

DISPUTE RESOLUTION CONSUMER NOTIFICATION INFORMATION

The following information is intended to address certain questions that have been raised over consumer notification requirements under HUD's new Dispute Resolution rule. The information is based on HUD responses to MHI regarding these questions.

As a review, per the **Manufactured Home Dispute Resolution Program – Final Rule**, manufacturers and retailers will be required to provide separate dispute resolution program consumer notifications as specified by 24 CFR Part 3282, § 3282.207(e) and Part 3288, § 3288.5 respectively, effective **February 08, 2008**.

Manufacturers will be required to include the notice in each new manufactured home consumer manual. Retailers will be required to provide a separate similar notice at the time of signing a contract for sale or lease of a new manufactured home.

The notices must include the language and headings, verbatim, as written in revised § 3282.207(e) for consumer manuals and § 3288.5 for sales and lease transactions. The required notice language for both manufacturers and retailers is provided in separate MS Word documents for your convenience and can be copied and pasted accordingly.

The following points address these requirements more specifically:

- **Manufacturer & retailer obligations in HUD Administered DR Program (“default states”) vs. Non-HUD Administered DR Program states:**

As of the effective date, both manufacturers and retailers will be required to provide the specified HUD dispute resolution consumer notices regardless of the status of the state. Specifically:

- **Manufacturers:** Manufacturers will be required to include the specified HUD notice in all consumer manuals whether or not the home will be sold to a consumer in a HUD Administered state (a.k.a. “default states”) or in a non-HUD Administered state.
- **Retailers:** Retailers will be required to provide the specified HUD retailer notice at the time of signing a contract for sale or lease of a new home whether or not the home will be sited in a HUD or non-HUD administered state.

Retailers acting as leasing agents: In the case of leases, while § 3288.5 does not explicitly state that the retailer dispute resolution notice must be included in the lease contract or provided in a separate document, HUD has

informed MHI that *“the effect of the term “lease” as used in §3288.5, “lease” only applies where the retailer acts as a leasing agent for a manufacturer or other owner-landlord. So the duty is only to someone who leases the manufactured home directly from a retailer,”* and further that, *“the express obligation for retailers that applies to a sales contract would apply equally to a lease agreement.”* (The intent, as stated by HUD, being for the retailer, if acting as the leasing agent, to include the notification in the lease contract or provide it to lessee in a separate document at the time of signing the contract as stated in § 3288.5). MHI has requested further formal clarification from HUD.

- The effective date for including/providing the notice applies as follows:
 - Consumer Manual Notice (UPDATE): At the request of MHI, HUD initially stated that the effective date for the consumer manual notice means *“the requirements of revised § 3282.207(e) need only apply to homes labeled on or after February 8, 2008.”* However, after further consideration, HUD is now requiring manufacturers to provide retailers with a Dispute Resolution Program (DR) notification addendum to consumer manuals for existing stock of their unsold new homes manufactured prior to February 8th, 2008.

In response to concerns raised by MHI over the burden this places on manufacturers and the industry, especially at the late date, HUD has agreed to keep this as simple as possible and is therefore only requiring that a "good faith effort" be made by manufacturers to contact their retailers and provide them with the addendum.

More specifically, in MHI follow-up with HUD, HUD has stated that manufactures can satisfy this requirement by sending a single correspondence to each of their retailers via e-mail with a PDF of the required addendum attached, and instructions for the retailer to include it with the consumer documents for their existing stock of unsold new homes manufactured by their company prior to February 8th, 2008.

HUD is not requiring manufacturers to follow-up with retailers to ensure that they include the addendum as requested, just for them to make the "good faith effort" to contact retailers as described. HUD is however requiring manufacturers to send this correspondence by February 8th, and to include retailers who have sold their homes "during the year prior to February 8th."

Again, this only applies to new homes manufactured before February 8, 2008 that are sold or leased on or after February 8th, 2008.

- Retailer Notice: Retailers will however be required to provide the notice for all new home sales or, leases if the retailer is acting as a leasing agent, as of February 08, 2008, regardless of the label date.

- How the notices must be provided:
 - Consumer Manual Notice: Revised Part 3282 § 3282.207(e) only requires that the specified notice be included in the manual. The location of the notice in the manual is left to the discretion of the manufacturer though it is assumed it will be located in an appropriate section. The notice may also be included as an insert if necessary though if so it should be inserted securely. Please note that there are two parts to the notice and each is required to be titled as specified in revised Part 3282 § 3282.207(e) which are as follows: “Dispute Resolution Process” and “Additional Information “HUD Manufactured Home Dispute Resolution Program”” respectively.
 - Retailer Notice – sales & leases: Part 3288 § 3288.5 requires retailers to either include the specified notice “clearly in a separate section on consumer dispute resolution information at the top of the sales contract,” or lease, or in a separate document. There are no specific provisions for the notice if it is provided in/as a separate document other than the document must include the specified language and be provided at the time of signing a contract for sale or lease. If the notice is provided in a separate document as permitted, retailers should consider a means for verifying receipt.
- Additional dispute resolution language can be included in the consumer manual or provided by the retailer provided it does not amend, interrupt or otherwise edit the language or other provisions required by revised § 3282.207(e) or § 3288.5.
- Anticipated HUD vs. Non-HUD administered states: HUD has informed MHI that as of December 20, 2007 they expect the following states to be HUD administered (default) states: AK, CA, CT, HI, MD, MA, MT, NE, PA, VT, WY & the District of Columbia. Arizona is still undetermined. All other states are expected to be fully or conditionally certified to operate their own programs as of February 08, 2008 depending on the submission of their certification application. Those states that are not certified by February 08, 2008 will be considered HUD administered states until they are fully or conditionally certified.

If you have additional questions regarding the dispute resolution program, please contact Jeff Inks via e-mail at jinks@mfghome.org or on 703-558-0654.