

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 253
Committee Substitute Favorable 3/21/01
Senate Finance Committee Substitute Adopted 10/3/01

Short Title: Certain Manufactured Homes Real Property. (Public)

Sponsors:

Referred to:

February 26, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT MANUFACTURED HOMES NEED NOT HAVE MULTIPLE SECTIONS TO QUALIFY AS REAL PROPERTY FOR PROPERTY TAX PURPOSES, TO REQUIRE AN OWNER TO SURRENDER CERTIFICATE OF TITLE WHEN THE MANUFACTURED HOME BECOMES REAL PROPERTY, AND TO REQUIRE AN OWNER TO FILE EVIDENCE OF THE SURRENDER OF TITLE WITH THE REGISTER OF DEEDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-273(13) reads as rewritten:

"§ 105-273. Definitions.

When used in this Subchapter (unless the context requires a different meaning):

...

(13) 'Real property,' 'real estate,' and 'land' mean not only the land itself, but also buildings, structures, improvements, and permanent fixtures ~~thereon, on the land,~~ and all rights and privileges belonging or in any ~~wise- way appertaining thereto. to the property.~~ These terms also mean a manufactured home as defined in G.S. 143-143.9(6) if it is a ~~multi-section residential structure (consisting of two or more sections);~~ structure; has the moving hitch, wheels, and axles removed; and is placed upon a permanent ~~enclosed~~-foundation on land owned by the owner of the manufactured home. A manufactured home as defined in G.S. 143.9(6) that does not meet all of these conditions is considered tangible personal property."

SECTION 2. Article 3 of Chapter 20 of the General Statutes is amended by adding the following new section to read:

"§ 20-109.2. Surrender of title to manufactured home.

(a) Surrender of Title. – If a title has been issued for a manufactured home and the manufactured home qualifies as real property as defined in G.S. 105-273(13), the

1 owner shall submit an affidavit to the Division that the manufactured home meets this
2 definition and surrender the certificate of title to the Division.

3 (b) Affidavit. – The affidavit must be in a form approved by the Commissioner
4 and shall include or provide for all of the following information:

5 (1) The manufacturer and, if applicable, the model name of the
6 manufactured home.

7 (2) The vehicle identification number and serial number of the
8 manufactured home.

9 (3) The legal description of the real property on which the manufactured
10 home is placed, stating that the owner of the manufactured home also
11 owns the real property.

12 (4) A description of any security interests in the manufactured home.

13 (5) A section for the Division's notation or statement that the title has been
14 surrendered and cancelled by the Division.

15 (c) Cancellation. – Upon compliance by the owner with the procedure for
16 surrender of title, the Division shall rescind and cancel the certificate of title. If a
17 security interest has been recorded on the certificate of title, the Division may not cancel
18 the title without written consent from all secured parties. After cancelling the title, the
19 Division shall return the original of the affidavit to the owner, or to the secured party
20 having the first recorded security interest, with the Division's notation or statement that
21 the title has been surrendered and has been cancelled by the Division. The owner or
22 secured party shall file the affidavit returned by the Division with the office of the
23 register of deeds of the county where the real property is located.

24 (d) Application for Title After Cancellation. – If the owner of a manufactured
25 home whose certificate of title has been cancelled under this section subsequently seeks
26 to separate the manufactured home from the real property, the owner may apply for a
27 new certificate of title. The owner must submit to the Division an affidavit containing
28 the same information set out in subsection (b) of this section, verification that the
29 manufactured home has been removed from the real property, and written consent of
30 any affected owners of recorded mortgages, deeds of trust, or security interests in the
31 real property where the manufactured home was placed. The Commissioner may require
32 evidence sufficient to demonstrate that all affected owners of security interests have
33 been notified and consent. Upon receipt of this information, together with a title
34 application and required fee, the Division is authorized to issue a new title for the
35 manufactured home.

36 (e) Sanctions. – Any person who violates this section is subject to a civil penalty
37 of up to one hundred dollars (\$100.00), to be imposed in the discretion of the
38 Commissioner."

39 **SECTION 3.** Article 2 of Chapter 47 of the General Statutes is amended by
40 adding the following new sections to read:

41 **"§ 47-20.6. Affidavit for permanent attachment of titled manufactured home to**
42 **real property.**

1 (a) If the owner of real property has surrendered the title to a manufactured home
2 that is placed on the real property and the title has been cancelled by the Division of
3 Motor Vehicles under G.S. 20-109.2, the owner, or the secured party having the first
4 security interest in the manufactured home at time of surrender, shall record the
5 affidavit described in G.S. 20-109.2 with the office of the register of deeds of the county
6 where the real property is located. Upon recordation, the affidavit shall be indexed on
7 the grantor index in the name of the owner of the manufactured home and on the grantee
8 index in the name of the secured party or lienholder, if any.

9 (b) After the affidavit is recorded, the manufactured home becomes an
10 improvement to real property. Any lien on the manufactured home shall be perfected
11 and given priority in the manner provided for a lien on real property.

12 (c) Following recordation of the affidavit, all existing liens on the real property
13 are considered to include the manufactured home. Thereafter, no conveyance of any
14 interest, lien, or encumbrance shall attach to the manufactured home, unless the interest,
15 lien, or encumbrance is applicable to the real property on which the home is located and
16 is recorded in the office of the register of deeds of the county where the real property is
17 located in accordance with the applicable sections of this Chapter.

18 (d) The provisions of this section control over the provisions of G.S. 25-9-334
19 relating to the priority of a security interest in fixtures, as applied to manufactured
20 homes.

21 **"§ 47-20.7. Declaration of intent to affix manufactured home; transfer of real**
22 **property with manufactured home attached.**

23 (a) A person who owns real property on which a manufactured home has been, or
24 will be placed, as defined in G.S. 105-273(13), and either where the manufactured home
25 has never been titled by the Division of Motor Vehicles or where the title to the
26 manufactured home has been surrendered and cancelled by the Division, may record in
27 the office of the register of deeds of the county where the real property is located a
28 declaration of intent to affix the manufactured home to the property and may convey or
29 encumber the real property, including the manufactured home, by a deed, deed of trust,
30 or other instrument recorded in the office of the register of deeds.

31 (b) The declaration of intent, deed, deed of trust, or other instrument shall contain
32 a description of the manufactured home, including the name of the manufacturer, the
33 model name, if applicable, the serial number, and a statement of the owner's intention
34 that the manufactured home be treated as real property.

35 (c) On or after the filing of the instrument with the office of the register of deeds
36 pursuant to subsection (a) of this section, the manufactured home placed, or to be
37 placed, on the property becomes an improvement to real property. Any lien on the
38 manufactured home shall be perfected and have priority in the manner provided for a
39 lien on real property.

40 (d) The provisions of this section control over the provisions of G.S. 25-9-334
41 relating to the priority of a security interest in fixtures, as applied to manufactured
42 homes."

1 **SECTION 4.** Section 1 of this act is effective for taxes imposed for taxable
2 years beginning on or after July 1, 2001. Sections 2 and 3 of this act become effective
3 January 1, 2002, and apply to manufactured home title cancellations and to declarations
4 of intent, deeds, deeds of trust, and other instruments recorded after that date. The
5 remainder of this act is effective when it becomes law.