

Chapter Comm 96

MANUFACTURED HOME DEALER FINANCIAL ELIGIBILITY

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Note: Chapter Adm 66 was renumbered chapter Comm 96 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 6. and 7., Stats., Register July 2001, No. 547.

Comm 96.01 Purpose and scope. This chapter is promulgated under the authority of ss. 101.02 (1) and 101.92, Stats., to implement ss. 101.951 and 101.952, Stats. This chapter applies to any sole proprietorship, partnership, or corporate entity applying for or holding a Wisconsin dealer's license under ss. 101.951 and 101.952, Stats.

History: Cr. Register, February, 1998, No. 506, eff. 3-1-98.

Comm 96.02 Definitions. In this chapter:

(1) "Department" means the department of commerce.
 (2) "Discounted" means an asset which is not considered at full value when determining financial statement net worth.

(3) "Financial statement" means a balance sheet showing assets, liabilities and net worth.

(4) "GAAP" means generally accepted accounting principles.

(5) "Intangible asset" means an asset which does not have a readily determined value, such as goodwill, and is not generally offered for sale.

(6) "Major liability" means a liability equal to or greater than 10% of the total liabilities listed on the financial statement.

(7) "Manufactured home" or "home" means a mobile home which is transportable in one or more sections, which in the traveling mode, is more than 8 feet 6 inches in width or more than 45 feet in length, or when erected on site, is more than 340 square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, electrical systems contained in the manufactured home. Calculations used to determine the number of square feet in a structure shall be based on the structure's exterior dimensions measured at the largest horizontal projections when erected on site. These dimensions shall include all expandable rooms, cabinets, and other projections contacting the interior space, but do not include bay windows. For purposes of this chapter, the measurement of length shall be determined in accordance with s. 348.07 (3), Stats.

(8) "Manufactured home dealer" or "dealer" means any of the following:

(a) A mobile home dealer as set forth in s. 218.10 (1g), Stats., but does not include:

1. A recreational vehicle dealer as defined in s. Trans 142.02 (7).

2. Governmental units or agents performing their official duties.

3. Advertising media and agents performing their official duties.

4. A licensed realtor involved in a manufactured home sale solely as a result of a real estate transaction including the manufactured home and the real estate site on which the manufactured home is located.

(b) A person not excluded by par. (a) who sells 2 or more new or used manufactured homes in any one calendar year.

Note: Section 218.10 (1g) was amended by 1999 Wis. Act 9 to apply to recreational vehicle dealers. Act 9 created s. 101.91 (2b), which defines "manufactured home dealer."

(9) "Mobile home" has the meaning given in s. 101.91(10), Stats.

(10) "Net worth" means the difference between the asset and liability values on a balance sheet. Negative net worth is the excess of liabilities over assets.

(11) "Pro-forma statement" means a statement presented anticipating some event or events which will occur in the future.

(12) "Substantial portion of the assets" means a value greater than 30% of all assets.

History: Cr. Register, February, 1998, No. 506, eff. 3-1-98; correction in (9) made under s. 13.93 (2m) (b) 7., Stats.

Comm 96.03 Security; forms and types. (1) The only acceptable forms of security to fulfill the financial ability requirement of s. 101.951 (3), Stats., are as follows:

(a) *Surety bond.* The bond shall be filed on a form prescribed by the department and issued by a bonding company licensed by this state. The bond shall be payable for the benefit of any person sustaining a loss because of an act of the licensee constituting grounds for the suspension or revocation of a license under s. 101.951 (6), Stats.

(b) *Balance sheet information.* The balance sheet shall be prepared in accordance with GAAP and be dated not more than 90 days prior to the date of application. A small business as defined in s. 227.114 (1) (a), Stats., which does no interim financial reporting may submit a balance sheet from the close of the businesses' most recent fiscal year. The balance sheet shall contain all of the following:

1. Assets.

2. Liabilities.

3. Net worth.

4. The signature of one of the corporate officers, partners or owners.

5. The name of any bank or financial institution used by the applicant.

6. A schedule of securities owned, if any.

7. A schedule of all real property held, its fair market value, book value, and the amount and terms of any indebtedness.

(2) Pro-forma statements shall not be accepted.

(3) If the department determines that there has been a misstatement on a financial statement, the department may deny or revoke the license.

History: Cr. Register, February, 1998, No. 506, eff. 3-1-98.

Comm 96.04 Asset reporting. (1) **VALUATION.** The financial statement shall present assets in terms of historical cost or book value of assets. In lieu of a statement presented with historical cost of fixed assets or book value of assets, the department may consider a statement presenting fair market value informa-

tion of fixed assets if clearly labeled and accompanied by an appraisal report of a certified appraiser or tax appraisal.

(2) **CASH.** Whenever a substantial portion of the assets of an entity is in the form of cash, confirmation of the amount is required from the financial institution holding the cash.

(3) **RECEIVABLES.** When a substantial portion of the assets of an entity are in the form of receivables from another individual, partnership, or corporation, all or part of the receivables shall be discounted in considering the net worth of the applicant. In order to evaluate the quality of a receivable, a financial statement from the individual, partnership or corporation shall be required. In no case will the department discount factory receivables.

(4) **INVENTORY.** The financial statement shall include the number of units in inventory and the number of units floor planned or used for loan collateral.

(5) **CERTAIN ASSETS NOT TO BE CONSIDERED.** The department shall not consider the following assets in evaluating the financial statement of an applicant:

- (a) As specified in s. 815.20, Stats., equity in homestead property up to \$40,000.
- (b) As specified in s. 815.18 (3), Stats., items of personal property which are exempt from execution.
- (c) Any intangible asset values.
- (d) Leasehold improvements.
- (e) All other assets subject to prior liens, security arrangements or other pledges.

History: Cr. Register, February, 1998, No. 506, eff. 3-1-98.

Comm 96.05 Liability reporting. (1) **REPORTING.** All liabilities and contingent liabilities shall be reported. The terms, amounts and conditions of any major liabilities shall be separately scheduled. The schedule shall list the names of individuals or institutions that hold the debt, the amount of the debt and the terms of repayment. A list of customers and the amounts on deposit with the dealer shall be attached to the financial statement.

(2) **RATIO ANALYSIS.** A ratio analysis comparing liabilities with assets shall be used to evaluate a dealer's financial potential. If current liabilities exceed current assets, the department may deny, suspend or revoke a dealer's license. An exception to this subsection shall be made when the current ratio is less than 1 to 1 solely due to the manner the dealership has chosen to account for leasing operations.

History: Cr. Register, February, 1998, No. 506, eff. 3-1-98.

Comm 96.06 Net worth reporting. (1) **TREASURY STOCK.** Treasury stock held by a corporation shall be reported separately on the balance sheet and clearly labeled as treasury stock.

(2) **PREVIOUS PROFIT.** Profit from the previous period of operations shall be reported separately in the net worth section of the balance sheet.

(3) **NEGATIVE NET WORTH.** A financial statement with a negative net worth is evidence of a lack of financial ability to conduct business and the license shall be denied or revoked.

History: Cr. Register, February, 1998, No. 506, eff. 3-1-98.

Comm 96.07 Types of entities. (1) **SOLE PROPRIETORSHIPS.** A sole proprietorship shall report the entire value of assets jointly owned by the sole proprietor and by one or more persons on its financial statement. The financial statement shall be signed by the sole proprietor.

(2) **PARTNERSHIPS.** Partnerships shall submit a statement for the partnership as a whole and individual statement for each of the general partners. If the partnership agreement provides for anything other than an equal sharing by the partners, it shall be prominently noted on the statements. The provisions of sub. (1) relating to the listing of jointly owned assets also apply to this subsection.

(3) **CORPORATIONS.** A corporation shall submit a financial statement. A financial statement of a controlling corporation, parent corporation, or an interlocking corporation may be submitted but shall not be substituted for the financial statement of the corporate [applicant].

(4) **LIMITED LIABILITY COMPANIES.** A limited liability company shall submit a financial statement and a copy of its currently effective operating agreement, or if no operating agreement is in effect, or if the operating agreement does not list each member's contribution, a statement of the value of each member's contribution to the limited liability company.

History: Cr. Register, February, 1998, No. 506, eff. 3-1-98.

Comm 96.08 Copies required. Dealers shall file their statements in duplicate. The department shall forward the duplicate copy to the co-licensor, the department of financial institutions.

History: Cr. Register, February, 1998, No. 506, eff. 3-1-98.

Comm 96.09 General requirements. (1) **OPERATING STATEMENT.** The department may require a dealer to submit an income statement or other financial information for any of the following:

- (a) An initial license.
- (b) Renewal of a license.
- (c) A change in the licensee.
- (d) If any questions arise regarding the dealer's financial condition.

(2) **ACCEPTABLE NET WORTH.** (a) The following table shall be used in determining the acceptable minimum level of net worth of an applicant:

Annual Home Sales Volume	
Number of Homes Sold Per Year	Amount
New Dealer	\$ 25,000
1-20	\$ 25,000
21-50	\$ 40,000
51-75	\$ 65,000
76-up	\$100,000

(b) The department may deny the license of any applicant who fails to meet the net worth criteria set out in par. (a).

History: Cr. Register, February, 1998, No. 506, eff. 3-1-98.