

Titling Reform: How States Can Encourage GSE Investment in Manufactured Homes

SUMMARY

A new rule proposed by the Federal Housing Finance Agency (FHFA) will give Fannie Mae and Freddie Mac the incentive to invest in manufactured home financing—but only if the homes are classified as real property. Most states have significant policy barriers to classifying manufactured homes as real property. Failure to reform the existing inadequate laws will preclude these states, the manufactured home industry and homeowners from reaping the full benefit of the Fannie Mae's and Freddie Mac's increased investment in this area. Adoption of the Uniform Law Commission's Uniform Manufactured Housing Act (UMHA) is a straightforward and well-vetted way to maximize the ability of industry and homeowners to benefit from the new rule and to clarify existing state titling laws.

INTRODUCTION

For 17 million Americans, the pathway to the American Dream of homeownership is through manufactured housing. Today's manufactured homes can be high-quality and affordable, and an entry into asset and wealth building for many families.

One hurdle that keeps many owners of manufactured homes from enjoying the same benefits as owners of site-built homes is the classification of the home as personal property. Titling law often treats manufactured homes as if they were cars rather than homes. As a result, mainstream mortgage financing is unavailable, and owners of manufactured homes lose many of the benefits of homeownership. The absence of mortgage financing for buyers of used manufactured homes has also often been cited as the reason it is so difficult for homeowners to resell their homes.

The importance of titling manufactured homes as real property was highlighted by a new proposed rule published on December 18, 2015 by the FHFA that will define Fannie Mae's and Freddie Mac's duty to serve underserved markets.¹ This rule will encourage Fannie Mae and Freddie Mac to invest in the financing of manufactured homes—but only if manufactured homes are titled as real property.²

States that want to take advantage of this increased potential investment by Fannie Mae and Freddie Mac should examine their manufactured home titling laws to ensure that as many homes as possible are eligible. As described in this guide, many of the existing state laws are in great need of reform.

HOW EXISTING STATE MANUFACTURED HOME TITLING LAWS FALL SHORT

Forty states have laws, summarized in the appendix, that specify a procedure for converting a manufactured home to real property status. However, these titling laws fall short: most impose conditions on titling homes as real property that the proposed Duty to Serve Rule does not require and in some cases raise unnecessary financial and administrative barriers to conversion.

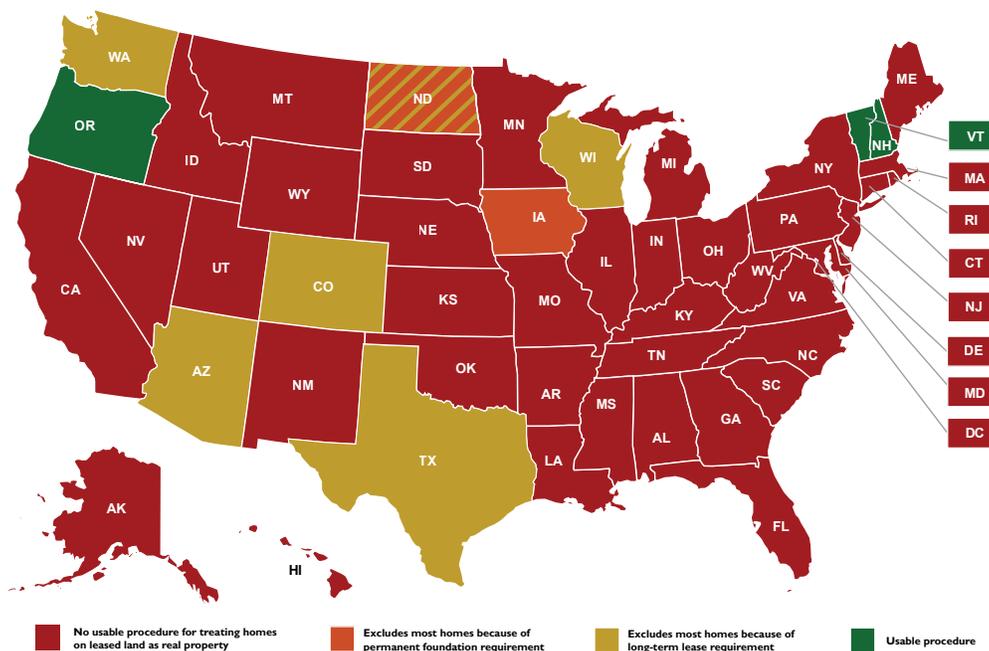
Lack of clarity. Many states either have no statute governing treatment of manufactured homes as real property or the statute is ambiguous about a fundamental issue: the purposes for which a home is to be treated as real property after the procedure has been followed.

First, only 80% of the states have statutes governing the treatment of manufactured homes as real property. In the remaining states, it is likely that manufactured homes can be treated as real property in certain situations under common law rules. For example, under the common law it may be possible to treat a manufactured home as part of the land rather than as personal property when it is so permanently attached to the land and adapted to the use of the land that it can be inferred that the homeowner intended to make it a permanent part of the realty.³ These decisions are made on a case-by-case basis, without any document or filing on which a lender can rely. The absence of a clear guidance has caused difficulties for lenders in several states, as any ambiguity about the way lenders record a security interest in a manufactured home creates a risk that lenders will be left unprotected.⁴ Moreover, even in the states that do have laws specifying a procedure for converting a manufactured home to real property, these same risks can arise if the statute does not make it clear that the statute defines the only way that a manufactured home can be treated as real property.

Under the statutes in other states, homes on leased land can be treated as real property, but only if the lease exceeds a certain duration, such as 20 years.⁵ These durational requirements greatly reduce the scope of these laws. Beyond communities controlled by mission-driven entities such as resident-owned communities and housing authorities, for example, few offer such long-term leases. Moreover, a short-term lease that is automatically renewed unless there is good cause to terminate it provides at least the same level of long-term security as a long-term lease. The proposed Duty to Serve rule does not impose any requirement regarding the duration of the lease as a condition of treating a home on leased land as real property.

Figure 2 illustrates states' uneven treatment of manufactured homes on leased land. States shown in red exclude homes on leased land altogether. This category includes states whose real property titling statute requires the homeowner to own the land, and statutes that do not clearly enable the homeowner to retain ownership of a home that is located on leased land after it has been converted to real property. It also includes states that have no statutory procedure for converting manufactured homes, whether on owned land or leased land, to real property. States shown in orange allow homes on leased land to be converted to real property, but make such a conversion impractical for most homeowners by requiring a permanent foundation. States shown in yellow have a statutory procedure for converting homes on leased land to real property status, but impose a requirement of a lease of a certain length that results in exclusion of most homes. States shown in green have a practical, usable procedure for manufactured homes on leased land to be treated as real property.

CAN HOMES ON LEASED LAND BE TREATED AS REAL PROPERTY?



*These statutes have many ambiguities that may affect their classification for purposes of this map. See the appendix for details.
North Dakota requires both a permanent foundation and a long-term lease.*

THE UNIFORM MANUFACTURED HOUSING ACT: A POTENTIAL SOLUTION FOR THE STATES

In 2012, the Uniform Law Commission (ULC) approved the Uniform Manufactured Housing Act (UMHA), a model law designed to address titling of manufactured homes.⁶ The ULC is a nonprofit, non-partisan association made up of more than 350 lawyers, judges, law professors and legislators from every state that drafts and promotes uniform state laws. Since its inception in 1892, the ULC has been responsible for more than 200 acts, among them such bulwarks of state statutory law as the Uniform Commercial Code, the Uniform Probate Code, the Uniform Partnership Act and the Uniform Interstate Family Support Act.

If enacted by the states, the UMHA would resolve the many deficiencies and ambiguities in the existing state titling laws and greatly increase the number of homes eligible for financing that satisfies the new Duty to Serve requirements. UMHA would create a simple, straightforward process for converting a home's legal classification from personal property to real property.

Under UMHA, if a consumer chooses to have her home classified as real property, the procedure is simple. The seller of the home must deliver proof of ownership to the buyer, along with a description of the procedure. The homeowner then simply files the proof of ownership in the local land records office, along with a certification that the home will be located on land that the homeowner owns or leases, or on which the homeowner has a legal right to place the home for some other reason. Once these documents are filed, the manufactured home is considered real property for all purposes, although states have the option of retaining their existing tax rules.

This process is available not only to buyers of new homes, but also to buyers and owners of existing homes, including mobile homes built before the adoption of the 1976 Manufactured Home Construction and Safety Standards (HUD Code). Under UMHA, a 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 UMHA. Most importantly, the UMHA applies to homes placed on land owned or leased by the homeowner, including those in resident-owned communities.

The UMHA gives owners of manufactured homes the option of converting their homes from personal to real property, but does not require them to do so. Nor does it change the rights or responsibilities of either landlords or tenants in manufactured home communities. The UMHA ensures that title to the manufactured home remains separate from the title to the land on which it is located, even if a home is converted to real property. The landowner's title to the land, the value of the land and the ability to transfer title of the land is not encumbered in any way by a lessee's manufactured home being titled as real property.

The UMHA also protects original lenders' security interests. If an existing manufactured home was originally titled and financed as personal property, the rules that determined the rights and remedies of a lender who had a security interest in the manufactured home *before* the home was converted to real property still apply after conversion to real property. In other words, a chattel lender's rights as governed by the Article 9 of the Uniform Commercial Code are preserved even after a home is converted to real property.

The UMHA does not require lenders to offer mortgages for manufactured homes titled as real property. As noted in the FHFA's proposed Duty to Serve rule, however, the UMHA *does* create one of many necessary conditions necessary to enable lenders to offer mortgages on more manufactured homes in the future. Though titling as real property does not guarantee that lenders will offer mainstream mortgages or that a homeowner would qualify for one, titling as personal property makes it absolutely impossible for homeowners to access mortgage financing. By removing states' onerous—and unnecessary—preconditions for titling as real property, the UMHA brings homeowners and buyers one step closer to accessing mortgage financing.

One feature of many states' manufactured home titling laws that the UMHA lacks is a procedure to convert a manufactured home back to personal property. States that want to preserve the flexibility to re-convert a home back to personal property can enact the UMHA with a simple amendment.⁷

BENEFITS OF REAL PROPERTY TITLING FOR OWNERS OF MANUFACTURED HOMES AND FOR LENDERS

A clear statutory procedure for treating manufactured homes as real property is necessary in order for states to take advantage of the likely increased investment in manufactured housing once FHFA issues its final Duty to Serve rule. A clear procedure is also an essential first step before mainstream mortgage financing, including state housing finance agency first-time homebuyer programs, can become available. But there are also other significant benefits for homeowners if they can treat their homes as real property:

- **Protections against seizure for unrelated debts.** In some states, homes treated as real property have greater protections against seizure by creditors for debts unrelated to the purchase of the home, such as credit card debts and medical debts.
- **Applicability of state foreclosure law.** When a home is treated as real property, the homeowner will also receive the protections of the state foreclosure law, while in most states a manufactured home can simply be repossessed if the homeowner falls behind.
- **Applicability of other consumer protection laws.** Some other consumer protection laws also apply only to real property (although there are also certain consumer protection laws that apply only to transactions involving personal property and not real property).
- **Family-friendly inheritance laws and titling options.** When a home is titled as real property, there are usually stronger protections for heirs. In addition, some states allow a special kind of joint ownership for married couples only if a home is real property.

Whether taxation rules are more equitable if a home is converted to real property status will depend on the state. For a discussion on the Act's tax ramifications, which generally favor real estate titling, see *Taxing Manufactured Homes*.⁸ One disadvantage for homeowners is that federal bankruptcy law treats manufactured homes more favorably if they are titled as personal property rather than real property.⁹

A clear statutory procedure for converting manufactured homes to real property status also benefits lenders. Such a procedure would enable them to make loans that Fannie Mae and Freddie Mac will have statutory and regulatory incentives to purchase once the new Duty to Serve rule is finalized. It also has the potential to open up new markets for real property lending and offers lenders new lines of business and borrowers better options. When manufactured homes are treated as real property, lenders will be able to rely on the laws, rules and procedures that they know well, rather than having to follow unfamiliar laws that apply only to a niche market. And a clear procedure that creates bright line rules will eliminate the risk that a lender will be left with its security interest unprotected because it created and recorded the security interest in the wrong way.

ABOUT I'M HOME

I'M HOME, or Innovations in Manufactured Homes, is an initiative of CFED, a national nonprofit organization dedicated to expanding economic opportunity for all Americans. The I'M HOME Network includes nonprofit and for-profit, national and local partners who together work toward ensuring that all homeowners, regardless of whether their home is manufactured or site-built, enjoy the same rights and privileges of homeownership, including asset building opportunities. For more information about I'M HOME, please visit www.cfed.org/go/imhome.

ABOUT THE NATIONAL CONSUMER LAW CENTER

The National Consumer Law Center (NCLC) is the nation's consumer law expert, helping consumers, their advocates and public policymakers use powerful and complex consumer laws on behalf of low-income and vulnerable Americans seeking economic justice. NCLC is the leading consumer legal advocate promoting legal protections for owners of manufactured homes. For more information about NCLC, please visit www.consumerlaw.org.

ENDNOTES

- 1 Fed. Housing Fin. Agency, Proposed Rules, 80 Fed. Reg. 79182 (Dec. 18, 2015).
- 2 The FHFA considered but decided against proposing duty-to-serve credit for chattel financing of manufactured homes that are treated as personal property under state law. 80 Fed. Reg. 79182, 79189 (Dec. 18, 2015).
- 3 See National Consumer Law Center, Repossessions § 5.2.6 (8th ed. 2013).
- 4 See, e.g., *Boyd v. Chase Manhattan Mortgage Corp.* (In re Kroskie), 315 F.2d 644 (6th Cir. 2003) (lender's security interest was unperfected, so can be avoided by bankruptcy trustee, where lender used real estate procedure to record its security interest in a manufactured home that was permanently affixed to the land).
- 5 Several states do not specify the length of the lease, but refer to a former Freddie Mac program that applied to homes on leased land. Figure 2 classifies these statutes along with those that impose durational requirements.
- 6 The text of the UMHA is available at www.uniformlaws.org.
- 7 The following language can be added to the uniform law to create a reconversion procedure:
Add this definition to UMHA § 2:
 - (5) "Certificate of Conversion to Personal Property" means a record in recordable form which includes:
 - (A) the name the owner of the manufactured home that is the subject of the certificate;
 - (B) the unique identifier of the manufactured home, if known;
 - (C) a legally sufficient description of the land on which the home is located;
 - (D) the name of the record owner of the land;
 - (E) the recording information for the most recent deed or certificate of location for the home;
 - (F) a statement that the homeowner wishes the home to be converted to personal property;
 - (G) a statement by [an attorney admitted to practice law in the state, or a title insurance producer licensed by the state], stating that there are no encumbrances on the home;
 - (H) the signature of the homeowner;
 - (I) the date the homeowner signed the certificate; and
 - (J) the name and mailing address of the person to whom the [recorder] is to return the recorded certificate.

(The language in brackets in (5)(G) regarding the providers who would perform the title search should be adapted to reflect local practice in the state.)

Revise first sentence of UMHA § 6(a) to read:
 - (a) If a certificate of location, a certificate of relocation, or a certificate of conversion to personal property is filed for recording, the [recorder] shall record it, together with any attachments, index it, and return it to the person that requested the return.*Revise UMHA § 8(b) to read:*
 - (b) The following rules apply to a manufactured home that is real property under Section 4 and either (i) is subsequently detached from the land on which it is located or (ii) is the subject of a recorded Certificate of Conversion to Personal Property:
 - (I) The manufactured home becomes personal property for all purposes except as provided in subsection (b)(3) [and the home owner may obtain a certificate of title for the home from the state entity charged with issuing certificates of title by presenting to it a certified copy of the filed certificate of conversion to personal property].
- 8 http://cfed.org/assets/pdfs/manufactured_housing/Final_Issue_Summer_2014_Taxing_Manufactured_Homes.pdf; Ann M. Burkhart, Taxing Manufactured Homes, 67 Tax Lawyer 909 (2014).
- 9 See CFED and NCLC, *Manufactured Housing Resource Guide: Titling Homes as Real Property* (Oct. 2014), available at http://www.nclc.org/images/pdf/manufactured_housing/cfed-titling-homes.pdf (detailed discussion of advantages and disadvantages of real property titling).

Appendix

EXISTING STATE CONVERSION STATUTES

The following states have statutes that specify a procedure for the conversion of a manufactured home to realty for at least some purposes. In the following summaries, the terminology of the statutes as to manufactured or mobile homes has been retained.

Alabama: The owner, retail purchaser or lienholder for original purchaser of a manufactured home not more than 20 years old may apply to cancel the certificate of title or certificate of origin if the home is affixed to real property that the homeowner owns. The ownership of both the home and land must be identical. The owner must submit an application to the state Department of Revenue, including the certificate of origin or title or a bond in lieu, a release of any liens noted on the title or a bond in lieu and an affidavit executed by all with an ownership interest in the home and realty.¹ If the manufactured home is later detached from the land, the owner must reapply for a new certificate of title. Manufactured homes more than 20 model years old shall not be required to obtain a certificate of title.² This statute is part of the state Manufactured Home Certificate of Title Act and does not state whether the home is treated as real property for foreclosure or other purposes after the title is cancelled. Alabama also has a statute providing that most manufactured homes located on land owned by the homeowners are treated as real property for the purpose of ad valorem taxation,³ but at least one court has held that does not convert the home to real property for other purposes.⁴

Arizona: A manufactured home that is permanently affixed, i.e., installed on real property that the homeowner owns,⁵ and for which an affidavit of affixture has been recorded, shall be assessed as real property for tax purposes.⁶ A manufactured home that is located in a manufactured home park will, along with the leasehold interest, be treated as real property if the owner files an affidavit of affixture with the county recorder and: (1) the home has been installed on the real property with all wheels and axles removed in compliance with local and state installation standards; (2) the owner of the home has entered into a lease of at least 20 years for the lot and the lease specifically permits the recording of an affidavit of affixture; and (3) a memorandum of lease, signed by both landlord and tenant, is recorded that lists specified information.⁷ The affidavit of affixture must identify the holder of any security interest in the home that is not terminated by the consent of the secured party, and any such interest survives recordation of the affidavit.⁸ When an affidavit of affixture is recorded, the owner must surrender the certificate of title.⁹ The statute governing homes in manufactured home parks states that “the home and the leasehold interest to which it is affixed shall be treated as real property. The provisions of this chapter apply to the relationship between the landlord and the owner of the manufactured home as tenant.”¹⁰ A lien on a manufactured home for which an affidavit of affixture has been recorded may be perfected either in the manner provided by law for real property or in the manner provided for fixtures.¹¹

Arkansas: If a mobile or manufactured home is to be affixed to real estate, the title may be surrendered to the state Department of Finance and Administration for cancellation. An affidavit of affixation, including a statement that the homeowner owns the land or is authorized by the landowner to execute the affidavit on the landowner's behalf, must be recorded in the county land records and submitted to the Department of Finance and Administration. After cancellation, a security interest, lien or encumbrance may be obtained in the same manner as for real property.¹²

California: If a manufactured or mobile home is affixed to a permanent foundation in compliance with state standards,¹³ default and sale are governed by California's mortgage foreclosure laws.¹⁴ The homeowner must own the land, have a lease with a term of at least 35 years, or have a lease with any term as long as the lease cannot be terminated except for cause.¹⁵ Any lienholders must consent to the attachment of the home to the land.¹⁶ The owner must surrender the certificate of title, and a statement that the home has been affixed to real property is to be recorded in the county land records.¹⁷ Once these procedures are completed, the home is deemed a fixture and an improvement to the real property.¹⁸ Default and sale are also governed by the state mortgage foreclosure laws if the home is affixed to a permanent foundation pursuant to these procedures, or if the creditor has a security interest in the land as well as the home.¹⁹ The statute also provides for installation of a manufactured home on a foundation system as chattel, which the statute states shall not be construed to affect the application of sales and use or property taxes.²⁰

Colorado: The owner of a manufactured home, once it is permanently affixed to the ground so that it can no longer be drawn over the public highways, shall file a certificate of permanent location that contains a statement of relinquishment by all secured lenders to release any interest in the home. Homeowners who do not own the land where it is sited must also release any interest in the home unless the property is subject to a lease of at least 10 years.²¹ Since a homeowner would generally not wish to give up ownership of the home, it is unlikely that homeowners without long-term leases would wish to convert their home to real property. The homeowner then surrenders the certificate of title and applies for purging of the title. The home then becomes real property, and subject to all laws that would apply to real estate.²² The purchaser of a new manufactured home may use the same procedure to convert the home to real property without a title ever being issued for the home, and instead relying upon the manufacturer's certificate or statement of origin.²³ Although the statute permits conversion of homes placed on land pursuant to long-term leases, this may be problematic as it appears that after conversion the home is taxed as part of the land upon which it sits and so would hold the landowner responsible for taxes for a home he does not own.²⁴ However, it is conceivable that the homeowner and the landowner could resolve this problem by contract. Upon the filing of a certificate of removal, the statute permits issuance of a new title if the home is removed.²⁵

Connecticut: Any person owning a manufactured home is to file a bill of sale, certificate of title or other ownership document with the town clerk. A security interest in the home must also be recorded in the land records of the town clerk. When a home is removed, a certificate so stating must be filed. The holder of any security interest must agree to the removal, and the security interest remains in full force and effect. Conveyance of title to a manufactured home that is located in a manufactured home community or on a lot owned by someone other than the homeowner is accomplished by filing a specified document in the land records of the town clerk.²⁶ The statute appears to allow conveyance of homes located upon land owned by the homeowner by deed, and such homes would become part of the real property.

Florida: The owner of a manufactured home permanently affixed to land owned by the homeowner or in which the homeowner has a recorded leasehold interest of at least 30 years, may retire title to the home.²⁷ Before title is retired the following documents must be recorded in the official records of the clerk of court in the county where the home is located: (1) the original title to the home, including a statement by any recorded lienholder that the security interest has been released or will be upon retirement of title; (2) legal description of the real property, and if the homeowner's interest in the property is a leasehold, a copy of the lease; and (3) a sworn statement of the owner that he or she owns the home and the real property or leasehold interest. After the title is retired, the home can be conveyed only by deed or real estate contract along with the property to which it is affixed, unless a new title is obtained.²⁸ A new title may be obtained if the home is to be removed from the land.²⁹ These titling provisions do not affect taxation.³⁰

Another Florida statute provides that if the manufactured home was classified as personal property by a seller or lender at the time a security interest in the home was granted, it shall continue to be so classified for all purposes relating to the loan and security agreement.³¹

Georgia: A manufactured or mobile home is personal property unless: (1) the home is or is to be permanently affixed to real property and one or more persons with an ownership interest in the home also has an ownership interest in the real property; and (2) the owner and all holders of security interests sign and file a certificate of permanent location with the clerk of the local superior court and the state revenue commissioner. Once such a certificate has been properly filed, the home is a part of the real property for all legal purposes, including foreclosure.³²

Idaho: A manufactured home may constitute real property if the home is permanently affixed to a foundation and the running gear is removed. The home must be sited on land that the homeowner owns, is purchasing or, if the home is being financed in accordance with a federal housing agency's guidelines, is leasing. The homeowner must record with the county recorder a statement of intent to declare the home as real property, and must turn over the certificate of title. Upon exercise of this option, county tax assessors are to treat the home as real property; lending institutions may also treat the home as real property,³³ and the home is considered an improvement to real property.³⁴ Physical removal of the home from the land is then prohibited unless the owner applies to have a new certificate of title issued and obtains the consent of the owner of the land.³⁵

Indiana: If a manufactured home has been attached to real estate by a permanent foundation, the owner may submit the certificate of title and an affidavit to the bureau of motor vehicles.³⁶ The county recorder is then to record the affidavit in the county real estate records,³⁷ and the home is thereafter deemed to be an improvement to the real estate.³⁸

Iowa: Iowa has two provisions; one addressing homes in land lease communities and one for homes on owned land. If the home is located in a manufactured home community and installed on a permanent foundation, the owner may surrender the certificate of title to the county treasurer for the purpose of assuring eligibility for federal mortgage lending programs. The title cannot be surrendered if there are unreleased security interests. A foreclosure action on a manufactured home whose title has been surrendered must be conducted as a real estate foreclosure. The home continues to be taxed the same as other manufactured homes. The owner may reapply for a certificate of title at a later date.³⁹

If the home is not in a manufactured home community, it must be placed on a permanent foundation (unless it was placed prior to Jan. 1, 1995). If a security interest is noted on the title, the homeowner must tender a mortgage on the real estate to the creditor, or the secured party must consent to the conversion, in which case the secured party retains a security interest in the home that is separate from any interest in the land. This statute is a tax law, but it implies that foreclosure law applies after the home is converted to real property. The statute provides for preservation of the homeowner's interest in the home separate from the landowner's interest in the land.⁴⁰

Kansas: Manufactured homes are not subject to the laws, rules and regulations applicable to vehicles, including titling and registration requirements and dealer licensing.⁴¹ Rather, after obtaining a manufactured home, the new owner is required to get a manufactured home certificate of title.⁴² Whenever a manufactured or mobile home is permanently affixed to real property by placement upon a permanent foundation that cannot be removed intact from the land, the owner may apply to have the certificate of title eliminated. The application must include an affidavit signed by the owner and all parties having a security interest in the home. If the application is approved, it is filed in the county registry of deeds. Once the certificate of title is eliminated, ownership of the home is an incident of ownership of the land under governing real property law, and the home is subject to a lien only as part of the real property.⁴³

Kentucky: When a manufactured home is or is to be permanently affixed to real estate, the owner may file an affidavit of conversion with and surrender the certificate of title to the county clerk, who then is to record the affidavit. The home is then deemed an improvement to the real estate.⁴⁴

Louisiana: A manufactured home is considered immovable only when a document describing the home and the land is recorded in the local parish records. The document must include a declaration by the owner of the home and any holder of a security interest in the home that the home is to remain permanently attached to the land. Once this document is recorded, the home is subject to all laws concerning immovable property and is no longer subject to the certificate of title law. After recordation the owner or the owner's agent must file a certified copy with the Secretary of the Department of Public Safety and Corrections, who creates an Internet-accessible searchable database providing a public record with: the name of the owner of the manufactured home; the date of recording of the act of immobilization; the parish where the act is recorded; the year of manufacture; the name of the manufacturer; the dimensions and the vehicle identification number or numbers of the manufactured home; and the date of the secretary's filing of a copy of the act of immobilization.⁴⁵ However, the rights of the holder of a validly recorded chattel mortgage or a security interest perfected under Article 9 of the Uniform Commercial Code are unaffected.⁴⁶ The owner may reverse the process so that the home is once again treated as movable property by filing another statement of intent and applying for a new certificate of title.⁴⁷ For homes that are not considered immovable, sale of the land does not affect title to the home or any security interest in the home.⁴⁸

Maryland: A manufactured home on a permanent foundation may be converted to real property if the ownership interests in the manufactured property and the real property to which the manufactured home is or will be affixed are identical.⁴⁹ The conversion requires an affidavit including a description of the home, the Manufacturer's Certificate of Origin (MCO) or certificate of title (or a title report, if neither is available), the street address and legal description of the real property where the home is or will be located; and a statement from the owner that the manufactured home is free and clear of any lien, security interest or encumbrance.⁵⁰ Once the home is converted to real property, sale of the land also transfers all right and title to the home, and any lien on the land also applies to the home.⁵¹ The statute also creates procedures for severing the home from the land where it is located.⁵²

Michigan: The owner of a manufactured home that is affixed to real property in which the owner has an ownership interest or a lease of at least 20 years⁵³ may apply for cancellation of the certificate of title.⁵⁴ To be considered affixed to the real property, the wheels, towing hitches and running gear must be removed and the home must be attached to a foundation or other support system.⁵⁵ The application must include the written consent of each holder of a security interest to termination of the security interest and cancellation of the title.⁵⁶ Once the title is cancelled, the manufactured home is considered part of the realty, a lienholder may perfect a new security interest or lien on the manufactured home only in the manner prescribed by the real estate laws, and the owner may convey the home only as part of the real property.⁵⁷ The owner may reapply for a certificate of title at a later date.⁵⁸

In 2003, the Sixth Circuit Court of Appeals held that security interests in manufactured homes in Michigan could be perfected only by recording them on the title, not by recording a traditional mortgage.⁵⁹ The legislature responded by amending its titling laws to recognize both methods.⁶⁰ It amended the statute again two years later to make this rule retroactive.⁶¹

Minnesota: When a manufactured home is affixed to real property and financed by a mortgage on the real property, the owner of the home must surrender the certificate of title to the Division of Driver and Vehicle Services for cancellation. The owner of the home must also own the land. The department then is to issue a notice of surrender, which may be recorded in the county recorder's office or the registrar of titles. The statute provides that the manufactured home is then deemed to be an improvement to real property. However, the department may not cancel the certificate of title if an unsatisfied security interest is noted on it.⁶²

Mississippi: A manufactured homeowner or mobile homeowner who also owns the land on which the home is located has the option of declaring whether the home is to be classified as personal or real property. To be classified as real property, the wheels and axles must be removed and the home must be anchored and blocked in accord with rules adopted by the commissioner of insurance.⁶³ A certificate that the home has been classified as real property is then recorded in the county land records,⁶⁴ and the home's certificate of title may be sent to the state tax commission for cancellation.⁶⁵ The home is then treated as real property for purposes of *ad valorem* taxation, and a security interest in the home and land may be obtained through the use of a mortgage or deed of trust.⁶⁶ The statute specifies a procedure for reclassifying a home as personal property.⁶⁷

Missouri: The owner of a manufactured home may convert it to real property if it has been permanently affixed by means of a permanent foundation, or if the owner intends to permanently affix the home by means of a permanent foundation, to real property that the owner of the home owns or which the owner of the home leases under a recorded lease for a term of at least 20 years after the date of execution, and the home has been connected to residential utilities.⁶⁸ The owner must file an application along with the certificate of origin or certificate of title with the Department of Revenue with information including an affidavit of affixation.⁶⁹ Once the home is treated as real estate, it is governed by the laws applicable to real estate, and the home can be transferred by deed along with the land.⁷⁰ The statute provides a procedure for restoring the home to personal property status if it is removed from the land.⁷¹

Montana: A manufactured home is considered an improvement to real property if the running gear is removed, the home is attached to a permanent foundation on land that is owned or being purchased by the owner of the home (or that is placed on the land with the permission of the landowner), and a statement of intent declaring the manufactured home as an improvement to real property is recorded with the county. The statement of intent must include, *inter alia*, a description of any security interests in the home and approval from all lienholders to eliminate the certificate of title. After these steps are completed, the manufactured home may not be removed from the land unless the owner files a statement of reversal of this declaration. A manufactured home that has been declared an improvement to real property must be treated by the state taxation department and by lending institutions in the same manner as any other improvement to real property.⁷² The statute's requirement that the taxation department and lending institutions treat the home as an improvement to the real property implies that it is also to be treated that way for other purposes, so that ownership of the home would not be preserved separately from ownership of the land.

Nebraska: The title for a mobile or manufactured home may be canceled if it is affixed to real property in which each owner of the home has an ownership interest. The statute defines ownership interest as fee simple interest, or an interest as a lessee that continues for at least 20 years after the required affidavit. To be permanently affixed, the wheels, towing hitches and running gear must be removed, and the home must be permanently attached to a foundation or other support system. The title is surrendered for cancellation to the county clerk or designated

official of the county. Along with the title to be surrendered, an affidavit of affixture on a form provided by the county must be submitted. The form requires, among other things, the names and addresses of all owners of the home, a description of the home, the legal description of the real property, a statement that the home is affixed, and the written consent of each lien holder to release its lien and cancel the title. After the title is canceled and the affidavit recorded, the home is treated as part of the real property, liens are perfected and enforced in the same manner as for real estate and the homeowner can convey the home only as part of the land.⁷³ The statute also provides a method for returning the home to the status of personal property.⁷⁴ For homes affixed to real estate for which a certificate of title was not issued before it was affixed, the homeowner may apply for a certificate of title for surrender and cancellation.⁷⁵

Nevada: A mobile or manufactured home is eligible to become real property if it becomes permanently affixed to land. The owner of the home must either own the land or, if the home is being financed in accordance with the guidelines of a federal housing program, lease it. The owner must record an affidavit of conversion in the county recorder's office, deliver a copy of the affidavit and all documents relating to the home to the Manufactured Housing Division of the State Department of Business and Industry and pay the current year's personal property tax.⁷⁶ Homes that are sited on lots outside manufactured home parks in accordance with local zoning laws are automatically recorded as real property without the need for an affidavit.⁷⁷ Once a home is converted to real property, it is deemed to be a fixture and an improvement to the real property.⁷⁸

New Hampshire: A manufactured home placed on a site not owned by the homeowner and connected to utilities shall be deemed real estate for the purposes of transfer and shall be conveyed, mortgaged and leased, and subject to attachment, liens, foreclosure and execution, in the same manner as real estate. If the home is relocated, a deed evidencing the relocation must be filed showing the change.⁷⁹ However, security interests in manufactured housing may also be created and perfected under the Uniform Commercial Code as adopted by New Hampshire.⁸⁰ The statute does not address homes placed on land owned by the homeowner. Owners of manufactured homes in this situation must rely upon common law to determine if the home becomes real property.

New Jersey: New Jersey requires that all manufactured homes not taxed as real property must have certificates of ownership (titles) issued by the Director of the Division of Motor Vehicles.⁸¹ A manufactured home is taxed as real property when it is affixed to the land by a permanent foundation, or if it is affixed by a nonpermanent foundation and connected to utility systems so as to render it habitable on a permanent basis.⁸² However, a manufactured home installed in a park is not taxed as real property.⁸³ When a mobile or manufactured home is relocated from a park to land that the owner of the home has an interest in or title to, the owner must file a notice with the Director of the Division of Motor Vehicles at least 10 days before the move. If the Director accepts the notice as complete, the certificate of ownership is canceled on the date of relocation.⁸⁴

North Carolina: A manufactured home qualifies as real property for purposes of taxation if it is a residential structure; the moving hitch, wheels and axle have been removed; and the owner either owns the land on which it is located or has a lease of at least 20 years that expressly provides for disposition of the manufactured home upon termination of the lease.⁸⁵ The owner of such a home may have the certificate of title cancelled by submitting it, along with an affidavit, to the Division of Motor Vehicles.⁸⁶ If the certificate of title shows a security interest that has not been released, the Division may not cancel the title without the written consent of all secured parties. The affidavit is then to be filed in the county registry of deeds. Once the certificate of title is cancelled and the affidavit is recorded, the manufactured home becomes an improvement to real property, any lien on the home shall be perfected and given priority in the manner provided for real property liens and the home cannot be conveyed or encumbered separately from the land.⁸⁷ An owner who wishes to separate the home from the land after the title has been cancelled can apply for a new certificate of title.⁸⁸

North Dakota: A manufactured home may be converted to real property if the home is affixed to real property by a permanent foundation, connected to residential utilities and the ownership interests in the home and land are identical or the home is placed there under a recordable lease for at least 20 years and the consent of the land owner. The homeowner must execute and record an affidavit of affixation with the county recorder that contains the manufacturer, the make, model name, model year, the dimensions, serial number of the home, whether the manufactured home is new or used, and state that the affiant is the owner of the land or is in possession under a lease meeting the requirements above. The affidavit must also include information about the certificate of title or Manufacturer's Certificate of Origin (MCO) and its surrender, any security interests or liens, and other information. Once the requirements are met, the home is deemed to be real property and is governed by the laws applicable to

real property. Title to the home can then be transferred only along with the land, but conveyance of the land does not effect a conveyance or encumbrance of the home.⁸⁹

Ohio: To be taxed as real property, a manufactured or mobile home must be affixed to a permanent foundation and located on land that the owner of the home owns.⁹⁰ The owner of a home that will be taxed as real property must surrender the certificate of title to the county auditor.⁹¹ The owner must either satisfy any liens on the home, or, with the lienholder's consent, give the lienholder a mortgage on the home and land. Once surrendered, the title is to be deactivated, but it can be reactivated upon application by the owner. These statutes do not state what effect the deactivation of the title has outside the context of taxation, but a bankruptcy case holds that if a home was converted to real property through this procedure for taxation purposes it is also real property for purposes of bankruptcy law.⁹²

Oregon: The owner of a manufactured structure, or the dealer selling it, may apply to the county assessor to have the structure recorded in the county deed records. The owner must own the land on which the structure is located, hold a recorded lease of 20 years or more that specifically permits the structure to be recorded in the county deed records or be a member of a manufactured home community nonprofit cooperative that owns the land. The owner must turn over any ownership document for cancellation. The deed records must list any unreleased security interest in the manufactured structure. Once recorded in the deed records, the manufactured structure is subject to the same provisions of law applicable to any other building, housing or structure on the land and may be sold separately from the land or leasehold estate only if the owner applies to have it removed from the deed records. The owner of a home that is recorded in the deed records has a real property interest in the home for purposes of recordation of documents; deed forms; mortgages, trust deeds and other liens; and real property tax collection.⁹³ However, recordation of the deed does not affect assessment or taxation of the home as real property, which depends on whether the land and the home are owned by the same person.⁹⁴

Pennsylvania: Upon application, the Department of Transportation may cancel a certificate of title for a manufactured home that is affixed to real property.⁹⁵ The home must be permanently mounted on a foundation.⁹⁶ The owner must complete a form and return it, along with the title, to the Department of Transportation.⁹⁷ If a lien appears on the certificate of title, the title will not be cancelled until the homeowner submits satisfactory evidence that the lien has been recorded against the land.⁹⁸ After cancellation, the ownership interest in the manufactured home, together with all liens and encumbrances on it, is transferred to and encumbers the real property.⁹⁹

South Carolina: The owner of a manufactured home may affix the home to real property by installing it in accordance with the state installation standards, removing the wheels, axles and towing hitch and filing an affidavit for retirement of title.¹⁰⁰ The owner of the home must either own the land on which it is located or have a leasehold estate of 35 years or more in the land. The local register of deeds or clerk of court must then record the affidavit as if it were a deed to real property. Upon completion of this process, the home is to be treated as real property for all purposes except condemnation.¹⁰¹ Following this procedure for a home that is on leased land results in transferring ownership of the home to the owner of the land.¹⁰² The title certificate may be cancelled by presenting it to the responsible office, along with a clocked and stamped copy of the affidavit.¹⁰³ Any party listed on the title certificate as having a security interest in the home must either release the lien or consent to the cancellation of the title.¹⁰⁴ Once a manufactured home has been converted to real property in this manner, a manufactured home severance affidavit must be filed before it can be severed from the land.¹⁰⁵

South Dakota: If a mobile or manufactured home is affixed to real property and the owner of the home also owns the land, the owner may request that the title to the home be surrendered.¹⁰⁶ If the owner wants to remove the home from the real property at a later time, the owner may apply to have a title reissued.¹⁰⁷ These statutes are part of the state motor vehicle titling laws and do not state the effect of surrendering the title.

Tennessee: If a manufactured home is affixed to real property and the ownership of the home is identical to the ownership of the land, the owner may surrender the title to the state Department of Safety. The owner must submit an affidavit of affixation that, *inter alia*, certifies that all permits required by applicable governmental authorities have been obtained, the foundation system complies with the law and with the manufacturer's specifications and the wheels and axles have been removed. If the affidavit complies with all the statutory requirements, the county register of deeds is to record it. The home is then subject to taxation as an improvement to the land, but the statute does not specify the effect on foreclosure.¹⁰⁸ The owner can apply for reissuance of the certificate of title.¹⁰⁹

Texas: A manufactured home can be treated as real property if it is attached to land that the owner of the home owns or which the owner is leasing under a long-term lease as defined by the state Department of Housing and Community Affairs.¹¹⁰ To be attached to land, the home must be installed in compliance with state rules and connected to a utility.¹¹¹ An application for a statement of ownership and location must be filed with the department.¹¹² In addition, each lienholder must either release the lien or give written consent to the conversion of the home to real property.¹¹³ Within sixty days after the department issues a statement of ownership, the owner must file a certified copy in the real property records of the county in which the home is located and notify the Department and the tax assessor-collector that the certified copy has been filed.¹¹⁴ The home is then considered real property for all purposes.¹¹⁵ The statute also allows a home to be converted from real property to personal property.¹¹⁶ The statutory procedure is the exclusive means of classifying a home as real property.¹¹⁷

Another Texas statute provides that, if a consumer buys real property and a manufactured home at the same time and certain other conditions are met, the creditor may elect to treat the home as if it were residential real property for all purposes in connection with the credit transaction.¹¹⁸ If the creditor so elects and discloses this election conspicuously to the consumer, then the transaction is considered to be a residential real property transaction for all purposes.¹¹⁹

Utah: A manufactured or mobile home is considered to be real property and an improvement to real property if the owner also owns the land to which the home is permanently affixed, or leases the land and is financing the home in accordance with Federal Housing Administration guidelines. The owner must surrender the title and complete an affidavit that, *inter alia*, identifies any security interests in the home. The affidavit and the receipt for the surrender of the title are then recorded by the county recorder. The owner may acquire a new title upon removing the manufactured home from the land. Since this statute is part of the state mortgage lending and servicing act, it is likely that it will govern whether foreclosure is the appropriate way for the lender to proceed in the event of default.¹²⁰ This procedure does not affect taxation.¹²¹

Vermont: If a manufactured home is financed while the home is permanently sited in a manner intended for continuous residential occupancy by the owner, the home shall be financed as residential real estate if it is on land owned by the homeowner, and may be so financed if it is on land leased by the homeowner.¹²² Otherwise a manufactured home may be financed under Vt. Stat. Ann. tit. 9, § 41a(b)(4) or Vt. Stat. Ann. tit. 9, pt. 3, ch. 59, both of which regulate chattel loans. The financing, refinancing and sale of homes that are or have been financed as residential real estate shall be by deed.¹²³ If a home that was initially financed as personal property is subsequently financed as residential real estate, the owner must file a request to purge the security interest with the clerk of the municipality where the chattel mortgage for the home was recorded. The holders of any unreleased security interests must consent. Upon compliance with these requirements, the home becomes residential real estate. Once converted to residential real estate, the home cannot be converted or redefined as personal property.¹²⁴

Virginia: After a manufactured home has been titled in the state and once the wheels and other equipment that made the home mobile are removed and the home has been attached to real property owned by the homeowner, then the owner may convert the home to real property. To do so, the homeowner must surrender the title and submit an affidavit to the Department of Motor Vehicles. The affidavit must state, among other things, that there are no security interests in the home that have not been released by the secured party, and that the home is intended to be a permanent fixture and improvement to the land, to the same extent as any site-built home, and assessed and taxed with the land as real property. Upon filing the affidavit of affixation, the manufactured home shall then be deemed to be real estate and shall thereafter be conveyed and encumbered only as real estate is conveyed and encumbered, except when the home is thereafter physically severed from the real property and a new title issued pursuant to procedures set forth in the statute. The statute provides that it is the exclusive procedure for converting a manufactured home to real property.^{125, 126}

Washington: The owner of a manufactured home that is affixed to land (i.e., installed in accordance with state installation standards¹²⁷) may apply to have the title eliminated. The owner of the home must also own the land on which it is sited, have a lease of 35 years or more for the land or be purchasing the land under a real estate contract.¹²⁸ The owner must submit the title and an application, which must identify any security interests, to the Department of Licensing for approval.¹²⁹ After approval, the title is to be cancelled and the approved application is to be recorded in the county real property records.¹³⁰ The statute provides that the manufactured home is then to be treated as real property as if it were a site-built structure,¹³¹ except for purposes of taxation.¹³² If the title has not been eliminated, the home is not real property.¹³³ The statute provides a procedure to obtain a new title if the home is to be removed from the land.¹³⁴

West Virginia: The Commissioner of Motor Vehicles may cancel a certificate of title for a mobile or manufactured home that is affixed to real property that the homeowner owns.¹³⁵ The owner must submit an application and the certificate of title. The cancellation certificate is then to be recorded in the county deed records. Upon recordation, the statute provides that the home is to be treated for all purposes as an appurtenance to the real estate to which it is affixed, and the ownership interest in the home is to be transferred to and shall encumber the real estate.¹³⁶

Wisconsin: The owner (other than a nonresident owner) of a manufactured home situated in or intended to be situated in Wisconsin must obtain a certificate of title,¹³⁷ unless the owner intends to make the home a fixture to land in which the homeowner has an ownership or leasehold interest.¹³⁸ The leasehold interest must be subject to Wisconsin's real property statutes, which exclude leases for a term limited to one year or less.¹³⁹ In order to transfer a home for which no title was issued, the owner can apply to the Department of Safety and Professional Services for issuance of a title.¹⁴⁰ A state tax statute provides that a mobile or manufactured home is an improvement to real property if it is connected to utilities and is set upon a foundation (*i.e.* its wheels have been removed and it is set upon some other support) upon land owned by the homeowner, but that it is personal property if the land upon which it is located is not owned by the homeowner or it is not set upon a foundation or connected to utilities.¹⁴¹

Wyoming: If a manufactured home is installed on a permanent foundation and is taxable as real property and all liens have been paid, the certificate of title is to be surrendered to and cancelled by the county clerk.¹⁴² To be taxable as real property, the home must be physically or constructively annexed to the real property and adapted to the use of the real property, and there must be evidence of intent to make it a permanent part of the real property.¹⁴³

ENDNOTES

- 1 Ala. Code § 32-20-20(b) (effective Jan. 1, 2010).
- 2 Ala. Code § 32-20-20(a) (effective Jan. 1, 2010).
- 3 Ala. Code § 40-11-1(b)(15).
- 4 *Green Tree-AL LLC v. Dominion Resources, L.L.C.*, 104 So.3d 177 (Ala. Civ.App. 2011) (manufactured home did not convey at tax lien sale of real property despite being taxed as real property for ad valorem taxes as its certificate of title had not been canceled pursuant to state conversion statute).
- 5 Ariz. Rev. Stat. Ann. § 42-15201(2).
- 6 Ariz. Rev. Stat. Ann. § 42-15202.
- 7 Ariz. Rev. Stat. Ann. § 33-1501.
- 8 Ariz. Rev. Stat. Ann. § 33-1501(C)(4), (E).
- 9 Ariz. Rev. Stat. Ann. § 28-2063.
- 10 Ariz. Rev. Stat. Ann. § 33-1501(I).
- 11 Ariz. Rev. Stat. Ann. § 42-15203.
- 12 Ark. Code Ann. §§ 27-14-807, 27-14-1603.
- 13 Cal. Health & Safety Code § 18551 (West) (includes construction standards, plan approval, etc.).
- 14 Cal. Health & Safety Code § 18039.1 (West).
- 15 Cal. Health & Safety Code § 18551(a)(1)(A) (West).
- 16 Cal. Health & Safety Code § 18551(a)(1)(B) (West).
- 17 Cal. Health & Safety Code § 18551(a)(2), (3) (West).
- 18 Cal. Health & Safety Code § 18551(a)(4) (West).
- 19 Cal. Health & Safety Code § 18039.1 (West).
- 20 Cal. Health & Safety Code § 18551(b).
- 21 Colo. Rev. Stat. Ann. § 38-29-202 (2)(m).
- 22 Colo. Rev. Stat. Ann. § 38-29-118 (2).
- 23 Colo. Rev. Stat. Ann. § 38-29-114.
- 24 Colo. Rev. Stat. Ann. § 38-29-118 (2).
- 25 Colo. Rev. Stat. Ann. § 38-29-203.
- 26 Conn. Gen. Stat. § 21-67a.
- 27 Fla. Stat. § 319.261.
- 28 Fla. Stat. § 319.261(5).
- 29 Fla. Stat. § 319.261(6).
- 30 Fla. Stat. § 319.261(11).
- 31 Fla. Stat. § 320.015.
- 32 Ga. Code Ann. §§ 8-2-180 to 8-2-183.
- 33 Idaho Code Ann. §§ 63-304(2), 63-305(1). *Cf. In re Sasinouski*, 52 B.R. 67 (Bankr. Idaho 1985) (even though homeowner did not comply with Idaho title purging statute, land and manufactured home were both encumbered by the deed of trust on land, where deed of trust did not explicitly exclude manufactured home and lender relied upon appraisal that included both the home and land when making the loan); *Spencer v. Jameson*, 211 P.3d 106 (Idaho 2009) (manufactured home connected to well, septic tank and utilities was a fixture subject to foreclosure on deeds of trust secured by the real property).
- 34 La. Rev. Stat. Ann. § 630305(1).
- 35 Idaho Code Ann. § 63-305.
- 36 Ind. Code § 9-17-6-15.1.
- 37 Ind. Code § 9-17-6-15.3.
- 38 Ind. Code § 9-17-6-15.5.
- 39 Iowa Code § 435.26A.
- 40 Iowa Code § 435.26. *See also Ford v. Venard*, 340 N.W.2d 270 (Iowa 1983) (holding that Iowa's title purging statute was not intended to be the exclusive method to convert manufactured home to real property and that common-law methods of converting personal to real property remained).

- 41 Kan. Stat. Ann. § 58-4203.
- 42 Kan. Stat. Ann. § 58-4204.
- 43 Kan. Stat. Ann. § 58-4214.
- 44 Ky. Rev. Stat. Ann. § 186A.297 (West).
- 45 La. Rev. Stat. Ann. § 9:1149.4. See also La. Rev. Stat. Ann. § 9:1146.3.
- 46 La. Rev. Stat. Ann. § 9:1149.4.
- 47 La. Rev. Stat. Ann. § 9:1149.6.
- 48 La. Rev. Stat. Ann. § 9:1149.3.
- 49 Md. Code, Real Prop. § 8B-201.
- 50 Md. Code, Real Prop. §§ 8B-201, 8B-202.
- 51 Md. Code, Real Prop. § 8B-102.
- 52 Md. Code, Real Prop. §§ 8B-301, 8B-302.
- 53 Mich. Comp. Laws Ann. § 125.2330i(11)(b).
- 54 Mich. Comp. Laws Ann. § 125.2330i(1).
- 55 Mich. Comp. Laws Ann. § 125.2330i(11)(a).
- 56 Mich. Comp. Laws Ann. § 125.2330i(1).
- 57 Mich. Comp. Laws Ann. § 125.2330i(5) (West).
- 58 Mich. Comp. Laws Ann. § 125.2330i (West).
- 59 *Boyd v. Chase Manhattan Mortgage Corp.* (In re Kroskie), 315 F.3d 644 (6th Cir. 2003).
- 60 Mich. Pub. Act No. 44, S.B. 425 (2003), enacting Mich. Comp. Laws Ann. § 125.2330i (West).
- 61 Mich. Comp. Laws Ann. § 125.2330i (West), as amended by Mich. Pub. Act No. 162, H.B. 4484 (2005). See In re *Ozwall*, 444 F.3d 524 (6th Cir. 2006) (interpreting statute to allow security interest in manufactured home to be perfected by filing of mortgage with county registry, without notation on title, even when transaction occurred before statutory amendments); In re *Hoggard*, 330 B.R. 595, 605 (Bankr. W.D. Mich. 2005) (concluding that 2003 legislation overruled *Kroskie*; also finding security interest in home protected by Revised Article 9's priority rules); *Mortgage Elec. Registration Sys. v. Pickrell*, 721 N.W.2d 276 (Mich. Ct. App. 2006) (in light of 2005 statutory amendment, creditor has option of perfecting security interest in manufactured home either under the Act or under real estate law, even for home that was affixed to real estate before earlier amendments in 2003). *But cf.* In re *Gregory*, 316 B.R. 82 (Bankr. W.D. Mich. 2004) (interpreting title purging statute not to have retroactive effect, a conclusion rejected by Sixth Circuit in *In re Ozwall*, but finding security interest in home protected against bankruptcy trustee's strong-arm power because of Revised Article 9's changes to priority rules).
- 62 Minn. Stat. §§ 168A.141, 273.125.
- 63 Miss. Code Ann. § 27-53-15.
- 64 *Id.* See also Opinion Miss. Att'y Gen., Miller, No. 2005-0131, 2005 WL 1220419 (Miss. Att'y Gen. Apr. 8, 2005).
- 65 Miss. Code Ann. § 63-21-30.
- 66 Miss. Code Ann. § 27-53-15.
- 67 Miss. Code Ann. § 27-53-15.
- 68 Mo. Rev. Stat. §§ 700.111, 442.015. See In re *Estate of Parker*, 25 S.W.3d 611 (Mo. Ct. App. 2000) (manufactured home not converted to real property when the home was held jointly by married couple and placed on land held by only by one spouse as it was not placed on land held by the owner of the home). See also *Citizens Nat'l Bank v. Maries Cty. Bank*, 244 S.W.3d 266 (Mo. Ct. App. 2008) (despite the fact that the home had been affixed to the consumer's real estate, consumer not entitled to receive manufacturer's statement of origin from floor plan financier that had a perfected security interest in dealer's inventory, when floor plan financier was not paid by dealer).
- 69 Mo. Rev. Stat. §§ 442.015, 700.320.
- 70 Mo. Rev. Stat. Ann. § 442.015(7), (8).
- 71 Mo. Rev. Stat. Ann. § 442.015(10).
- 72 Mont. Code Ann. §§ 15-1-116, 15-1-118.
- 73 Neb. Rev. Stat. § 60-169.
- 74 Neb. Rev. Stat. § 60-169.
- 75 Neb. Rev. Stat. § 60-137.
- 76 Nev. Rev. Stat. § 361.244. See In re *Colver*, 13 B.R. 521 (Bankr. D. Nev. 1981) (manufactured home placed on land owned by owner of home with its wheels removed remained personal property in absence of compliance with statute and when lender stated in security instrument that home would remain person property over the life of the loan).
- 77 Nev. Rev. Stat. §§ 278.02095, 361.244(5).

- 78 Nev. Rev. Stat. § 361.244(3).
- 79 N.H. Rev. Stat. Ann. § 477:44. See also N.H. Rev. Stat. Ann. § 80:18-a (defining “mortgage” for tax collection purposes to include security interests in manufactured housing created and perfected under N.H. Rev. Stat. Ann. § 477:44).
- 80 N.H. Rev. Stat. Ann. § 477:44 IV.
- 81 N.J. Stat. Ann. §§ 39:10-2, 39:10-6 (West).
- 82 N.J. Stat. Ann. § 54:4-1.5 (West).
- 83 N.J. Stat. Ann. § 54:4-1.5 (West).
- 84 N.J. Stat. Ann. § 39:10-11.1 (West).
- 85 N.C. Gen. Stat. § 105-273(13).
- 86 N.C. Gen. Stat. § 20-109.2.
- 87 N.C. Gen. Stat. §§ 47-20.6, 47-20.7.
- 88 N.C. Gen. Stat. § 20-109.2(d).
- 89 N.D. Cent. Code § 47-10-27.
- 90 Ohio Rev. Code Ann. § 4503.06(B)(1), (2) (West).
- 91 Ohio Rev. Code Ann. § 4505.11 (West).
- 92 *In re Cluxton*, 327 B.R. 612 (B.A.P. 6th Cir. 2005). See also *In re Davis*, 386 B.R. 182 (B.A.P. 6th Cir. 2008) (for the purpose of determining if home is real property under bankruptcy law, home may be converted by statutory procedure or a traditional fixture analysis); *Benner v. Hammond*, 673 N.E.2d 205 (Ohio Ct. App. 1996) (holding that home that had title purged under revenue statute and was considered real property under the owner’s mortgage was not a “trailer” for the purposes of a restrictive covenant).
- 93 Or. Rev. Stat. § 446.626. See also Or. Rev. Stat. § 446.611 (means of perfecting security interest in manufactured home that still has an ownership document).
- 94 Or. Rev. Stat. §§ 308.875, 446.626(3).
- 95 75 Pa. Cons. Stat. § 1140.
- 96 Pa. Code tit. 67, § 401.5(a).
- 97 *Id.*
- 98 Pa. Code tit. 67, § 401.5(b).
- 99 75 Pa. Cons. Stat. § 1140.
- 100 S.C. Code § 56-19-510. See also S.C. Code § 56-19-500(1).
- 101 S.C. Code § 56-19-510(C). See also S.C. Code § 56-19-560.
- 102 S.C. Code § 56-19-510(C), (D)(9).
- 103 S.C. Code § 56-19-520.
- 104 *Id.*
- 105 S.C. Code § 56-19-550.
- 106 S.D. Codified Laws § 32-3-3.2.
- 107 S.D. Codified Laws § 32-3-3.3.
- 108 Tenn. Code Ann. § 55-3-138.
- 109 Tenn. Code Ann. § 55-3-139.
- 110 Tex. Occ. Code Ann. § 1201.2055 (West).
- 111 Tex. Occ. Code Ann. § 1201.003(4) (West).
- 112 Tex. Occ. Code Ann. §§ 1201.205, 1201.206.
- 113 Tex. Occ. Code Ann. § 1201.2075 (West).
- 114 Tex. Occ. Code Ann. § 1201.2055 (West).
- 115 *Id.* See also Tex. Prop. Code Ann. § 2.001 (West).
- 116 Tex. Occ. Code Ann. § 1201.2076.
- 117 Tex. Prop. Code § 2.001. See, e.g., *In re Lara*, 2008 WL 961892 (Bankr. S.D. Tex. Apr. 8, 2008).
- 118 Tex. Fin. Code Ann. § 347.455 (West).
- 119 *Id.*
- 120 Utah Code Ann. § 70D-2-401. See also Utah Code Ann. §§ 41-1a-503, 41-1a-506.
- 121 Utah Code Ann. § 70D-2-401(11).

- 122** Vt. Stat. Ann. tit. 9, § 2603(b).
- 123** Vt. Stat. Ann. tit. 9, § 2604.
- 124** Vt. Stat. Ann. tit. 9, § 2605.
- 125** Va. Code Ann. § 46.2-653.
- 126** *In re Banks*, 259 B.R. 848 (Bankr. E.D.Va. 2001).
- 127** Wash. Rev. Code § 65.20.020(1).
- 128** Wash. Rev. Code §§ 65.20.020(7).
- 129** Wash. Rev. Code § 65.20.040.
- 130** Wash. Rev. Code § 65.20.050.
- 131** *Id.* See also Wash. Rev. Code §§ 65.20.030, 65.20.060 (manufactured home whose title has been eliminated may be conveyed only by deed or real estate contract).
- 132** Wash. Rev. Code § 65.20.910.
- 133** Wash. Rev. Code § 65.20.030.
- 134** Wash. Rev. Code § 65.20.070.
- 135** W.Va. Code § 17A-3-12b.
- 136** *Id.* See also W.Va. Code §§ 11-5-11, 11-5-1212 (tax statutes providing that an owner-occupied manufactured home sited on land not owned by the homeowner is classified as personal property whether or not it is permanently affixed to the land, unless the certificate of title has been cancelled).
- 137** Wis. Stat. § 101.9203(1).
- 138** Wis. Stat. § 101.9203(4).
- 139** Wis. Stat. § 706.001.
- 140** Wis. Stat. § 101.9212.
- 141** Wis. Stat. § 70.043.
- 142** Wyo. Stat. Ann. § 31-2-502.
- 143** Wyo. Stat. Ann. § 39-15-101(a)(v).