

ENFORCEMENT BULLETIN

Number 2017-002

Advertising & Social Media

Advertising

What is advertising?

Pursuant to TEX. OCC. CODE § 1201.003, an advertisement is defined as a commercial message that promotes the sale, exchange, or lease-purchase of a manufactured home and that is presented on radio, television, a public-address system, or electronic media or appears in a newspaper, a magazine, a flyer, a catalog, direct mail literature, an inside or outside sign or window display, point-of-sale literature, a price tag, or other printed material. The term does not include educational material or material required by law.

Pursuant to 10 TEX. ADMIN. CODE § 80.30(d), (e), (f) and (g):

(d) A license holder is prohibited from publishing or distributing any form of advertising which is false, deceptive, or misleading.

(e) Any advertisement must comply with applicable federal and state legal requirements, including but not limited to, the Federal Truth in Lending Act and Federal Reserve Regulation Z.

(f) Any advertisement (including social media) by a retailer, broker, or installer (other than a sign/display advertisement at a licensed location, point of sale literature, or a price tag), must conspicuously disclose the license number of the person who is advertising.

(g) Any advertisement (including social media) by a salesperson must conspicuously disclose the name and license number of their sponsoring retailer identified on their valid salesperson's license.

The Federal Truth in Lending Act

The main purpose of the Truth in Lending Act (TILA) is to assure the meaningful disclosure of consumer credit terms, including those in advertisements, so that consumers can easily compare terms and shop wisely for credit. Regulation Z, which is part of TILA, prohibits certain practices relating to payments made to compensate mortgage brokers and other lenders. If an advertisement contains any triggering terms specified in the Truth in Lending Act, then that advertisement must also include certain prescribed disclosures. The specified terms "trigger" the disclosures. Triggering terms are as follows:

- 1) The amount of the down payment, expressed either as a percentage or a dollar amount.
- 2) The amount of any payment expressed either as a percentage or dollar amount.
- 3) The number of payments or period of repayment (the total time required to repay).
- 4) The amount of any finance charge

If an ad uses a triggering term, it also must include the following information:

- 1) The amount or percentage of the down payment
- 2) The terms of repayment
- 3) The "annual percentage rate"

Social Media

More and more companies are utilizing social media to promote their business. This is no different in the manufactured housing industry. Whether the advertisement is on Facebook, Twitter, LinkedIn, Pinterest, or other social media platforms, the same laws and rules regarding manufactured housing apply.

If a licensee ever has a question regarding advertising requirements, please feel free to contact our Compliance and Education Unit and 877-313-3023.