicle dealers, or who is engaged in the business of selling used motor vehicles exclusively to used motor vehicle dealers, whether or not such motor vehicles are owned by such person, but shall not include any person who is not engaged in such activity as a principal business.

"Zoning or other municipal requirements" means authorization in writing from the local governmental body which has authority to regulate zoning, to conduct the business of wholesale auto sales at the location stated as the wholesale used motor vehicle dealer's place of business on his application for license.

765:20-1-3. Place of business

An applicant must have a place of business, which shall be at an approved location, with an office, sign and telephone, and which meets zoning or other municipal requirements.

765:20-1-4. Applicant

(a) **Duty to license.** Any person who conducts a wholesale used motor vehicle business, who is not a bona fide employee of a used motor vehicle dealer or person licensed by the Oklahoma Motor Vehicle Commission to sell new or unused motor vehicles, and whose association with a used motor vehicle dealer is primarily for purposes of floor planning, financing or drafting on the used motor vehicle dealer shall be required to obtain a wholesale used motor vehicle dealer's license.

(b) **Principal business.** A wholesale used motor vehicle dealer must be engaged in the wholesaling of used motor vehicles as a principal business in order to obtain and maintain his license.

(c) **Resident.** A wholesale used motor vehicle dealer shall be a bona fide resident of the State of Oklahoma as evidenced by an Oklahoma Driver's License or Oklahoma Identification card issued by the Oklahoma Department of Public Safety.

(d) **Application required.** Applications for license shall be verified by oath or affirmation of the applicant and shall be on forms prescribed by the Commission and furnished to such applicants. The applications shall contain information as the Commission deems necessary to enable it to fully determine the qualifications and eligibility of the applicant for license.

765:20-1-5. Bond and insurance

(a) **Bond.** Each applicant for a wholesale used motor vehicle dealer's license shall procure and file with the Commission a good and sufficient bond in the amount required by law. The bond shall be approved as to form by the Attorney General. The bond form shall contain provisions relating to the bond amount, parties responsible for payment of bond claims, parties who may make claims on bonds and priorities of claimants, if applicable.

(b) **Insurance.** A wholesale used motor vehicle dealer shall maintain a minimum of Twenty-Five Thousand Dollars (\$25,000) single limit liability insurance on all vehicles in accordance with the financial responsibility laws of the State of Oklahoma. Should the insurance be cancelled or expire or otherwise lapse for any reason, the wholesale dealer's license shall be revoked as of the date of cancellation, expiration, or lapse unless new insurance is furnished prior to such date.

765:20-1-6. Issuance of license

(a) **Name and number.** A wholesale used motor vehicle dealer's license will be issued in the legal name of the individual as stated on the application for license. The license number shall be prefixed with a "W", followed by a five digit number and current year of license (W-10001-00).

(b) **One license.** A wholesale used motor vehicle dealer's license shall entitle only one person to act as a wholesale used motor vehicle dealer, regardless of the form of ownership of the business. Only one wallet license card shall be issued per license.

765:20-1-7. Changes

(a) **Ownership.** A change of ownership, including a change in a primary stockholder in the case of a corporation, or membership in the case of a limited liability company, shall require a new application and approval by the Commission before the business may begin operation.

(b) **Notification.** A change of ownership or any other change, such as change of name or address, which makes Commission records no longer accurate must be reported to the Commission immediately in writing on forms prescribed by the Commission for approval by the Commission. The dealership must meet all the requirements as

prescribed for licensing. The Commission may revoke or suspend a license after it has been granted for change of condition resulting in failure to maintain the qualifications for license. Failure to complete the requirements for licensing at the new location within thirty (30) days shall result in suspension of the dealer's license until the licensing requirements are met.

SUBCHAPTER 3. OPERATION

765:20-3-1. Forms and transactions

A wholesale used motor vehicle dealer shall not assign a certificate of title to anyone other than a licensed used motor vehicle dealer. A used motor vehicle dealer shall not act as the agent for a wholesale used motor vehicle dealer and an unlicensed person. In every transaction between a wholesale used motor vehicle dealer and a used motor vehicle dealer, there must be evidence of a bona fide sale between the wholesale dealer and the used motor vehicle dealer, such as a bill of sale, check, draft, or other proof of payment, odometer statement, and any other required documents. Any wholesale or used motor vehicle dealer violating the provisions of this paragraph shall be subject to suspension or revocation of license.

765:20-3-2. Records

Every wholesale used motor vehicle dealer shall keep for a period of three (3) years from date of sale (or as required by any other federal, state, or local regulation) a complete record of the purchase and sale of each motor vehicle bought or sold, which shall include the name and address of the seller or buyer, a complete description of the vehicle, a copy of the front and back of the completely assigned certificate of title for each vehicle sold, and a properly executed odometer statement. The records and titles of vehicles shall be available upon request to authorized agents or employees of the Commission or any law enforcement officer of the State of Oklahoma. If it is determined that a licensee has knowingly provided false or misleading information when requested to provide records, the licensee may be subject to any appropriate sanction authorized by rule or statute.

765:20-3-3. Advertising

A wholesale used motor vehicle dealer may not advertise in any medium which advertisement may have the effect of causing any person to believe the wholesale dealer's vehicle may be purchased by anyone other than a licensed used motor vehicle dealer.

SUBCHAPTER 5. ASSESSMENT OF FINE OR DENIAL, SUSPENSION, OR REVOCATION OF LICENSE

765:20-5-1. Grounds

(a) The Commission may deny an application for a license, or revoke or suspend a license after it has been granted for any of the reasons listed in 47 O.S. Sections 584 (1) through (7); for violation of any statute or regulation relating to the purchase, sale, display for sale, or transfer of a used motor vehicle; or if it is determined that the license is being or has been issued for the benefit of a person who would not or could not qualify for the license in his or her own right.

(b) The Commission may in addition to any other sanction or penalty assessed, impose a fine as authorized by law.

(c) The Commission shall revoke the license of a wholesale used motor vehicle dealer who sells a used motor vehicle to someone other than a licensed used motor vehicle dealer.

CHAPTER 25. AUTOMOTIVE DISMANTLER AND PARTS RECYCLERS

SUBCHAPTER 1. LICENSING QUALIFICATIONS, PROCEDURES AND FEES

765:25-1-3. Place of business

(a) **Location.** Place of business means that place owned, leased, or rented, and regularly occupied by a person, firm, or corporation, licensed under the provisions of 47 O.S. Section 591.1 et seq., for the principal purpose of engaging in the business of an automotive dismantler and parts recycler, where the products for sale are displayed and offered for sale, and where the books and records required for the conduct of the business are maintained and kept. Place of business shall include the entire real property described in the legal description contained in the automotive dismantler's application for license, or in the absence of a legal description, all of the real property used for the business.

(b) **Requirements.**

(1) **Original license.** All original licenses for locations not previously licensed as an automotive dismantling and parts recycling business issued on and after November 1, 1986, will be subject to the following requirements:

(A) The applicant shall provide evidence that he/she has available through ownership, rental, or lease agreement, a place of business as defined in 47 O.S. Section 591.1 et seq., and as further stated in (a) of this section;

(B) That said place of business satisfies all local zoning, code, and land use requirements;

(C) That said place of business is equipped with an office, that at a minimum is capable of satisfying the intent of 47 O.S. Section 591.1 et seq., for serving as a place where the books and records required for the conduct of the business are maintained and kept;

(D) That said place of business is equipped with an operational telephone capable of sending and receiving calls through existing telephonic circuits;

(E) That said place of business is identified with a sign not less than three feet (3') by four feet (4') in size, which displays, at a minimum the name of the business clearly legible from the nearest roadway;

(F) That the proposed business is deemed by the Commission to be appropriate for the surrounding land use, in those instances where there are no local land use regulations, and that the proposed business would not be considered to be a private or public nuisance in the proposed location;

(G) That the proposed place of business is or will be properly screened where vehicles are to be stored or dismantled prior to opening the business, by natural object, plantings, opaque fences of a height not less than six feet (6') nor more than eight feet (8'), or other appropriate sightproofing, so as to screen, where possible, vehicles and parts stored outside of buildings from view from immediately adjacent property.

(2) **Prior license.** Dismantlers licensed prior to November 1, 1986, shall not be required to meet the provisions of (F) and (G) of paragraph (1) of this subsection.

765:25-1-4. Applicant

Every person, firm or corporation desiring to apply for an original license for the purpose of engaging in the business of an automotive dismantler and parts recycler shall apply in writing on a form to be prescribed by the Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission, which form shall include:

(1) the name of the applicant,

(2) the business name of the proposed business,

(3) the street address of the applicant's principal place of business,

(4) the type of business organization of the applicant whether a sole proprietorship, partnership, or corporation,

(5) the applicant and/or business organization's financial standing,

(6) the legal description of the proposed place of business, together with written verification from the appropriate local authorities that the place of business meets the licensing and zoning requirements of the municipality or county where located,

(7) sales tax permit number issued by the Oklahoma Tax Commission,

(8) authorization by the applicant for the Commission or its agent to inspect the register of purchases and sales of motor vehicles or parts thereof required to be

- kept by the applicant and authorization to inspect all vehicles or parts thereof on the register of purchases and sales wherever located and all vehicles or parts thereof located on applicant's property,
- (9) storm water multi-sector general permit from the Department of Environmental Quality,
 - (10) National Motor Vehicle Title Information System number, and
 - (11) such additional information as may be required by the Commission.

765:25-1-5. Issuance of license

- (a) **Name.** An automotive dismantler's license will be issued in the legal name of the individual proprietorship, partnership, or corporation as identified on the application for dismantler license.
- (b) **Certificate.** An automotive dismantler's license shall consist of a signed certificate bearing the official seal of the Commission, the name and address of the business, and shall bear a unique dismantler license number. Said license shall be posted in a conspicuous place in the dismantler's place or places of business. The automotive dismantler's license number will be prefixed with "AD", followed by a five digit number, then the current license year (AD-00000-00).

765:25-1-6. Renewal of license

- (a) **Term.** Every license issued to an automotive dismantler and parts recycler hereunder shall be valid until December 31st of the odd numbered year following the issuance of the license and shall be renewed on or before January 1st of each even numbered year.
- (b) **Sales tax number.** All applications for renewal of license shall include the sales tax number issued to the applicant by the Oklahoma Tax Commission.
- (c) **DEQ permit.** All applications for renewal of license shall include the authorization or permit number from the Department of Environmental Quality.
- (d) **Renewal period.** Except as may otherwise be determined by the Commission licensees who do not renew on or before January 1st of each even numbered year shall be required to meet all of the standards and requirements applicable to an original application for license in effect at that time, regardless of whether the standards and requirements when the applicant first licensed were more or less restrictive than current standards.
- (e) **Date for submission.** A properly executed application for renewal of license, accompanied by the appropriate fee or fees, on forms supplied by the Commission, shall be submitted by December 1st of each odd numbered year. All licenses shall expire on December 31st of each odd numbered year.
- (f) **Requirements.** Effective on and after November 1, 1987, for a renewal application, the Commission in considering the continued eligibility of any licensee whose original

license was issued on or after November 1, 1986, shall base its determinations on the following factors:

(1) whether the licensee has maintained substantial compliance with 47 O.S. Section 591.1 et.seq.

(A) Substantial compliance with 47 O.S. Section 591.2, paragraph 1, shall be determined from data supplied by the applicant in a sworn statement on a form supplied by the Commission that reports the number of vehicles acquired since approval of the prior license that have been or are being:

- (i) dismantled for the purpose of selling the parts thereof,
- (ii) held for resale as is, and
- (iii) rebuilt for resale as roadworthy vehicles.

(B) From the information supplied for this item, the Commission shall determine whether the licensee's business is principally that of acquiring vehicles for the purpose of dismantling and selling the parts thereof.

(C) Substantial compliance with 47 O.S. Section 591.4, paragraph B shall be determined from any objections that may have been supplied by surrounding neighbors related to public or private nuisance complaints, and if requested by the Commission, evidence that the screening and/or fencing requirements are being met.

(2) whether the licensee has maintained substantial compliance with the regulations of this chapter.

765:25-1-7. Changes

(a) **Ownership.** A change of ownership, including a change in a primary stockholder in the case of a corporation, or membership in the case of a limited liability company, shall require a new application and approval by the Commission before the business may begin operation.

(b) **Notification.** A change of ownership or any other change, such as change of name or address, which would render no longer accurate any information contained in an application for a license filed with the Commission shall be amended before the occurrence of the change on a form as the Commission may prescribe by rule or regulation.

SUBCHAPTER 3. OPERATION

765:25-3-1. Form required

A register of vehicles shall be on a form prescribed by the Commission or maintained as part of the computer records of the business and shall contain the date of purchase and/or sale of the motor vehicles, the make, model, year, style, vehicle identification number, and name and address of the purchaser or seller of the motor vehicle.

765:25-3-2. Records

Every automotive dismantler and parts recycler shall keep a register of all purchases and sales of motor vehicles for three (3) years from the date of purchase or sale, showing the make, model, year, style, vehicle identification number, and name and address of the purchaser or seller of the motor vehicle. Such registers shall be made available for inspection by properly identified agents or employees of the Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission or identified law enforcement officers of the state, county and/or municipality where the business of the automotive dismantler and parts recycler is located, during reasonable business hours on business days. The inspection authority shall include the right to inspect any motor vehicle or parts thereof owned by or stored at the automotive dismantler and parts recycler's place of business. For purposes of inspection, place of business shall include the location of all vehicles used in the business of dismantling, disassembling, storing and selling of salvage motor vehicles or parts thereof, whether or not said vehicles are located on the property which legal description is contained on the automotive dismantler's application for license. If it is determined that a licensee has knowingly provided false or misleading information when requested to provide records, the licensee may be subject to any appropriate sanction authorized by rule or statute.

765:25-3-3. Authority

An automotive dismantler and parts recycler, duly licensed by this act, shall have the authority to transfer the certificate of title to a motor vehicle as a dealer. Salvage vehicles sold at salvage pools or salvage disposal sales as defined in 47 O.S. Sections 581 et seq. and 591.13 et seq., must be issued salvage titles prior to the sale of said vehicles. The salvage title shall remain as the valid title for the life of the vehicle and all subsequent transfers of title shall be on salvage title as prescribed by the Oklahoma Tax Commission.

765:25-3-4. Other licenses

(a) **Not required.** An automotive dismantler and parts recycler need not obtain a separate license as:

- (1) a scrap processor or junk dealer, where, as an end result of his business, he accumulates nonrecyclable hulks which must be disposed of, or
- (2) an automobile dealer, automobile accessory dealer, automobile garage or shop, or a storage yard or garage, as a prerequisite to engaging in the business of a dismantler or recycler.

(b) **Required.** If the salvage vehicle is rebuilt by the dismantler and is retitled and tagged as a roadworthy vehicle and is offered for sale as a used motor vehicle, the dismantler shall be operating as a used motor vehicle dealer and is subject to the licensing requirements and used motor vehicle dealer rules and regulations thereof.

SUBCHAPTER 5. ASSESSMENT OF FINE OR DENIAL, SUSPENSION, OR REVOCAION OF LICENSE

765:25-5-1. Grounds

The Commission is authorized to refuse a license to any person, firm, or corporation who does not meet the requirements of the original license; to assess fines, to cancel the license of a licensee for willful failure to continue to meet the requirements of 47 O.S. Section 591.1 et seq.; and is authorized to refuse, cancel, or revoke a license upon a felony conviction being rendered for violation of a state or federal law involving theft or for violation of the Oklahoma Certificate of Title Law or similar laws of other states, by an applicant, a licensee, a partner of an applicant or licensee, or director or manager in the case of a corporate applicant or licensee, or for any other grounds authorized by Oklahoma Statutes.

765:25-5-2. Procedure

If the Commission assesses a fine or cancels or revokes any license, the holder of such license shall be given notice and an opportunity to be heard in an individual proceeding in accordance with the procedures set out in 47 O.S. Section 591.1 et seq. or in these rules and regulations. Where there is a conflict between the applicable law and the Rules of this Commission, the applicable law shall prevail. Appeals from the decision of the Commission shall be governed by the Oklahoma Administrative Procedures Act.

CHAPTER 35. MANUFACTURED HOME DEALERS

SUBCHAPTER 1. GENERAL PROVISIONS

765:35-1-1. Purpose

The rules of this Chapter have been adopted for the purpose of complying with the provisions of the Administrative Procedures Act, 75 O.S. Section 250 et seq. and 47 O.S. Section 582 (E). This Chapter will provide a description of the qualifications for obtaining a manufactured home dealer's license, operation under the license and the grounds and procedures for denial, suspension, or revocation of a manufactured home dealer's license.

SUBCHAPTER 3. LICENSING QUALIFICATIONS, PROCEDURES AND FEES

765:35-3-1. Fees

The fees for an initial application, renewal, and additional location for a manufactured home dealer's license are recited in 47 O.S. Section 583. A fee will be returned to the applicant in the event the license applied for is denied.

765:35-3-2. Place of business

(a) An applicant must have an established place of business. An established place of business means a location which includes at a minimum:

- (1) a display area for manufactured home(s) that is easily accessible,
- (2) sufficient parking for the public,
- (3) an office for conducting business where the books, records and files are kept,
- (4) an office which is a building or is a separate room within a building on the premises that is considered a permanent structure with access to a restroom for the public. Such place of business does not include the use of vacant lots, tents, temporary stands, or other temporary office facilities.
- (5) separate and apart from any other manufactured home dealer's location,
- (6) place of business that meets all zoning, occupancy, and other requirements of the appropriate local government, and regularly occupied by a person, firm, or corporation engaged in the business of selling manufactured homes,
- (7) a sign, reflecting the name of the business, visible from the roadway nearest to the entrance of the place of business, and
- (8) a listed and usable telephone at the place of business.

765:35-3-3. Applicant information; applications

(a) **Information needed.** An applicant will provide sufficient information on the application or otherwise to enable the Commission to determine whether the applicant should be granted a license. The information will include:

- (1) Information relating to the applicant's financial standing,
- (2) Information relating to the applicant's business integrity, the applicant's experience in the same or similar businesses, and his business history,
- (3) Whether the applicant will be engaged in the pursuit, avocation, or business for which a license is applied,
- (4) Whether the applicant will devote full or part time to the business,
- (5) Whether the applicant is able to properly conduct the business for which the license is applied,
- (6) A valid franchise letter as proof of authorization to sell any new manufactured home, and
- (7) Any other pertinent information consistent with the safeguarding of the public interest and welfare.

(b) **Application.** Applications for license are to be verified by the oath or affirmation of the applicant and shall be on forms prescribed by the Commission and furnished to

such applicants. The applications will contain such information as the Commission deems necessary to enable it to fully determine the qualifications and eligibility of the applicant for the license.

765:35-3-4. Bond and insurance

(a) **Dealer bond.** Each applicant for a manufactured home dealer's license shall procure and file with the Commission a good and sufficient bond in the amount of Thirty Thousand Dollars (\$30,000). Said bond shall be filed on a form approved by the State Attorney General and provided by the Commission. The conditions of the bond shall be that the applicant not practice fraud, make any fraudulent representations, or violate any of the provisions of the Commission's enabling act while conducting the business for which he is licensed. The bonds as required by this section shall be maintained throughout the period of licensure. Should the bond be cancelled for any reason, the license shall be revoked as of the date of cancellation unless a new bond is furnished prior to such date.

(b) **Liability insurance.** Each applicant for a manufactured home dealer's license shall be required to furnish and in the event a license is issued, keep in force, a minimum of One Hundred Thousand Dollars (\$100,000) single limit garage liability and completed operations insurance coverage on all manufactured homes offered for sale or transported utilizing the streets and roadways of Oklahoma in accordance with the financial responsibility laws of the State of Oklahoma. The insurance as required by this section shall be maintained throughout the period of licensure. Should the insurance be cancelled or expire for any reason, the license shall be revoked as of the date of cancellation or expiration unless new insurance is furnished prior to such date.

765:35-3-5. Issuance of license

(a) **Name.** A manufactured home dealer's license will be issued in the legal name of the individual proprietorship, partnership, or corporation as identified on the application for dealer license.

(b) **Certificate.** A manufactured home dealer's license shall consist of a signed certificate bearing the official seal of the Commission and shall specify the name and location of the place of business and assigned dealer number, which shall be posted in a conspicuous place in the dealer's place or places of business. The manufactured home dealer's license number will be prefixed with MH, followed by a five digit number and then the current year of license (MH-00000-00).

(c) **Titles.** The valid manufactured home dealer's license permits the dealer to transfer, assign and reassign titles and purchase and sell manufactured homes without paying excise tax.

(d) **Beginning business.** No applicant for a manufactured home dealer's license shall conduct business until such time as the Commission has issued him a license.

765:35-3-6. Renewal of license

All bonds and licenses issued under the provisions of the Commission's enabling legislation shall expire on the 31st day of December of each odd numbered year, following the date of issue and shall be nontransferable. All applications for renewal should be submitted by the 1st day of November of each odd numbered year, and licenses shall be issued by January 10th of each even numbered year. If application has not been made for renewal of license, such license shall expire on December 31st of the odd numbered year, and it shall be illegal for any person to represent himself and act as a dealer thereafter.

765:35-3-7. Changes

(a) **Ownership.** A change of ownership, including a change in a primary stockholder in the case of a corporation, or membership in the case of a limited liability company, shall require a new application and approval by the Commission before the business may begin operation.

(b) **Notification.** A change of ownership or any other change, such as change of name or address, which makes Commission records no longer accurate must be reported to the Commission immediately in writing on forms prescribed by the Commission for approval by the Commission. The dealership must meet all the requirements as prescribed for licensing. The Commission may revoke or suspend a license after it has been granted for change of condition resulting in failure to maintain the qualifications for license.

SUBCHAPTER 5. OPERATION

765:35-5-1. Forms required

(a) **Forms.** The following forms shall be required in the sale of a manufactured home by a manufactured home dealer:

- (1) Sales contract, bill of sale or buyer's order,
- (2) Written notice of thirty (30) day title-transfer requirement and receipt for delivery of certificate of title to buyer,
- (3) Condition of sale:
 - (A) warranty, or
 - (B) service contract, or
 - (C) warranty disclaimer,
- (4) Finance or security agreement, if applicable, and
- (5) Consignment agreement, if applicable.
- (6) A completed copy of the I-Form from the installer who installed the manufactured home

(b) **Approval.** All forms must be approved by the Commission. The content and forms to be used shall be filed ten (10) days prior to use, and if not rejected in ten (10) days

from the filing date, the forms will be conditionally approved.

- (c) **Standards.** The forms required shall contain substantially the following information:
- (1) Sales contract, bill of sale, or buyer's order. The sales contract, bill of sale, or buyer's order shall state the names of the parties, the make, model, tag number and serial number of the manufactured home subject to the transaction, if available, a statement of the selling amount, a description of the manufactured home traded in, if any, and the consideration given therefore, and
 - (2) Title and tax transfer notice requirement. It shall be the duty of every person licensed to sell manufactured homes to advise each purchaser in writing about his title requirements and payment of any taxes due.
 - (3) If a prospective purchaser makes a deposit of anything of value to obtain the option to complete a purchase (of a manufactured home) in the future, the dealer shall acknowledge the deposit in writing, the time period for which the option to purchase is valid, whether the deposit is refundable in whole or in part, and the conditions, if any under which the deposit may be refunded. The deposit shall be deemed refundable unless it is clearly stated in writing that the deposit or a portion thereof is non-refundable.

765:35-5-2. Consignment sales

(a) **Consignment.** A manufactured home dealer, whether acting as principal or agent, or by power of attorney, shall be responsible for complying with 765:35-3-1 et seq. with regard to all manufactured homes purchased, sold, or transferred by the dealer whether or not any other party has any interest in the manufactured home being purchased, sold, or transferred. The certificate of title of a manufactured home owned by an individual consigned to a manufactured home dealer for sale by that dealer need not be assigned by the individual to the dealer provided a consignment form approved by this Commission is used in the consignment transaction, and all other state and federal forms required are properly executed at the time of sale by the dealer as agent for the consignor. The consignee shall not be responsible for the truthfulness of the information provided to him by the consignor unless consignee willfully, knowingly, or negligently with reckless disregard of the true facts, misrepresents or misstates the information on the forms and/or certificate of title.

(b) **Title.**

(1) The certificate of title of a manufactured home consigned to a dealer to be sold from the consignee's (agent-dealer's) location licensed by this Commission may be assigned directly from the consigning owner to the purchaser. Transfer of certificates of title in every instance must comply with the provisions of 47 O.S. Sections 1105 and 1107. However, it shall be the responsibility of the consignee (agent-dealer) to ensure that all forms and state and federal laws and regulations are complied with in the transaction.

(2) The certificate of title of a manufactured home must be in the name of the dealer (whether by record of title, assignment, or re-assignment) who is offering the manufactured home to a prospective buyer if that dealer has the sole discretion in determining the selling price and in determining the amount of profit he will receive from the sale, whether or not any other party has any interest in the manufactured home.

765:35-5-3. Records

(a) Each dealer shall keep for a period of five (5) years from the date of sale (or as required by any other federal, state, or local regulations), a record of the purchase and sale of each manufactured home he buys or sells, which shall show the name of the seller or buyer as the case may be, and a complete description of the manufactured home purchased or sold, and such other information as the Commission may prescribe. The records and title of manufactured homes shall be available upon request to authorized agents or employees of the Commission or any law enforcement officer of the State of Oklahoma. If it is determined that a licensee has knowingly provided false or misleading information when requested to provide records, the licensee may be subject to any appropriate sanction authorized by rule or statute.

(b) In addition to copies of all forms used in a sales transaction, the dealers shall keep a copy of the completely assigned manufacturer's statement of origin or equivalent document, certificate of title, as the case may be.

(c) If a dealer contracts for the installation of a manufactured home as a part of the sales contract, the dealer shall include in its records a copy of the written contract or copy of paid invoice with the installer if the installer is a third party, which copy shall include the license number of the installer.

SUBCHAPTER 7. ASSESSMENT OF FINE OR DENIAL, SUSPENSION, OR REVOCATION OF LICENSE

765:35-7-1. Grounds

(a) The Commission may deny an application for a license, or revoke or suspend a license after it has been granted for any of the reasons listed in 47 O.S. Sections 584 (A)(1) through (6), (8), or (B) or for violation of any statute or regulation relating to the purchase, sale, display for sale, or transfer of a manufactured home.

(b) The Commission may in addition to any other sanction or penalty assessed, impose a fine as authorized by law.

765:35-7-2. Prohibition

A person whose license has been revoked shall not have a financial interest of any kind in a manufactured home business, nor shall that person participate in any way, including in an advisory position, in the operation of a manufactured home business.

CHAPTER 36. MANUFACTURED HOME MANUFACTURERS

SUBCHAPTER 1. GENERAL PROVISIONS

765:36-1-1. Purpose

The rules of this Chapter have been adopted for the purpose of complying with the provisions of the Administrative Procedures Act, 75 O.S. Section 250 et seq. and 47 O.S. Section 582 (E). This Chapter will provide a description of the qualifications for obtaining a manufactured home manufacturer's license, operation under the license and the grounds for denial, suspension, or revocation of a manufactured home manufacturer's license.

SUBCHAPTER 3. LICENSING QUALIFICATIONS, PROCEDURES AND FEES

765:36-3-1. Fees

The fees required for an initial application, renewal, and additional location for a manufactured home manufacturer's license are recited in 47 O.S. Section 583. A fee will be returned to the applicant in the event the license applied for is denied.

765:36-3-2. Facility

An applicant must have a manufactured home manufacturing facility. A manufactured home manufacturing facility means a facility which builds manufactured homes, some of which homes are shipped into the State of Oklahoma for sale. Each manufactured home manufacturing facility shall be required to have a separate license.

765:36-3-3. Applicant information; applications

An applicant shall provide sufficient information on the application or otherwise to enable the Commission to determine whether the applicant should be granted a license. Applications for license shall be verified by the oath or affirmation of the applicant and shall be on forms prescribed by the Commission and furnished to such applicants. The applications shall contain such information as the Commission deems necessary to enable it to fully determine the qualifications and eligibility of the applicant for the license.

765:36-3-4. Bond

Each applicant for a manufactured home manufacturer's license shall procure and file with the Commission a good and sufficient bond in the amount of Thirty Thousand Dollars (\$30,000). Said bond shall be filed on a form approved by the State Attorney General and provided by the Commission. The conditions of the bond shall be that the applicant not practice fraud, make any fraudulent representations, or violate any of the provisions of the Commission's enabling act while conducting the business for which he is licensed. In addition, the bond shall be conditioned upon the manufacturer providing prompt and full warranty service to comply with all warranties, express or implied, in connection with the sale of each home in the State of Oklahoma. The bonds as required by this section shall be maintained throughout the period of licensure. Should the bond be cancelled for any reason, the license shall be revoked as of the date of cancellation unless a new bond is furnished prior to such date.

765:36-3-5. Issuance of license

(a) **Name.** A manufactured home manufacturer's license will be issued in the legal name of the individual proprietorship, partnership, or corporation as identified on the application for manufacturer's license.

(b) **Certificate.** A manufactured home manufacturer's license shall consist of a signed certificate bearing the official seal of the Commission and shall specify the name and location of the place of business and assigned manufacturer number, which shall be posted in a conspicuous place in the manufacturer's place or places of business. The manufactured home manufacturer's license number will be prefixed with M, followed by a five digit number and then the current year of license (M-00000-00).

(c) **Beginning business.** No applicant for a manufactured home manufacturer's license shall conduct business in the State of Oklahoma until such time as the Commission has issued it a license.

765:36-3-6. Renewal of license

All bonds and licenses issued under the provisions of the Commission's enabling legislation shall expire on the 31st day of December of the odd numbered year, following the date of issue and shall be nontransferable. All applications for renewal should be submitted by the 1st day of November of each odd numbered year, and licenses shall be issued by January 10th of the following year. If application has not been made for renewal of license, such license shall expire on December 31st, and it shall be illegal for any person to represent itself and act as a manufacturer thereafter.

765:36-3-7. Changes

(a) **Ownership.** A change of ownership, including a change in a primary stockholder in the case of a corporation, or membership in the case of a limited liability company, shall

require a new application and approval by the Commission before the business may begin operation.

(b) **Notification.** A change of ownership or any other change, such as change of name or address, which makes Commission records no longer accurate must be reported to the Commission immediately in writing on forms prescribed by the Commission for approval by the Commission. The manufacturer must meet all the requirements as prescribed for licensing. The Commission may revoke or suspend a license after it has been granted for change of condition resulting in failure to maintain the qualifications for license.

SUBCHAPTER 5. OPERATION

765:36-5-1. Manufactured home sales agreement required

(a) **Agreement.** A manufactured home sales agreement shall be required in the sale of manufactured homes to a manufactured home dealer. The agreement shall set forth the respective rights, duties and obligations of each party.

(b) **Content.** The manufactured home sales agreement shall:

- (1) Be in writing;
- (2) Provide that the manufactured home dealer shall have authority to sell the manufacturer's product;
- (3) Provide that the manufactured home manufacturer shall have sufficient personnel and materials to service any of its manufactured homes sold in this state within a reasonable time which shall not exceed 60 days from the date the purchaser requests service in writing from either the dealer or manufacturer.
- (4) Provide parts to the dealer to do warranty work at no cost, and parts for nonwarranty work at normal dealer cost within the warranty period.
- (5) Set forth the agreement of the parties by which the amount of compensation paid to the dealer for performing warranty work for the manufacturer is to be determined;
- (6) Provide for such continuing compensation to the dealer for performing warranty work on the manufacturer's product sold by the dealer, if such work is performed after termination, cancellation or nonrenewal of the sales agreement and during any period that the manufacturer's warranty extends to the product;
- (7) Provide that either party shall give the other at least 30 days' written notice of its intent to terminate, cancel or not renew the sales agreement; and
- (8) Set forth the terms by which the repurchase of the dealer's inventory by the manufacturer who supplied such inventory in the event of termination, cancellation or nonrenewal of the sales agreement.

765:36-5-2. Reports and Records

(a) Each manufacturer will send to the Commission a monthly report of the manufactured homes to be shipped into or sited in the State of Oklahoma with the appropriate fees. A manufacturer who is aware that an out of state dealer or distributor has sold or will sell a new manufactured home to be shipped into or sited in Oklahoma shall file a supplemental monthly report for those homes with the appropriate fees.

(b) Each manufacturer shall keep for a period of five (5) years from the date of sale (or as required by any other federal, state, or local regulations), a record of the manufacture and sale of each manufactured home it shipped into this state, which shall show the name of the buyer and a complete description of the manufactured home purchased or sold, and such other information as the Commission may prescribe. The records shall be available upon request to authorized agents or employees of the Commission or any law enforcement officer of the State of Oklahoma.

SUBCHAPTER 6. MANUFACTURED HOME INSPECTION FEES

765:36-6-1 Manufacturer's Fees

(a) Any manufactured home manufacturer who sells a new manufactured home to be shipped into or sited in the State of Oklahoma shall pay an installation inspection fee to The Commission of Seventy-Five Dollars (\$75.00) for each new single wide manufactured home and One Hundred Twenty Five Dollars (\$125.00) for each new multi floor manufactured home.

(b) The fees to be paid by a manufactured home manufacturer shall be due on the fifteenth (15th) day of the month subsequent to the month in which a home is shipped to a manufactured home dealer, or sited in, the State of Oklahoma, whichever comes first.

(c) The fees paid shall be used for the purpose of inspecting installations of new manufactured homes. The inspection may be conducted by a representative of the Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission or its designee. The decision to inspect an installation shall be made by Commission staff. The decision to inspect an installation may be made by random selection, pursuant to a complaint as part of an audit or review of a particular installer or as part of an investigation.

(d) A manufactured home manufacturer, dealer, or installer shall co-operate with the Commission's employee or designee as needed to conduct an inspection of an installation for which the manufacturer, dealer, or installer may bear some responsibility for assuring that the installation was properly performed.

(e) Any fees not used for inspection of installations may be used for any other purposes of the Commission, but primarily for the education of manufactured home dealers and installers, investigation of manufactured home complaints and administration of the regulatory laws relating to the manufactured home industry.

(f) The Commission may assess a fine not to exceed One Thousand Dollars (\$1,000.00) per violation for violations of this section.

SUBCHAPTER 7. ASSESSMENT OF FINE OR DENIAL, SUSPENSION, OR REVOCAION OF LICENSE

765:36-7-1. Grounds for assessment of fines or denial, suspension, or revocation

(a) **Grounds.** The Commission may assess a fine or deny an application for a license, or revoke or suspend a license after it has been granted for any of the reasons listed in 47 O.S. Sections 584 (A)(1) through (5) or for violation of any statute or regulation relating to the sale or transfer of a manufactured home.

(b) **Rules violations.** In addition to the grounds set forth in subparagraph (a) above, it shall be grounds for assessment of fines or denial, revocation or suspension of a license if the manufacturer:

- (1) Defrauds any dealer or retail buyer;
- (2) Fails to perform under the terms of any written agreement with any dealer or retail buyer;
- (3) Knowingly engages in false or misleading advertising;
- (4) Being a manufactured home manufacturer or any representative acting on the manufacturer's behalf, who has:

A) Without just cause has terminated or failed to renew a manufactured home sales agreement with any new manufactured home dealer. Just cause for termination may constitute any legitimate business reason and may be specifically set forth in the manufactured home sales agreement.

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, or any representative thereof, or to do any other act to a dealer which may be deemed a violation of the 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 two parties.

D) Being a manufactured home manufacturer 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 act, if such failure is attributable to factors reasonably beyond the control of such manufacturer.

765:36-7-2. Prohibition

(a) A manufacturer may not sell a new manufactured home directly or indirectly to an unlicensed individual, park or other entity. A manufacturer shall be deemed to be selling a new home to an unlicensed individual, park or other entity if the manufacturer directly or through a third party solicits the purchase of a new home by any medium or method that indicates that the home may be purchased from the manufacturer directly or through a wholly or partially owned subsidiary, even if that subsidiary is licensed as a retailer of manufactured homes. An offer by the manufacturer to finance the purchase of the home if the purchaser buys the manufactured home from the manufacturer or its subsidiary is prima facie evidence that the sale was made by the manufacturer.

(b) A person whose license has been revoked shall not have a financial interest of any kind in a manufactured home manufacturing business, nor shall that person participate in any way, including in an advisory position, in the operation of a manufactured home manufacturer's business.

CHAPTER 37. MANUFACTURED HOME INSTALLERS

SUBCHAPTER 1. GENERAL PROVISIONS

765:37-1-1. Purpose

The rules of this Chapter have been adopted for the purpose of complying with the provisions of the Administrative Procedures Act, 75 O.S. Section 250 et seq., and 47 O.S. Section 582 (E). This Chapter will provide a description of the qualifications for obtaining a manufactured home installer's license, operation under the license and the grounds for denial, suspension, or revocation of a manufactured home installer's license.

SUBCHAPTER 3. LICENSING QUALIFICATIONS, PROCEDURES AND FEES

765:37-3-1. Fees

The fees required for an initial application, renewal, and additional location for a manufactured home installer's license are recited in 47 O.S. Section 583. A fee will be returned to the applicant in the event the license applied for is denied.

765:37-3-2. Facility

Each manufactured home installer shall have a primary place of business where the installer's records are kept that is accessible to the public and to employees of the Commission.

765:37-3-3. Applicant information; applications

An applicant shall provide sufficient information on the application or otherwise to enable the Commission to determine whether the applicant should be granted a license. Applications for license shall be verified by the oath or affirmation of the applicant and shall be on forms prescribed by the Commission and furnished to such applicants. The applications shall contain such information as the Commission deems necessary to enable it to fully determine the qualifications and eligibility of the applicant for the license.

765:37-3-4. Issuance of license

- (a) **Name.** A manufactured home installer's license will be issued in the legal name of the individual proprietorship, partnership, or legal entity as identified on the application for installer's license.
- (b) **Certificate.** A manufactured home installer's license shall consist of a signed certificate bearing the official seal of the Commission and shall specify the name and location of the place of business and assigned installer number, which shall be posted in a conspicuous place in the installer's place or places of business. The manufactured home installer's license number will be prefixed with I, followed by a five digit number and then the current year of license (I-00000-00).
- (c) **Identification card.** The Commission may issue to the licensee an identification card which shall be carried upon the person of the licensee.
- (d) **Beginning business.** No applicant for a manufactured home installer's license shall conduct business in the State of Oklahoma until such time as the Commission has issued it a license.

765:37-3-5. Education requirements

- (a) The installer principal, general manager or person with ultimate supervisory authority over the installation business shall attend a qualified Education Program before beginning operation of the business and being licensed by the Commission.
- (b) The education program shall be of such duration and content as to prepare the installer for installation of a manufactured home. Applicants who have attended a qualified education program within twenty-four (24) months preceding application shall be deemed to have met the education requirement.
- (c) A licensee shall attend an education program of such duration and content as to keep the licensee informed of changing standards or procedures as continuing education at least every three (3) years from the licensee's initial licensing.
- (d) A licensee shall meet or have in its employment at least one (1) individual who has met the above education requirements and who will have actual authority over any employees involved in the installation of manufactured homes. Failure to maintain this requirement shall be grounds for suspension or revocation of the installer's license until such requirements is met.

765:37-3-6. Renewal of license

All licenses issued under the provisions of the Commission's statutory authority shall expire on the 31st day of December of the odd numbered year, following the date of issue and shall be nontransferable. All applications for renewal should be submitted by the 1st day of November of each odd numbered year, and licenses shall be issued by the following January 10th. If application has not been made for renewal of license, such license shall expire on December 31st of the odd numbered year, and it shall be illegal for any person to represent itself and act as an installer thereafter.

765:37-3-7. Changes

(a) **Ownership.** A change of ownership, including a change in a primary stockholder in the case of a corporation, or membership in the case of a limited liability company, shall require a new application and approval by the Commission before the business may begin operation.

(b) **Notification.** A change of ownership or any other change, such as change of name or address, which makes Commission records no longer accurate must be reported to the Commission for approval immediately in writing on forms prescribed by the Commission. The installer must meet all the requirements as prescribed for licensing. The Commission may revoke or suspend a license after it has been granted for change of condition resulting in failure to maintain the qualifications for license. The Commission may endorse changes on the license without charge.

SUBCHAPTER 5. OPERATION

765:37-5-1. Forms required

(a) **Forms.** The following forms shall be required in the installation of a manufactured home by a manufactured home installer:

- (1) Installer's invoice
- (2) Installation label
- (3) Set-up inspection form.

(b) **Approval.** All forms must be approved by the Commission. The content and forms to be used shall be filed twenty (20) days prior to use, and if not rejected in the twenty (20) days from the filing date, the forms will be conditionally approved.

765:37-5-2. Installation label

Upon completion of the installation of a manufactured home by a licensed installer, the installer shall place an installation label containing the installer's name, license number and date of installation in a position on or around the breaker box for the home and/or on the outside of the home near the serial number identifying the home. The label shall be of a size of at least two inches by three inches (2" x 3") and shall

have on one side an adhesive which will allow the label to be permanently placed in the aforesaid position.

765:37-5-3. Records

Each installer shall keep for a period of five (5) years from the date of installation (or as required by any other federal, state or local regulation), a record of the installation of each manufactured home he installs which shall show the name of the party the installer contracted with for the installation of the home, a description of the manufactured home and such other information as the Commission may prescribe. The records shall be available upon request to authorized agents or employees of the Commission. If it is determined that a licensee has knowingly provided false or misleading information when requested to provide records, the licensee may be subject to any appropriate sanction authorized by rule or statute.

765:37-5-4. Inspections

The Commission may conduct inspections of manufactured home installations at random or systematically, as required, to verify compliance by the installer with installation standards.

765:37-5-5. Submission of set-up inspection forms

The set-up inspection form for new manufactured home installations shall be submitted within thirty (30) days of the completion of the installation and shall be approved by a certified installation inspector, local authority having jurisdiction (LAHJ) or licensed engineer. The form shall also be submitted to the manufactured home dealer selling the home, which copy the dealer is to keep with its records of the sale of the home.

765:37-5-6 Installer's Fees

(a) A used manufactured home inspection fee of Seventy-Five Dollars (\$75.00) shall be paid by the installer at or before the time of installation of any used manufactured home sited and installed in the State of Oklahoma, but no later than that fifteenth (15th) day of the month subsequent to the month in which the installation is performed.

(b) The fees paid shall be used for the purpose of inspecting installations of used manufactured homes. The inspection may be conducted by a representative of the Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission or its designee. The decision to inspect an installation shall be made by Commission staff. The decision to inspect an installation may be made by random selection, pursuant to a complaint as part of an audit or review of a particular installer or as part of an investigation.

(c) A manufactured home dealer or installer shall co-operate with the Commission's employee or designee as needed to conduct an inspection of an installation for which

the dealer or installer may bear some responsibility for assuring that the installation was properly performed.

(d) Any fees not used for inspection of installations may be used for any other purposes of the Commission but primarily for the education of manufactured home dealers and installers, investigation of manufactured home complaints and administration of the regulatory laws relating to the manufactured home industry.

(e) The Commission may assess a fine not to exceed One Thousand Dollars (\$1,000.00) per violation for violation of this section.

SUBCHAPTER 6. DEFINITIONS

765:37-6-1. Terms used

(a) **Permanent installation.** Installation of a manufactured home shall be deemed a permanent installation in any circumstance in which the manufactured home will be occupied.

(b) **Generic Set.** Installation of a previously occupied (used) manufactured home according to the standards set forth in Subchapter 7 hereinafter shall be deemed a generic set.

(c) **HUD Standards and Rules.** All references to "HUD Standards" or "HUD Rules" shall refer to HUD's Model Manufactured Home Installation Standards (24 CFR Part 3285). All references in this Chapter to HUD Rules shall refer to HUD's Manufactured Home Installation Program (24 CFR Part 3286).

SUBCHAPTER 7. INSTALLATION STANDARDS

765:37-7-1. Acceptable procedure

(a) Any new manufactured home stored at any location or in the possession of any entity (retailer, installer, distributor or manufacturer) for more than thirty (30) days must be supported in accordance with the manufacturer's installation instructions.

(b) All new manufactured homes to be installed in the State of Oklahoma shall be installed, including site preparation, according to HUD's Manufactured Home Model Installation Standards (24 CFR Part 3285) or DAPIA approved manufacturer installation instructions.

(c) Any previously occupied manufactured home to be installed in the state of Oklahoma may be installed according to the installation standards set forth in the manufacturer's installation manual or according to the installation standards set forth hereinafter (generic set) or an approved plan by a professional engineer or registered architect.

(d) Use of an installer not licensed at the time of the installation by the Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission for the installation of any new or previously occupied manufactured home shall be deemed an unacceptable procedure and shall subject any dealer contracting with said unlicensed installer to any liabilities and penalties attributable to such unlicensed activity.

(e) In determining the applicable frost line for permanently installed manufactured homes, the installer shall refer to the manufacturer's installation instructions, or the local authority having jurisdiction (LAHJ).

(e) In determining the applicable frost line for permanently installed manufactured homes, the installer shall use the ANSI 225.1 map. A frost line of three inches (3") is presumed in McCurtain County. A frost line of three to six inches (3-6") is presumed in Bryan, Choctaw, Atoka, Pushmataha, Latimer, LeFlore, Haskell and Sequoyah Counties. A frost line of ten to fifteen inches (10-15") is presumed in Woods, Major, Garfield, Alfalfa and Grant Counties. A frost line of six to ten inches (6-10") is presumed in all the remaining counties of the state. An installer may rely on verifiable local standards in determining the frost line in any specific location. When the frost line depth is not available from the local authority having jurisdiction, a registered professional engineer, registered architect or registered geologist must be consulted to determine the required frost line depth.

765:37-7-2. Site preparation

(a) **New manufactured home installations.** Site preparations for all new manufactured home installations shall conform to HUD standards.

(b) **Previously occupied manufactured home installations.** The purchaser or homeowner shall bear the responsibility for adequate site preparation for any installation other than a new manufactured home installation, including grading, drainage requirements and utilities connections.

(c) **Notice.** A manufactured home manufacturer and a manufactured home dealer shall notify the purchaser by written notice signed by both parties of the applicable site preparation standards. The dealer may act as the manufacturer's agent in providing said notice to the purchaser.

765:37-7-3. Support Systems

(a) Footing.

(1) The manufacturer's installation manual shall be used to determine acceptable footing materials, sizes and placement.

(2) For previously occupied (used) manufactured homes footing pads, when used, shall consist of three 4 X 8 X 16 solid concrete blocks or a solid 4 X 16 X 16 concrete block, ABS at least a minimum of 384 square inches in size, tested to a load-bearing capacity of not less than 6,000 pounds. Footing should be installed on a soil with an allowable soil bearing pressure of at least 1,500 P.S.F. unless

the site specific information requires the use of lower values based on soil classification and type. If these conditions are encountered, a professional engineer, registered architect or licensed geologist shall be consulted to determine the soil bearing pressure and footing sizes required. All organic material (i.e., grass, loose top soil, etc.) must be removed from under each foundation support. The foundation for each manufactured home shall be installed on firm undisturbed soil or fill with at least 90 percent soil compaction. Supporting information, i.e., proper soil testing, such as by a penetrometer, may be used to change the assumed P.S.F.

(b) Piers.

(1) Frame piers less than 36 inches high (measured from the top of the footing to the top of the cap), are permitted to be constructed of single, open, or closed cell concrete blocks 8" X 8" by 16" when the design capacity of the block is not exceeded. The frame piers must be installed so that the long sides are at right angles to the supported I-beam. The concrete blocks must be stacked with their hollow cells aligned vertically and must be positioned at right angles to the footings. Alternatively, piers up to 36 inches in height may be manufactured steel piers, provided they meet HUD standards set forth in CFR 3285.308(b), are rated, listed and labeled for the required load capacity and are installed according to the pier manufacturer's installation instructions.

(2) All frame piers between 36 inches and 67 inches high (measured from the top of the footing to the top of the cap) and all corner piers over three blocks high must be constructed out of double, interlocked concrete blocks, when the design capacity is not exceeded.

(3) Piers 54 inches high or less (measured from the top of the footing to the top of the cap) which are required at mate-line supports, perimeter piers, exterior door piers on sidewalls, and piers at exterior wall openings are permitted to be constructed of single open-cell or closed-cell concrete blocks, with nominal dimensions of 8" X 8" X 16", when the design capacity of the block is not exceeded. Piers in excess of 54 inches high up to 67 inches high (measured from the top of the footing to the top of the cap) which are required at mate-line supports, perimeter piers, exterior door piers on sidewalls, and piers at exterior wall openings must be constructed out of double, interlocked concrete blocks, when the design capacity of the block is not exceeded. Piers used for perimeter support must be installed with the long dimension parallel to the perimeter rail. Perimeter piers, marriage line supports, or other supports must be located on both sides of side wall exterior doors (such as entry, patio and sliding glass doors) and any other side wall or mating line opening of 48 inches or greater in width and under load-bearing porch posts, factory installed fireplaces, and fireplace stoves. In areas where the open span is greater than 10 feet,

intermediate piers and footings must be placed at a maximum of 10 feet on center.

(4) A minimum clearance of 12 inches must be maintained between the lowest member of the main frame (I-beam or channel beam) and the grade under all areas of the home.

(c) Pier caps.

(1) Structural loads must be evenly distributed across capped-hollow block piers.

(2) Caps must be solid concrete or masonry and least 4 inches in nominal thickness, and hardwood lumber at least 2 inches in nominal thickness, or be corrosion protected of a minimum one half inch thick steel. All caps must be of the same length and width as the piers on which they rest. When split caps are used on double-stacked blocks, the caps must be installed with the long dimension across the joint in the blocks below. When split caps are used, double filler and double shim sets must be used.

(d) Gaps. Any gaps that occur during installation between the bottom of the main chassis beam and foundation support system must be filled by hardwood plates not thicker than 2 inches nominal thickness. 2 inch or 4 inch nominal thickness concrete block must be used to fill in any remaining vertical gaps.

(e) Shims. Nominal 4" X 6" X 1" shims may be used to level the home and fill any gaps between the base of the main chassis beam and the top of the pier cap. Shims must be used in pairs, and must be driven in tightly so that they do not occupy more than an inch of vertical height.

(f) Manufactured pier heights. Manufactured pier heights must be selected so that the adjustable risers do not extend more than 2 inches when finally positioned.

(g) Spacing.

(1) New manufactured homes shall follow the manufacturer's installation instructions for spacing.

(2) Previously occupied (used) manufactured homes.

(A) Pier spacing shall be measured from center to center of piers.

(B) For single section homes the center of end piers shall not exceed 2 feet from the frame-ends. Piers are to be placed under each longitudinal mainframe member, not to exceed 6 feet on-center. The frame piers must be installed so that the long sides are at right angles or perpendicular to the main frame member. Side wall openings 48 inches or wider, porch transition, sliding glass doors, all exterior side doors on side walls must have perimeter piers, installed with the long dimension parallel to the perimeter rail or be supported by additional outriggers or floor joists, or by a 4 X 4 wood timber supporting a minimum of two joists under both sides of the opening.

(C) For multi-section homes the center of end piers shall not exceed 2 feet from the frame-ends. Piers are to be placed under each longitudinal

mainframe member at a spacing, not to exceed 6 feet on-center. The frame piers must be installed so that the long sides are at right angles or perpendicular to the main frame member. Side wall openings 48 inches or wider, porch transition, sliding glass doors, all exterior side doors on side walls must have perimeter piers, installed with the long dimension parallel to the perimeter rail or be supported by additional outriggers or floor joists, or by a 4 X 4 wood timber supporting a minimum of two joists, under both sides of the opening.

765:37-7-4. Anchoring for previously occupied manufactured homes

(a) Ties shall be as evenly spaced as practicable along the length of the home, and the distance from each end of the home and the diagonal tie nearest that end shall not exceed 2 feet. Ties will be spaced no more than 11 feet apart on a side, allowing adjustment for obstructions (any strap spacing may be exceeded by 10%, so long as the average strap spacing does not exceed 11 feet). The number of ties per side will be calculated by the formula: section-length, divided by the spacing of 11 feet (rounded to next whole number), plus 1 tie. [The result for a 16'x80' (overall length) would be 8 diagonal ties per side.]

(b) Over-the-top vertical ties will not be necessary for home 13.5 feet or wider, with 10 feet or less wall height, with I-beams that are 96 inches or more apart, with no evidence that vertical ties have been cut or removed and with diagonal ties installed extending to the nearest I-beam.

(c) Where a vertical tie and diagonal tie are located at the same place, both ties may be connected to a single anchor, provided that the anchor used is capable of carrying both loadings.

(d) Anchors shall be capable of resisting a minimum total load capacity of 4,725 pounds (2,143 kg) and a working capacity of 3,150 pounds (1,429kg).

(e) All anchoring devices shall be installed in accordance with the anchor manufacturer's instructions, including, but not limited to, the use of approved stabilizer plates or 10" diameter x 18" deep poured concrete cylinders to prevent lateral movement of the anchor through the soil.

(f) Tie down anchors are not required when the home is installed on a FOUNDATION SYSTEM designed by an architect or registered engineer, which is designed to resist all tributary vertical live and dead loads, as well as lateral loads (wind or seismic), for the local conditions.

765:37-7-5. Perimeter skirting for previously occupied manufactured homes

(a) **Skirting.** Skirting, if used shall be of durable materials suitable for exterior exposures. Any lumber used in connection with skirting within 6 inches of the ground shall be pressure treated to prevent decay and termite infestations.

(b) **Ventilation.** Ventilation shall be provided for the crawlspace at a minimum of one square foot of free area for every 150 square feet of the home's floor area. Ventilation may be obtained by:

(1) Ventilation openings shall be placed at or near each corner of the home and shall be located so as to provide cross-ventilation on at least two opposite sides of solid foundations;

(2) Self-ventilating skirting may be used to satisfy cross ventilation in all other areas.

(c) **Moisture/Vapor retarder.** When a polyethylene moisture-retarder sheet is placed on the ground underneath the home the polyethylene shall be of a thickness of at least six (6) mil. It is the responsibility of the purchaser or homeowner to see that it is installed.

(d) **Vents and drains.** Dryer vents and air conditioning condensation drains must pass through the skirting to the outside, rather than terminating underneath the home.

SUBCHAPTER 8. CERTIFIED INSPECTION PROGRAM

765:37-8-1 New Manufactured Home Inspections

(a) All new manufactured home installations shall be inspected by a certified installation inspector.

(b) In addition to certified installation inspectors who meet the qualifications set forth herein, a certified installation inspector may include a HUD certified DAPIA or IPIA, an engineer experienced in manufactured home installations, an inspector certified by authorities with jurisdiction where the manufactured home is installed or a qualified Commission employee.

(c) The purpose of the inspection of the installation by a certified inspector is to verify that the installation was performed in a manner which complies with new manufactured home installation standards.

(d) The Manufactured Home Advisory Committee shall review and recommend the educational and experiential standards for certified installation inspectors to the Commission for approval. Said standards shall include at a minimum, eight (8) hours of training in a classroom setting and four (4) hours in sited training. Said standards shall be published on the Commission website and distributed to every licensed installer. Such standards may be changed or modified as the need for changes or modifications become apparent.

(e) An applicant for a certified installation inspector shall be approved by the Manufactured Home Advisory Committee and the Commission.

(f) A certified installation inspector shall be authorized to perform an installation inspection on any new manufactured home installation performed within the State of Oklahoma.

(g) The Manufactured Home Advisory Committee shall recommend the qualifications for instructors of candidates for designation as certified installation instructors and submit said qualifications to the Commission for approval.

SUBCHAPTER 9. ASSESSMENT OF FINE OR DENIAL, SUSPENSION, OR REVOCATION OF LICENSE

765:37-9-1. Grounds

(a) The Commission may deny an application for a license, or revoke or suspend a license after it has been granted for any of the reasons listed in 47 O.S. Sections 584 (A)(1) through (6), or for violation of any statute or regulation relating to the installation of a manufactured home.

(b) The Commission may in addition to any other sanction or penalty assessed, impose a fine as authorized by law.

765:37-9-2. Prohibition

A person whose license has been revoked shall not have a financial interest of any kind in a manufactured home installer's business, nor shall that person participate in any way, including in an advisory position, in the operation of a manufactured home installer's business.

765:37-9-3 Enforcement and Inspections for Enforcement of Standards

(a) The Commission shall administer and enforce these provisions. Any person, agent, or organization approved and authorized by the Commission may inspect any installation system and equipment to ensure compliance with these rules.

(b) In the event an inspection is required to enforce these provisions, inspections may be made by an approved Third Party Inspector in accordance with Design Approval Primary Inspection Agency (DAPIA) approved manufacturer's installation instructions, engineer design or HUD's Model Manufactured Home Installation Standards (24 CFR Part 3285) for new manufactured homes. An approved third party inspector includes the following: An employee of a participating jurisdiction, individual, employee of a private firm, home inspector having demonstrated proficiency in manufactured homes, or a professional licensed engineer or architect all of whom have been approved by the Commission to perform installation inspections. The Commission shall adopt a standard installation authorization form to be used statewide by the Commission and Certified Inspectors, a standard inspection form, and established minimum inspection requirements. The inspection referred to in this subsection pertains only to the first-time installation of a manufactured home. A copy of the Inspection record shall be maintained by the qualified third party, installer and retailer for a minimum of five (5) years and shall be available for review and inspection by the Commission.

CHAPTER 38. MANUFACTURED HOME SALESPERSON

SUBCHAPTER 1. REGISTRATION QUALIFICATIONS, PROCEDURES AND FEES

765:38-1-1. Purpose

The rules of this Chapter have been adopted for the purpose of complying with the provisions of 75 O.S. Section 250 et seq. 47 O.S. Section 582 (E) and 47 O.S. Section 583.1B (2019 Supp.) This Chapter will provide a description of the qualifications for obtaining a manufactured home salesperson's certificate of registration, authority of a salesperson, and the grounds and procedure for assessment of a fine or denial, suspension, or revocation of a manufactured home salesperson's certificate of registration.

765:38-1-2. Fees

The fees required for an application or renewal of manufactured home salesperson's certificate of registration are recited in 47 O.S. Section 583.1.

765:38-1-3. Applicant

(a) **Activities requiring certificate of registration.** A manufactured home salesperson is anyone who has been engaged by a manufactured home dealer to buy, sell, exchange, negotiate or act as an agent for the purchase, sale or exchange of an interest in a manufactured home on behalf of the dealer for whom the salesperson is employed. A salesperson shall include anyone employed by the manufactured home dealer who is involved in any part of the sales process, including but not limited to the sales manager and finance and/or insurance manager.

(b) **Information required.** An applicant shall provide sufficient information on the application or otherwise to enable the Commission to determine whether the applicant should be granted a certificate of registration. The information shall include:

- (1) information relating to the applicant's business integrity, the applicant's experience in the same or similar businesses, and his business history,
- (2) whether the applicant will devote full or part time to the business, and
- (3) any other pertinent information consistent with the safeguarding of the public interest and welfare.

(c) **Application required.** Applications for certificate of registration shall be verified by the oath or affirmation of the applicant and shall be on forms prescribed by the Commission and furnished to such applicants. The applications shall contain such information as the Commission deems necessary to enable it to fully determine the qualifications and eligibility of the applicant for the certificate of registration applied for.

(d) **Activity not authorized.** A salesperson's certificate of registration shall not authorize the person to refer a prospective customer or consumer to another manufactured home dealer and obtain compensation therefor without an employment relationship with the other manufactured home dealer.

765:38-1-4. Issuance of certificate of registration

(a) **Prerequisite.** A certificate of registration for a manufactured home salesperson will not be issued, renewed, or endorsed until the employing dealer is licensed and has certified that the applicant for said certificate is in his employ. Dealers' payrolls and other evidence will be checked to ascertain that all salespersons for such dealers are registered. The dealer shall pay for the certificate of registration, but may do so on a reimbursable basis, or any other plan satisfactory to its dealership organization. All salesperson's certificates of registration will be sent to the dealer for distribution to the respective applicants, and the dealer will determine that all its personnel required to obtain certificates have done so.

(b) **Permanent certificate of registration.** A permanent salesperson's certificate of registration shall be issued after approval of the applicant by the Commission. A salesperson's certificate shall consist of an identification card bearing the name, name of employer, address, signature of the Executive Director, the dealer's license number. The card shall be carried upon his person at all times when acting as a manufactured home salesperson at licensee location.

765: 38-1-5. Renewal of certificate of registration

All certificates shall expire on the 31st day of December, of each odd numbered year following the date of issue and shall be nontransferable.

765:38-1-6. Changes

(a) **Employer.** If the salesperson changes employer, the holder of the certificate of issue shall immediately upon employment by another manufactured home dealer, apply for a salesperson's certificate of registration with the new employer. The salesperson shall surrender his salesperson's certificate of registration upon termination of the employment relationship.

(b) **Notice.** The dealer will notify the Commission in writing when a salesperson's employment is terminated. The dealer may be liable for actions of the salesperson until proper notice is filed with the Commission.

SUBCHAPTER 3. AUTHORITY OF SALESPERSONS

765:38-3-1. Authority

(a) **Salesperson only.** A manufactured home salesperson's certificate of registration shall permit the holder to engage in the activities of a manufactured home salesperson.

A salesperson's certificate of registration does not entitle the holder to perform as a dealer as defined in 47 O.S. Section 581. A manufactured home salesperson's certificate of registration does not entitle a person to separately own manufactured homes for sale or any interest in the manufactured homes or dealer business without first qualifying as a partner, corporate member, or part owner of the dealership and meeting the qualifications of a dealer as prescribed in 47 O.S. Sections 581-583.

(b) **One card only.** A salesperson may not hold more than one manufactured home salesperson's certificate of registration at any one time or be employed by or sell for any dealer other than the dealer and at the address designated on the salesperson's certificate, with the exception that the licensed dealer has more than one location. Then the licensed dealer and salesperson may sell on each location properly licensed as additional locations.

(c) **Restrictions.** A salesperson's certificate of registration shall not be issued for an individual who is not actively engaged in the activities of a manufactured home salesperson.

SUBCHAPTER 5. ASSESSMENT OF FINE OR DENIAL, SUSPENSION, OR REVOCATION OF CERTIFICATE OF REGISTRATION

765:38-5-1. Grounds

(a) The Commission may deny an application for certificate of registration, or suspend or revoke a certificate after it has been granted for violation of any statute or regulation relating to the purchase, sale, display for sale, or transfer of a manufactured home; or if it is determined that the license is being or has been issued for the benefit of a person who would not or could not qualify for the license in his or her own right and;

(b) On satisfactory proof of unfitness of the applicant or the holder of the certificate of registration under the standards established under Title 47 Oklahoma Statutes § 581 et seq. or the Rules of the Commission,

(c) For fraudulent or material misstatements made by the applicant in any application for license or certificate of registration,

(d) For any willful failure to comply with, or continued or flagrant violation of, any provision of Title 47 Oklahoma Statutes § 581 et. seq. or with any rule promulgated by the Commission.

(e) A change of condition after a certificate issued resulting in failure to maintain the qualifications for license,

(f) Conviction of any felony which in the opinion of the Commission may have a direct bearing on the ability of the applicant or holder to act as a manufactured home salesperson without endangering those with whom the applicant or holder may deal in the conducting of the duties of a manufactured home salesperson.

(g) Committing any act within the preceding ten (10) years, which resulted in the revocation of a similar license in another state,

- (h) Engaging in business under a past or present license or certificate of registration in such a manner as to cause injury to the public or those with whom the holder is dealing, or;
- (i) For violation of any statute or regulation relating to the purchase, sale, display for sale, or transfer of a manufactured home; or if it is determined that the certificate is being or has been issued for the benefit of a person who would not or could not qualify for the certificate in his or her own right.
- (j) The Commission may in addition to any other sanction or penalty assessed, impose a fine as authorized by law.

765:38-5-2. Prohibitions

A person whose certificate of registration has been revoked or denied or whose certificate was surrendered in lieu of revocation or under circumstances such that said certificate of registration could have been revoked, shall not have a financial interest of any kind in a manufactured home sales business, nor shall that person participate in any way, including in an advisory position, in the operation of a manufactured home sales business.

CHAPTER 39. RESTRICTED MANUFACTURED HOME PARK DEALERS

SUBCHAPTER 1. GENERAL PROVISIONS

765:39:1-1. Purpose

The rules of this chapter have been adopted for the purpose of complying with the Administrative Procedures Act, 75 O. S. Section 250 et. seq. and 47 O. S. Section 582 E. This Chapter will provide a description of the qualifications for obtaining a restricted manufactured home park dealer's license, operation under the license and the grounds and procedures for denial, suspension, revocation of a manufactured home park dealer's license, and/or the assessment of fines.

765:39-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Manufactured home park" means any parcel or parcels of land under single or

common ownership or control that contains, or is designed, laid out, infrastructure in place or adopted to accommodate, more than three manufactured homes with water sewer, or septic and electrical services, used as a commercial enterprise.

"Ready for Occupancy" means all mobile and manufactured homes located in a mobile, restricted manufactured home park or community offered for sale or lease-purchase must be ready for occupancy. "Ready for Occupancy" requires that the home must be installed and anchored at the site properly and all utilities are connected to service.

"Restricted manufactured home park" means the manufactured home park to Be used, or used, as the site for the restricted manufactured home park dealer's license.

SUBCHAPTER 3. LICENSING QUALIFICATIONS, PROCEDURES AND FEES

765:39-3-1. Fees

The fees required for an initial application, renewal, and additional location for a restricted manufactured home park dealer's license are recited in 47 O. S. Section 583. A fee will be returned to the applicant in the event the license applied for is denied.

765:39-3-2. Place of business

An applicant must have an established place of business. An established place of business means a location which includes at a minimum:

- (1) More than three manufactured home sites to be used by occupants of the manufactured home park.
- (2) sufficient parking for the public,
- (3) an office for conducting business where the books, records, and files are kept,
- (4) an office which is a building or is a separate room within a building on the premises that is considered a permanent structure with access to a restroom for the public. Such place of business shall not include the use of vacant lots, tents, temporary stands, or other temporary office facilities. Provided, however, if an applicant's location does not have office on the proposed location because the manufactured home park was previously developed without an office, but the applicant has a suitable office at another location which is used primarily for restricted manufactured home park dealer business within the state of Oklahoma where office personnel are employed and the books, records and files of the business are kept, the applicant may provide information of said remote office, which may be used as the applicant's office if in the sole discretion of the Commission, the remote office meets the qualifications for approval as an office.
- (5) it shall be separate and apart from any other restricted manufactured home park dealer or manufactured home dealer location,

- (6) meets all zoning, occupancy, and other requirements of the appropriate local government, and shall be occupied by a person, firm, corporation, or LLC, engaged in the business of a restricted manufactured home park dealer,
- (7) a sign, reflecting the name of the business, visible from the roadway nearest to the entrance of the place of business, and
- (8) a listed and usable telephone at or for the place of business.

765:39-3-3 Applicant information; applications

(a) **Information.** An applicant will provide sufficient information on the application or otherwise to enable the Commission to determine whether the applicant should be granted a license. The information will include:

- (1) Information relating to the applicant's financial standing,
- (2) Information relating to the applicant's business integrity, the applicant's experience in the same or similar businesses, and his business history,
- (3) Whether the applicant will be engaged in the pursuit, avocation, or business for which a license is applied,
- (4) Whether the applicant will devote full or part time to the business,
- (5) Whether the applicant is able to properly conduct the business for which the license is applied,
- (6) Any other pertinent information consistent with the safeguarding of the public interest and welfare.

(b) **Application.** Applications for license are to be verified by the oath or affirmation of the applicant and on forms prescribed by the Commission and furnished to such applicants. The applications will contain such information as the Commission deems necessary to enable it to fully determine the qualifications and eligibility of the applicant for the license.

765:39-3-4. Bond and insurance

(a) **Dealer bond.** Each applicant for a restricted manufactured home park dealer's license will procure and file with the Commission a good and sufficient bond in the amount of Thirty Thousand Dollars (\$30,000). Said bond will be filed on a form approved by the State Attorney General and provided by the Commission. The conditions of the bond are that the applicant not practice fraud, make any fraudulent representations, or violate any of the provisions of the Commission's enabling act while conducting the business for which he is licensed. The bonds as required by this section are to be maintained throughout the period of licensure. Should the bond be cancelled for any reason, the license shall be revoked as of the date of cancellation unless a new bond is furnished prior to such date.

(b) **Liability insurance.** Each applicant for a restricted manufactured home park dealer's license will furnish and in the event a license is issued, keep in force, a minimum of One Hundred Thousand Dollars (\$100,000) single limit garage liability and

completed operations insurance coverage on all manufactured homes offered for sale or transported utilizing the streets and roadways of Oklahoma in accordance with the financial responsibility laws of the State of Oklahoma. The insurance as required by this section shall be maintained throughout the period of licensure. Should the insurance be cancelled or expire for any reason, the license shall be revoked as of the date of cancellation or expiration unless new insurance is furnished prior to such date.

765:39-3-5. Issuance of license

(a) **Name.** A restricted manufactured home park dealer's license will be issued in the legal name of the individual proprietorship, partnership, corporation, or LLC as identified on the application for dealer license.

(b) **Certificate.** A restricted manufactured home park dealer's license shall consist of a signed certificate bearing the official seal of the Commission and shall specify the name and location of the place of business and assigned dealer number, which will be posted in a conspicuous place in the dealer's place or places of business. The restricted manufactured home park dealer's license number will be prefixed with MHP, followed by a five digit number and then the current year of license (MHP-00000-00).

(c) **Titles.** The valid restricted manufactured home park dealer's license permits the dealer to transfer, assign and reassign titles and purchase and sell manufactured homes without paying excise tax. All occupied manufactured homes must have an Oklahoma Title.

(d) **Beginning business.** No applicant for a restricted manufactured home park dealer's license may conduct business until such time as the Commission has issued him a license.

(e) **Manager.** A community manager shall be licensed as an owner or salesperson at the time the license is issued.

765:39-3-6. Renewal of license

All bonds and licenses issued under the provisions of the Commission's enabling legislation expire on the 31st day of December of each odd numbered year, following the date of issue and are nontransferable. All applications for renewal should be submitted by the 1st day of November of each odd numbered year, and licenses will be issued by January 10th of each even numbered year. If application has not been made for renewal of license, such license expires on December 31st of the odd numbered year, and it shall be illegal for any person to represent himself and act as a dealer thereafter. Provided, if the restricted manufactured home park dealer has offered to sell with an option to purchase, which option has not expired, the restricted manufactured home park dealer shall be required to maintain its license unless and until all options to purchase have been extinguished.

765:39-3-7. Changes

(a) **Ownership.** A change of ownership, including a change in a primary stockholder in the case of a corporation, or membership in the case of a limited liability company, shall require a new application and approval by the Commission before the business may begin operation.

(b) **Notification.** A change of ownership or any other change, such as change of name or address, which makes Commission records no longer accurate must be reported to the Commission immediately in writing on forms prescribed by the Commission for approval by the Commission. The dealership must meet all the requirements as prescribed for licensing. The Commission may revoke or suspend a license after it has been granted for change of condition resulting in failure to maintain the qualifications for license.

SUBCHAPTER 5. OPERATION

765:39-5-1. Forms required

(a) **Forms.** The following forms are required in the sale of a manufactured home by a restricted manufactured home park dealer:

- (1) Sales contract, bill of sale or buyer's order,
- (2) Written notice of thirty (30) day title-transfer requirement and receipt for delivery of certificate of title to buyer,
- (3) Condition of sale:
 - (A) warranty, or
 - (B) service contract, or
 - (C) warranty disclaimer,
- (4) Finance or security agreement, if applicable,
- (5) Consignment agreement, if applicable, and
- (6) A completed copy of the I-Form from the installer who installed the manufactured home, showing the lot location of the home.

(b) **Approval.** All forms must be approved by the Commission. The content and forms to be used are to be filed ten (10) days prior to use, and if not rejected in ten (10) days from the filing date, the forms will be conditionally approved.

(c) **Standards.** Approved forms will contain substantially the following information:

- (1) Sales contract, bill of sale, or buyer's order. The sales contract, bill of sale, or buyer's order states the names of the parties, the make, model, tag number and serial number of the manufactured home subject to the transaction, if available, a statement of the selling amount, a description of the manufactured home traded in, if any, and the consideration given therefore, and
- (2) Title and tax transfer notice requirement. It is the duty of every person licensed to sell manufactured homes to advise each purchaser in writing about his title requirements and payment of any taxes due.

(3) If a prospective purchaser makes a deposit of anything of value to obtain the option to complete a purchase (of a manufactured home) in the future, the restricted manufactured home park dealer shall acknowledge the deposit in writing, the time period for which the option to purchase is valid, whether the deposit is refundable in whole or in part, and the conditions, if any under which the deposit may be refunded. The deposit is deemed refundable unless it is clearly stated in writing that the deposit or a portion thereof is non-refundable.

765:39-5-2. Consignment sales

(a) **Consignment.** A restricted manufactured home park dealer, whether acting as principal or agent, or by power of attorney, is responsible for complying with 765:39-3-1 et seq. with regard to all manufactured homes purchased, sold, or transferred by the dealer whether or not any other party has any interest in the manufactured home being purchased, sold, or transferred. The certificate of title of a manufactured home owned by an individual consigned to a restricted manufactured home park dealer for sale by that dealer need not be assigned by the individual to the dealer provided a consignment form approved by this Commission is used in the consignment transaction, and all other state and federal forms required are properly executed at the time of sale by the dealer as agent for the consignor. The consignee is responsible for the truthfulness of the information provided to him by the consignor unless consignee willfully, knowingly, or negligently with reckless disregard of the true facts, misrepresents or misstates the information on the forms and/or certificate of title.

(b) **Title.**

(1) The certificate of title of a manufactured home consigned to a dealer to be sold from the consignee's (agent-dealer's) location licensed by this Commission may be assigned directly from the consigning owner to the purchaser. Transfer of certificates of title in every instance must comply with the provisions of 47 O.S. Sections 1105 and 1107. However, it is the responsibility of the consignee (agent-dealer) to ensure that all forms and state and federal laws and regulations are complied with in the transaction.

(2) The certificate of title of a manufactured home must be in the name of the restricted manufactured home park dealer (whether by record of title, assignment, or re-assignment) who is offering the manufactured home to a prospective buyer if that dealer has the sole discretion in determining the selling price and in determining the amount of profit he will receive from the sale, whether or not any other party has any interest in the manufactured home.

(3) Any manufactured home which the restricted manufactured home park dealer is selling and providing financing on and/or leasing with a possibility of ownership must convey a clear Oklahoma title to the purchaser subject only to the financing entity's lien.

765:39-5-3. Records

(a) Each restricted manufactured home park dealer shall keep for a period of five (5) years from the date of sale (or as required by any other federal, state, or local regulations), a record of the purchase and sale of each manufactured home he buys or sells, which shows the name of the seller or buyer as the case may be, and a complete description of the manufactured home purchased or sold, and such other information as the Commission may prescribe. The records and title of manufactured homes shall be available upon request to authorized agents or employees of the Commission or any law enforcement officer of the State of Oklahoma. If it is determined that a licensee has knowingly provided false or misleading information when requested to provide records, the licensee may be subject to any appropriate sanction authorized by rule or statute.

(b) In addition to copies of all forms used in a sales transaction, the dealers shall keep a copy of the completely assigned manufacturer's statement of origin or equivalent document, certificate of title, as the case may be.

(c) If a dealer contracts for the installation of a manufactured home as a part of the sales contract, the dealer shall include in its records a copy of the written contract or copy of paid invoice with the installer if the installer is a third party, which copy includes the license number of the installer.

SUBCHAPTER 7. ASSESSMENT OF FINE OR DENIAL, SUSPENSION, OR REVOCATION OF LICENSE

765:39-7-1. Grounds

(a) The Commission may deny an application for a license, or revoke or suspend a license after it has been granted for any of the reasons listed in 47 O.S. Sections 584 (A)(1) through (6), (8), or (B) or for violation of any statute or regulation relating to the purchase, sale, display for sale, or transfer of a manufactured home.

(b) The Commission may in addition to any other sanction or penalty assessed, impose a fine as authorized by law.

765:39-7-2. Prohibition

A person whose license has been revoked shall not have a financial interest of any kind in a manufactured home business, nor shall that person participate in any way, including in an advisory position, in the operation of a manufactured home business.

CHAPTER 40. CRUSHERS

SUBCHAPTER 1. LICENSING QUALIFICATIONS, PROCEDURES AND FEES

765:40-1-1. Purpose

The Rules of this Chapter have been adopted for the purpose of complying with the provisions of 75 O. S. Section 250 et. seq., 47 O. S. Section 582(E), 47 O. S. Section 592.6(C.) and 47 O. S. Section 592.9 (A.). This Chapter will provide a description of the fees for the licenses and functions authorized by statute, the qualifications for obtaining and maintaining a crusher license, operation of a crusher under this license, and the grounds and procedures for denial, suspension or revocation of a crusher's license.

765:40-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning:

"Crusher" shall be defined as set forth in 47 O. S. Section 592.2.(2.).

"Scrap Metal Dealer" shall be defined as set forth in 2 O. S. Section 11-91 (7).

765:40-1-3. Fees

The Commission shall prescribe by rule a fee for each of the following in the amount stated herein:

(1) The fee required for an initial application, which shall be Three Hundred Dollars (\$300.00).

(2) An investigation fee, which shall be Three Hundred Dollars (\$300.00). The investigation fee shall be waived for an applicant licensed as an automotive dismantler prior to applying to be licensed as a crusher.

(3) A fee required for an application for renewal of a license, which shall be Three Hundred Dollars (\$300.00).

(4) A late fee for renewals not received by June 15 of each year, which shall be One Hundred Fifty (\$150.00).

(5) A fee for a change of name of the licensee, which shall be Fifty Dollars (\$50.00).

(6) A fee for a change of location of the licensee, which shall be One Hundred Dollars (\$100.00).

(7) A fee for a duplicate license, which shall be Twenty Five Dollars (\$25.00).

(8) A fee for a returned check, which shall be Seventy Five Dollars (\$75.00).

765:40-1-4. Applicant

(a) **Information required.** An applicant shall provide sufficient information on the application or otherwise to enable the Commission to determine whether the applicant should be granted a license. The information shall include:

(1) Information as set forth in the application form relating to the person or persons applying for the license,

- (2) Information relating to the applicant's financial standing,
- (3) Information relating to the applicant's business integrity, the applicant's experience in the same or similar businesses, and the applicant's business history,
- (4) Whether the applicant or anyone acting for the applicant in the business has been convicted of a felony.
- (5) Whether the applicant will be personally involved in the operation of the business or whether some other person shall be the primary participant in the business,
- (6) Whether the applicant will devote full or part time to the business,
- (7) Whether the applicant is able to properly conduct the business, and,
- (8) Such other pertinent information consistent with the safeguarding of the public interest and welfare.

(b) **Application required.** Applications for license shall be verified by the oath or affirmation of the applicant and shall be on forms prescribed by the Commission and furnished to such applicants. The applications shall contain such information as the Commission deems necessary to enable it to fully determine the qualifications and eligibility of the applicant for the license.

765:40-1-5. Bond

Each applicant for a crusher license shall procure and file with the Commission a good and sufficient bond in the amount required by law. The bond shall be approved as to form by the Attorney General. The bond form shall contain provisions relating to the bond amount, parties responsible for payment of bond claims, and parties who may make claims on bonds and priorities of claimants, if applicable.

765:40-1-6. Issuance of license

(a) **Name.** A crusher license will be issued in the legal name of the business as identified on the application for license. A license will not be issued in a name which is offensive to a reasonable person's sensibilities, nor any name which is misleading or confusing to those with whom the licensee deals.

(b) **Certificate.** A crusher's license shall consist of a signed certificate bearing the official seal of the Commission and shall specify the name and location of the place of business and assigned license number, which shall be posted in a conspicuous place in the crusher's place of business. The crusher license number will be prefixed with CR, followed by a four digit number and then the current year of license. (CR-0000-00).

(c) **Card and Identification sticker.** The licensee will receive a gratis license card which shall be carried upon the licensee's person at all times when acting as a crusher. An identifying sticker shall be issued to licensee for each crusher, which shall be placed on a conspicuous location on the crusher.

(d) **Beginning business.** No applicant for a crusher license shall conduct business until such time as the Commission has issued a license to the applicant.

765:40-1-7. Renewal of license

All bonds and licenses issued under this Chapter shall expire on the 30th day of June, following the date of issue and shall be nontransferable. All applications for renewal shall be submitted by the 1st day of June of each year. Renewals received after June 15 shall be assessed a late fee. If application has not been made for renewal of license, such license shall expire on June 30th, and it shall be illegal for such former licensee to represent himself as a crusher thereafter.

765:40-1-8. Changes

(a) **Ownership.** A change of ownership, including a change in a primary stockholder in the case of a corporation, or membership in the case of a limited liability company, shall require a new application and approval by the Commission before the business may begin operation.

(b) **Notification.** A change of ownership or any other change, such as a change of name or address, which makes Commission records no longer accurate must be reported to the Commission immediately in writing on forms prescribed by the Commission for approval by the Commission. The crusher must meet all the requirements as prescribed for licensing. The Commission may revoke or suspend a license after it has been granted for change of condition resulting in failure to maintain the qualifications for license. Failure to complete the requirements for licensing after change of conditions within thirty (30) days shall result in suspension of the dealer's license until the licensing requirements are met.

SUBCHAPTER 3. OPERATION

765:40-3-1. Proof of ownership

(a) **Documentation required.** Prior to the purchase of a used motor vehicle, trailer, or nonmotorized recreational vehicle a crusher shall require one of the following documents as proof of ownership from the person selling the used motor vehicle, trailer, or nonmotorized recreational vehicle:

- (1) a certificate of title in the name of the seller that shows no outstanding liens,
- (2) a notarized power of attorney from the individual on the certificate of title authorizing the seller to dispose of the vehicle on behalf of the owner,
- (3) a bill of sale from the owner as identified by the certificate of title to the person presenting the vehicle to be crushed or shredded,
- (4) a statement of ownership from the seller stating that the vehicle to be crushed was purchased from the lawful owner, accompanied by a bill of sale from the lawful owner including a statement that there are no outstanding liens on the

vehicle, and a statement that the vehicle was inoperable or incapable of operation or use on the highway and has no resale value except as scrap,

(5) paperwork from a licensed wrecker operator showing that the wrecker operator has properly foreclosed its lien on the vehicle to be crushed or shredded and that the person selling the vehicle is the owner as shown on the return of sale in the foreclosure form.

(6) a bill of sale from a property owner together with proof of ownership or leasehold interest of the land from which the vehicle to be crushed was removed and a current printout from the Oklahoma Tax Commission Motor Vehicle Division showing that there is no record of the vehicle in its records or that the owner of the vehicle according to its records is the property owner.

(7) a document that upon presentation to the Oklahoma Tax Commission could be the basis for the issuance of a certificate of title in the name of the person presenting the vehicle to be crushed, such as a Court Order stating that the person is the owner of the vehicle.

(b) Holding period required. A crusher shall:

(1) Make available a report or copy within three (3) days of the purchase of a vehicle to the local enforcement agency of the municipality or other political subdivision in which the crusher is located or temporarily operating. If the crusher is operating within the city limits of a municipality, the crusher shall submit its report to the police department for the municipality and to the County Sheriff's office for the County in which the municipality lies. If the crusher is located outside of municipal limits, the report shall be submitted to the County Sheriff's Office only. With the report shall be an acknowledgment form which the representative of the law enforcement agency shall sign acknowledging receipt of the report, the original of which shall become part of the crusher's records. Such copy or report shall be shown upon request to the representative of the Commission or to any authorized peace officer.

The report shall be on a form approved by the Commission and shall contain the following information:

(A) The name, address and telephone number of the crusher whereby the crusher operator may be immediately contacted,

(B) The name, address, race, sex, weight, height, date of birth and identifying number of the seller as verified by either a state-issued identification card, driver's license or federal government-issued identification card, or, in lieu of other form of identification card, a readable fingerprint of the seller's right or left index finger. If a fingerprint of either index finger cannot be obtained, a readable fingerprint of the left thumb or any finger on the left hand shall be taken. If no fingerprint from the left hand can be taken, nor the right index finger, then a readable fingerprint from the right hand shall be taken.

(C) A description of the vehicle, the manufacturer of the vehicle, the vehicle identification numbers of the vehicle, and the date and time of the purchase of the vehicle.

(D) A description of the ownership document provided by the seller.

(2) Hold the vehicles reported in the same condition in which they were purchased for a period of three (3) days after submitting the report required in paragraph (1) above. The crusher shall retain a vehicle in the same condition in which it was purchased for a period up to thirty (30) days, in the event a representative of the Commission or a law enforcement officer requests that the crusher do so. Retention of a vehicle beyond the thirty (30) day period shall require a Court Order or administrative Order from the Commission.

(c) **Exception.** A licensed automotive dismantler shall not be required to produce proof of ownership to a crusher before selling vehicles to the crusher if the dismantler purchased the vehicles in the ordinary course of business and the dismantler has purchase records for the vehicles to be crushed.

(d) **No re-assignment.** A crusher shall not have the right of reassignment of a certificate of title.

(e) **Records retention:** A crusher shall keep the records of its purchases for a period of three (3) years from the date of purchase. The records shall be kept at the crusher's licensed place of business and shall be available to any representative of the Commission or any law enforcement officer upon request.

765:40-3-2. Reading of Rules required

Prior to the issuance of a license to a crusher, the applicant shall be given a copy of the Rules relating to the operation of a crusher business and the person operating the crusher business shall verify in writing that that person has read the Rules and agrees to conduct the crusher business within the guidelines of the Rules.

SUBCHAPTER 5. ASSESSMENT OF FINE OR DENIAL, SUSPENSION, OR REVOCATION OF LICENSE

765:40-5-1. Grounds

(a) The Commission may deny an application for a license, or revoke or suspend a license after it has been granted for any of the reasons listed in 47 O. S. Sections 592.4 and 47 O. S. Section 592.10; for willful violation of any statute or regulation relating to the purchase, sale or transfer of a used motor vehicle, trailer, or nonmotorized recreational vehicle; or, if it is determined that the license is being or has been issued for the benefit of a person who would not or could not qualify for the license in his or her own right.

(b) The Commission may in addition to any other sanction or penalty assessed, or in lieu of the assessment of any other sanction or penalty, impose a fine as authorized by law.

765:40-5-2. Prohibition

A person whose license has been denied or revoked or whose license was surrendered in lieu of revocation or under circumstances such that said license could have been revoked, shall not have any financial interest of any kind in a crusher business, nor shall that person participate in any way, including in an advisory position, in the operation of the crusher business.