

April 26, 2006

TO: Manufactured Home Dealers and Salespersons

FROM: Hazel T. Stephenson, Deputy Director

**RE: Manufactured Home Escrow/Trust Account Procedures and
Information**

PROCEDURES FOR ESTABLISHMENT OF AN ESCROW ACCOUNT

- All licensed retailers must establish an escrow/trust account prior to July 1, 2006. The account must be established in a federally insured financial institution.
- The account information is to be provided to us in writing prior to the issuance of your license. The notification shall be on the dealer letterhead and shall include the name and number of the account and the name and location of the bank the account is established with.
- All buyers' deposits shall be maintained in the escrow/trust account. A retailer must not commingle other funds with the deposits placed in this account.
- All buyer funds shall be placed in the escrow/trust account no later than the close of the third banking business day after receiving the funds from the buyer.
- The retailer must provide the buyer with a receipt for the funds received. The receipt you provide to the buyer shall include the amount of the deposit, the date the deposit was given and the name and address of the bank where the funds will be deposited.

USE OF ESCROW FUNDS

- Buyer funds shall be held for the benefit of the buyer and may only be used for purposes authorized under the contract between the dealer and the buyer.
- No buyer funds may be used by the dealer until after the three day right of cancellation period has expired.

- The dealer may use buyer funds to complete steps necessary for site preparation of the property when approved in writing in advance by the buyer.
- Buyer funds shall be promptly returned to the buyer when the buyer is entitled to a return of funds.
- In addition to other sanctions the Board may impose, if the Board finds a dealer has failed to place deposits in the escrow account or if a dealer has used a buyer's funds for a purpose that is not authorized, the Board may fine the dealer or order restitution to the buyer in an amount up to the amount the dealer misappropriated or failed to place in the account.
- When requested by the buyer, the dealer must provide to the buyer a written accounting of the receipts and disbursements of all escrow/trust funds upon the complete disbursement of the escrow/trust account.

REQUIRED ACCOUNTING AND AUDITING FOR ESCROW ACCOUNT

- Escrow/trust account records must be maintained for a period of five (5) years from date of purchase. The records must include the following:
 - All cancelled checks or other instruments drawn on the account, furnished by the bank, showing the amount, date, and recipient of the disbursement.
 - All instructions or authorizations from the buyer to transfer, disburse, or withdraw funds from the escrow or trust account.
 - All bank statements and other documents received from the bank with respect to the escrow or trust account, including notices of return or dishonor of any instrument drawn on the account against insufficient funds.
 - A ledger containing a record of receipts and disbursements for each buyer from whom and for whom funds are received and showing the current balance of funds held in the escrow or trust account for each buyer.
- All financial records required by this Part shall be subject to audit for cause and to random audit at the discretion of the Board, the Commissioner, or the Attorney General. The Board may inspect these records periodically, without prior notice and may also inspect these records whenever the Board determines that the records are pertinent to an investigation of any complaint against a licensee.
- The dealer shall provide written authorization to the bank that holds the escrow or trust account to release any and all requested information relative to the account to the parties authorized under this section to inspect those records.