

810-5-75-.65 Appointment, Revocation, and Denial of Authority to Act as a Manufactured Home Designated Agent of the Department. (REPEAL)

(1) The term "Department" as used in this regulation shall mean the Department of Revenue of this state.

(2) The term "designated agent" as used in this regulation shall mean a dealer as defined in Section 32-20-2(1), licensed by the Alabama Manufactured Housing Commission as a manufactured home retailer and engaged in the business of buying, selling, or exchanging manufactured homes in this state, and having an established place of business, or other persons/entities appointed by the department to complete and submit applications for manufactured homes (i.e. law firms, out of state financial institutions) qualifying under Section 32-20-22 (c), Code of Alabama 1975, as amended.

(3) Every dealer as defined in Section 32-20-2(1), Code of Alabama 1975, as amended, shall be a designated agent of the Department. A dealer may make application to become a designated agent of the Department by completing and submitting the Dealer Application For Designated Agent form (MVT 4-1), along with a copy of its current Alabama Manufactured Housing Commission's dealer license.

(4) A financial institution, legally authorized to do business in Alabama, making mortgage loans on manufactured homes may make application to become a designated agent of the Department by completing and submitting the Non-Dealer Application For Designated Agent form (MVT 4-2), along with a copy of its credit union charter or occupational lender's license.

(5) The Department may appoint third parties (i.e. law firms) as its designated agents under Section 32-20-22(c), Code of Alabama 1975, as amended, to complete and submit applications for manufactured homes. Third parties may make application to become a designated agent of the Department by completing and submitting the Non-Dealer Application For Designated Agent form (MVT 4-2), along with a copy of its state's business or professional regulatory license evidencing a need to process applications under Section 32-20, Code of Alabama 1975, as amended.

(6) Applicants approved by the Department to become designated agents shall enter into a bond with a corporate surety authorized to do business in this state. The amount of the bond shall be in accordance with Section 32-8-34 (b), Code of Alabama 1975, as amended.

(7) Section 32-20-3(b)(4), Code of Alabama 1975, as amended, empowers the department to revoke the authority of a dealer or other person appointed by the department to act as a designated agent under this chapter when it finds that the dealer or other person has failed to faithfully perform his or her duties under chapter Title 32 of the Code of Alabama 1975, as amended, or has been convicted of violating any felony

provisions of Chapter 20, Title 32, or Title 40 of the Code of Alabama 1975, as amended.

(8) If the department has cause to believe that a designated agent has failed to faithfully perform its duties as set out in Chapter 20, Title 32 of the Code of Alabama 1975, as amended, or that a designated agent or designated agent applicant has been convicted of violating any felony provision of Chapter 20, Title 32, or Title 40 of the Code of Alabama 1975, as amended, then the department shall mail to that designated agent, or designated agent applicant a written notice detailing the area or areas of alleged non-compliance. The written notice shall advise the designated agent or designated agent applicant, that within ten (10) calendar days from the date of the department's written notice, a written response must be submitted either refuting the alleged non-compliance, or detailing the action they have taken to correct the area or areas of non-compliance. The written notice shall be mailed to the designated agent or designated agent applicant at the last known address contained in the department's records.

(9) If the designated agent fails to provide a satisfactory response in writing to the department within the prescribed ten (10) calendar day period, a designated agent revocation letter will be mailed to the designated agent advising that its current access to process title applications as a designated agent is immediately suspended and that its authority as a designated agent will be revoked in thirty (30) calendar days. If the designated agent applicant fails to provide a satisfactory response in writing to the department within the prescribed ten (10) calendar day period, a designated agent application refusal letter will be mailed to the designated agent applicant advising that its application for a designated agent license has been denied. The designated agent revocation letter and designated agent application refusal letter shall each serve as notice to the designated agent or designated agent applicant of their right to appeal the department's intended action to the Administrative Law Division of the department. The letter shall be mailed to the designated agent or designated agent applicant at the last known address contained in the department's records.

(10) Under Section 40-2A-8, Code of Alabama 1975, as amended, the designated agent or designated agent applicant shall have thirty (30) calendar days from the date of the designated agent revocation letter or designated agent application refusal letter to file a written notice of appeal with the Administrative Law Division. If the Administrative Law Division does not receive written notice of appeal within the allotted time, the department's decision to revoke the authority of the designated agent or deny the authority of a designated agent applicant, will become final. The designated agent will be required to immediately deliver to the department their designated agent certificate, monies collected and due the department, title applications, title documents used to support an application for certificate of title processed by the designated agent, and other title forms supplied to the agent by the department as a result of having been afforded designated agent status by the department. In order to insure compliance with the revocation process, the department may call upon any law enforcement agency of

the state to seize the aforementioned items that the agent is required to surrender to the department provided the agent has not voluntarily returned the items.

(11) The department shall not allow any individual listed as principal officer of a previously revoked designated agent, or an employee or representative of the previously revoked designated agent whose actions contributed to the revocation of the designated agent, to circumvent the law and become a designated agent using a different company name or entity status. If the department determines that a principal officer, employee, or representative of a previous designated agent, whose designated agent status was revoked for failing to faithfully perform its duties, has made application to be appointed as a designated agent of the department under a different company name, or entity status, the department shall have grounds to refuse the company's application for designated agent status.

(12) All designated agents are required to utilize the Department's Electronic Title Application Processing System (ETAPS) to generate, save and submit title application data and the required fees. Failure to obtain authorization to use ETAPS will result in the designated agent status being revoked. New designated agents shall obtain authorization to use ETAPS within 60 days of establishment of the designated agent account.

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Authority: Sections 40-2A-7(a) (5) and 32-20-3(b) (2), Code of Alabama 1975, as amended

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