

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Manufactured Housing Division

ENFORCEMENT BULLETIN

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Deposits

What is a deposit? A deposit is defined as money or other consideration given by a consumer to a retailer, salesperson, or agent of a retailer to hold a manufactured home in inventory for subsequent purchase **or** to confirm the agreed price on a home to be specially ordered.

When a retailer accepts a deposit they must give the consumer a written statement setting forth:

- (1) the amount of such deposit;
- (2) a statement of any requirements to obtain or limitations on any such refund; and
- (3) the name and business address of the person receiving such deposit.

A retailer must refund a consumer's deposit no later than the 15th day after the date that a written request for the refund is received from the consumer.

A deposit may be retained only if all of the following apply:

- (1) the consumer specially orders from the manufacturer a manufactured home that is not in the retailer's inventory;
- (2) the home conforms to the specifications of the special order and any representations made to the consumer;
- (3) the consumer fails or refuses to accept delivery and installation of the home by the retailer; and
- (4) the consumer was given conspicuous written notice of the requirements for retaining the deposit.

The above section does not apply to:

- (1) a deposit held in escrow in a real estate transaction; or
- (2) money stated to be a down payment in an executed retail sales contract.

A retailer may not retain more than five percent of the estimated cash price of the specially ordered home and must refund any amount that exceeds five percent*.

Down Payments

What is a down payment? A down payment is defined as an amount, including the value of any property used as a trade-in, paid to the retailer to be applied to the purchase price of a manufactured home, including any goods or services that are part of the transaction.

Upon execution of a sales purchase agreement a deposit becomes a down payment.

A retailer must refund a consumer's down payment in full if the consumer exercises their right of rescission not later than three days after the date the applicable contract is signed. Within this three day right of rescission no portion of the down payment may be retained by the retailer.