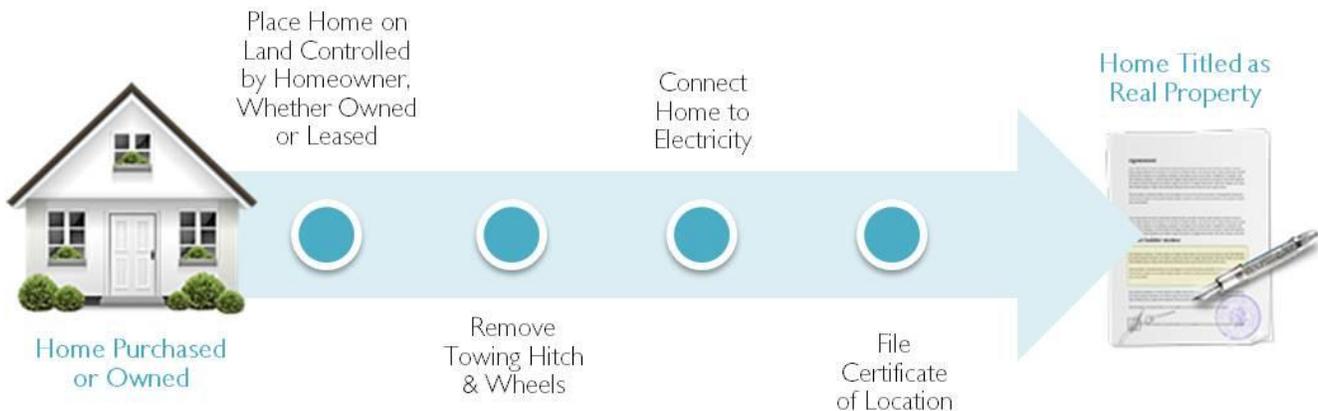


SUMMARY

THE UNIFORM MANUFACTURED HOUSING ACT OF 2012

What is the Uniform Manufactured Housing Act (UMHA)?

A model law that states can adopt to create a streamlined process for converting manufactured homes from personal property to real property. The Act allows homeowners to choose to title their homes as either real property or personal property, regardless of where the home is located. Here's the process:



What is the purpose of the Act?

To modernize and improve state titling laws for manufactured homes, increase the supply of affordable housing by making manufactured home financing more available and affordable, and provide owners of manufactured homes with many of the same legal protections as owners of homes built on-site.

Who wrote the Act?

It was drafted and approved by the Uniform Law Commission, a nonprofit unincorporated association, comprised of state commissions which include law practitioners, judges and professors from across the country. The Commission provides states with non-partisan, well-conceived and well-drafted legislation that bring clarity and stability to critical areas of state statutory law where uniformity will benefit all citizens.

Where has the Act been adopted?

The Act was approved in July 2012 by a unanimous vote of the Uniform Law Commission, which carries the weight of more than 100 years of history, prestige and experience. As with other uniform laws, each state may now consider whether to adopt the act — it is not yet law in any state.

Why should states consider adopting the Act?

- **To Simplify and Streamline the Titling Process**

The UMHA outlines a simple, straightforward process for a homeowner to choose to convert a home's legal classification from personal property to real property. When a consumer signs an agreement to purchase a new home, the dealer must give the consumer a notice stating that he or she can choose whether the home will be classified as real or personal property. The consumer must make this decision and the dealer cannot try to influence the consumer's decision. In fact, the notice advises consumers to consult with someone other than the dealer about this decision.

If the consumer chooses to have the home classified as real property, the procedure is simple. The seller of the home will deliver proof of ownership to the buyer. That proof of ownership is attached to a certificate of location, and the documents are filed together in the local land records office. The certificate of location certifies that the home will be located on land that the homeowner owns, leases or otherwise has a legal right to place the home. Once the certificate is filed, the manufactured home will generally be considered real property for all purposes, though the act does not dictate how states must deal with taxation.

This process is available not only to buyers of new homes, but also buyers and owners of existing homes, including mobile homes built before the 1976 HUD Code was established. The home does not have to be attached to a permanent foundation to be classified as real property. Manufactured homes that are properly sited on land with the towing hitch, wheels, and axles removed and connected to a source of electricity, are sufficiently attached to the land for the purposes of the act. ***Most importantly, the act applies to homes placed on land owned or leased by the homeowner, including those in resident-owned communities.***

- **To Improve Inadequate and Outdated Existing Titling Law**

In most states, manufactured homes are classified as personal property just like a car or a television. There is usually, but not always, a way to re-classify the home as real property, but often only through a complex procedure with hefty and onerous preconditions and usually only if the homeowner owns the land on which the home is placed. By contrast, site-built homes are always automatically classified as real property. This legal distinction evolved from the early history of manufactured homes as travel trailers, which states classified as personal property.

Today's manufactured homes are virtually identical—and in some cases, superior—in quality and construction to site-built homes and have little in common with their travel trailer ancestors. Although most manufactured homes are never moved after being sited on a lot, only about a quarter of manufactured homes are classified as real property. In some states, manufactured homes remain classified as personal property even after they are attached to land owned by the homeowner. In 2011, only 17% of *new* manufactured homes were titled as real property, even though 74% were placed on private property rather than in land-lease communities.

A home's classification may also affect how the home is taxed. Taxation is a complicated issue that varies by state, and often within states. Classification as real property or personal property may affect the tax rate, how the home is valued for tax purposes, and what entity receives the tax revenue. The UMHA allows a state the flexibility to choose to keep its current policy regarding the taxation of manufactured homes or to adopt a new policy.

- **To Improve Access to Safe, Affordable Mortgage Financing for Owners and Buyers of Manufactured Homes**

The distinction between personal property and real property has a direct and significant impact on consumers' ability to access affordable financing, the availability of homestead protections and other legal rights, and the homeowner's rights upon default.

Homes classified as personal property are financed by chattel loans, which typically feature higher rates, shorter terms and different consumer protections than mortgages. Since real property titling is a precondition for financing a home with lower-cost mortgage financing, converting a home to real property gives borrowers and homeowners access to lower cost real estate mortgage financing. While access to mortgage financing is not guaranteed with passage of the Act, a home's status as personal property will no longer prevent the homeowner from obtaining a mortgage. A wide variety of lenders and investors, including banks, credit unions, State Housing Finance Agencies and others already provide mortgage financing to manufactured homes titled as real estate. Many of these existing programs are specifically designed for low- and moderate-income borrowers. A uniform law that makes it easier for manufactured homes to be titled as real estate would inevitably result in expansion of the number of competing lenders and mortgage products in this market. Manufactured home loans secured as real estate (rather than personal property) will be more attractive to a larger set of investors, including purchasers of loans in the secondary market, leading to more availability of credit and better loan pricing for consumers.

The New Hampshire Community Loan Fund has made over 600 mortgages for homes on land in manufactured home cooperatives.

In the event of default, when a homeowner fails to make payment on a loan, a home's classification as real property will give the homeowner the protection of the foreclosure process, which in some states is a judicially-supervised process that provides notice and a chance to be heard before the home is repossessed. Homeowners can also benefit from the homestead exemption which protects exempt property from creditors. Though many states offer the homestead protection regardless of the home's classification, some do not, and the act would clarify that right.

For more detail about how this Act affects homeowners, see the Uniform **Manufactured Housing Act Homeowner Brief**.

What's next?

For more information or to discuss the possibility of enacting the model in your state, please contact John Van Alst or Lauren Williams.

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