



## Ohio Administrative Code Rule 4781-10-01 Dispute resolution.

Effective: January 20, 2020

---

(A) Definitions. For purposes of this rule:

(1) "Defect" means any problem in the performance, construction, components, or material of the home that renders the home or any part of it not fit for the ordinary use for which it was intended including but not limited to a defect in the construction, safety, or installation of the home, or which does not meet standards set forth in the Manufactured Home Construction and Safety Standards (MHCSS), 24 C.F.R. 3280 (April 1, 2019). A defect is not a minor cosmetic item.

(2) "Date of installation" for a new manufactured home means the date the manufactured home has passed inspection and is ready for occupancy, and the first person purchasing the home in good faith for purposes other than resale takes possession. The date of installation for a used manufactured home means the date the manufactured home has passed inspection and is ready for occupancy, and the person purchasing the home in good faith for purposes other than resale takes possession. For a relocated manufactured home, that has not changed hands, the date of installation means the date the manufactured home has passed inspection and is ready for occupancy.

(3) "Warranty issue" for the purposes of dispute resolution, means any item covered by the original written warranty offered by the manufacturer, retailer, or installer related to the original purchase agreement or sales contract, but does not include any extended warranty on an item, whether the extended warranty was offered by the manufacturer, installer, retailer, or others.

(4) "Division" means the division of industrial compliance in the Ohio department of commerce.

(B) Request for dispute resolution process.

(1) The consumer, retailer, manufacturer, or installer may request dispute resolution regarding a new manufactured home that is one year or less from the date of installation of the home. A defect or warranty issue may be considered appropriate for dispute resolution if a dated record exists that the



defect or warranty issue was reported to the manufacturer, retailer, installer, HUD, the better business bureau, or the division within one year from the date of installation, even if that year has now passed. A person who reports an alleged defect or warranty issue by telephone should make a contemporaneous note of the telephone call, including date, time, the name of the person who received the report, the name of the business contacted, and the telephone number called.

(2) Requests for dispute resolution shall be made in writing and on the form provided by the division.

(3) Participation in mediation services is voluntary for all parties.

(4) A used manufactured home is only eligible for dispute resolution for issues relating to its installation.

(C) Screening dispute resolution requests.

(1) When a request for dispute resolution has been received by the division, it will be reviewed to ensure sufficient information has been provided, and it will be determined if the dispute resolution process should proceed.

(2) When the request for dispute resolution lacks sufficient information necessary to determine if the dispute resolution process should proceed, the division will contact the requesting party and ask for supplemental information. If information necessary to qualify the request is not received within a reasonable time established by the division, the request for dispute resolution will be considered withdrawn.

(3) If the division determines that the request for dispute resolution is sufficient, the division shall refer the request to a mediator.

(4) For requests for dispute resolution that involve an unreasonable risk of death or injury, the parties shall be notified that they shall have five days from the date of the notice in which to reach a settlement or an inspection shall be immediately scheduled. If the parties fail to reach a settlement, the division shall refer the request to a mediator after the scheduled inspection.



(D) Mediation.

(1) Upon referral for mediation, all the parties shall receive notice that the matter shall be scheduled for mediation, and the matter must be concluded within thirty days from the date the mediator receives the referral to mediation. The notice shall include a copy of the original request for dispute resolution.

(2) Mediator selection.

(a) Except a mediator who is an employee of the division of real estate and professional licensing, the superintendent of the division of industrial compliance shall approve any mediator before the mediator can be used in the dispute resolution process.

(b) A mediator shall not mediate a matter if the mediator has:

(i) Reviewed the requests for dispute resolution to determine if the request is appropriate for dispute resolution;

(ii) A primary interest in the matter being mediated; or

(iii) A business or personal relationship with any of the parties to the dispute resolution.

(3) Mediation agreements.

(a) If the parties reach a mediation agreement, the homeowner may elect that the mediation agreement be binding on the parties by executing a written acknowledgement, provided by the division. The written acknowledgement shall be received by the division within ten days from the date of the mediator's notice that the issue was resolved.

If the parties reach a mediation agreement for corrective repairs, those repairs must be completed no later than thirty days after the date the division receives the executed written acknowledgement from the homeowner. Parties to the mediation agreement and the homeowner may agree to a longer period



for corrective repairs by a separate signed, written agreement.

(b) If the parties are unable to reach a settlement through mediation, then within fifteen days of the issuance of written notice by the mediator that the matter was not resolved, any party may request that the division arrange for non-binding arbitration. When arbitration is not requested, the division may review the original request for dispute resolution to determine whether or not an investigation will be initiated.

(c) Arbitration is not available to those disputes that do not meet the requirements of paragraphs (A) and (B) of this rule, even if inspection or mediation services were offered as a courtesy by the division.

(E) Arbitration.

(1) A request for arbitration shall be made in writing to the division on a form provided by the division. Following a timely request for arbitration:

(a) The division shall arrange for an approved arbitrator.

(b) All parties shall receive notice of the arbitration. The notice shall indicate that the matter must be resolved within forty-five days from the date of the request for arbitration.

(2) The arbitrator shall be approved in advance by the division unless the arbitrator is approved by the American arbitration association. The arbitrator may not have an interest in the outcome of the dispute or a business or personal relationship to any party to the arbitration.

(3) Arbitrator's duties.

(a) The arbitrator may issue orders to compel the completion of the record, require onsite inspections, dismiss frivolous allegations, set hearing dates and deadlines, and may subpoena witnesses.

(b) Within forty-five days, the arbitrator shall issue a written recommendation setting forth the findings of fact, and the apportionment of division fees for inspection and arbitration services. If there



is a determination that a defect, or warranty issue exists the written recommendation shall include:

- (i) What action shall be taken;
- (ii) The time period in which the defect, or warranty issue, shall be corrected;
- (iii) Which party or parties are determined to have likely caused the defect or warranty issue; and
- (iv) Which party or parties are responsible to pay for or to perform the correction.

(4) Following an arbitrator's written non-binding decision, the homeowner may elect that the arbitrator's non-binding decision be made binding on the parties by executing a written acknowledgement, provided by the division. The written acknowledgement shall be received by the division within ten days from the date of the division receiving the arbitrator's decision. [HUD issues order accepting/modifying/rejecting arbitrator's decision, see 24 C.F.R. 3288.45 (April 1, 2019)]

(F) Nothing in this chapter shall be construed as prohibiting a homeowner from pursuing any legal action.

(G) Except for the request for dispute resolution and any written mediation agreement, all other documents and communications provided during mediation will be confidential in accordance with Chapter 2710. of the Revised Code.

(H) Authority to charge fees.

(1) Fees charged to the parties shall be apportioned among the parties as stated in the mediation agreement or as determined by the arbitrator's written recommendation.

(2) Fees may be charged for inspection(s) conducted in accordance with this rule, mediation, and arbitration in amounts as set forth in this rule.

(3) The first investigation inspection as part of dispute resolution shall not be charged to the homeowner, unless costs to the homeowner are apportioned in the mediation agreement or the



arbitrator's written recommendation.

(I) Investigation inspection or mediation services may be offered for a fee by the division, at the request of the parties, to assist in the resolution of disputes with regard to manufactured homes that are not covered by the dispute resolution program.

(J) Fees for dispute resolution services shall be:

(1) Inspection. Actual direct cost of the inspection to the division plus twenty-five per cent for administrative overhead.

(2) Mediation. Actual direct cost of mediation plus twenty-five per cent for administrative overhead.

(3) Arbitration. Actual direct cost of arbitration plus twenty-five per cent for administrative overhead.

(4) All fees shall be by check or money order payable to "Treasurer, State of Ohio" or by credit card. Any payment may be subject to a convenience fee as charged to the division.