

# Titling Homes as Real Property

## OVERVIEW

For more than 17 million people in the US, their pathway to homeownership was through manufactured housing. Modern manufactured homes are a high-quality and affordable option, particularly for low- and moderate-income families, and provide an entryway into asset and wealth building that promotes long-term economic opportunity and financial security.

A major hurdle that prevents many owners of manufactured homes from enjoying the same benefits as owners of site-built homes is classification of the home as “chattel,” the legal term for personal property, as opposed to real property, or real estate. Although some manufactured homes are designated as real property, most are still considered personal property, either because the homeowner hasn’t taken an affirmative action to convert the home, or because regulations prevent the home from being classified as real estate.

The personal property designation affects potential and existing owners of manufactured homes in a number of ways. There are limited options for financing personal property, resulting in higher-interest loans, shorter loan terms and a smaller pool of lenders from which to choose. Homeowners do not enjoy the same consumer protections in the event of loan default or bankruptcy, and in some cases are prevented from working with real estate agents and appraisers due to state restrictions regarding personal property. These factors make it difficult for potential and existing homeowners to reap the maximum benefit of investing in their homes.

While more than three-quarters of states have some statutory method for converting a manufactured home from personal property to real property, these statutes are often inadequate. The remainder of this brief outlines recommendations for a strong titling policy at the state level, and what the federal government can do to supplement these efforts.

## ELEMENTS OF A STRONG CONVERSION POLICY

Conversion and conversion procedures should:

- Be available regardless of who owns the land upon which the home is placed.
- Make the home real property for all purposes, such as seeking financing for the home or participating in foreclosure prevention programs.
- Protect secured parties’ interest in the home.
- Not require homes on rented land to have a specific lease term.
- Not impose requirements regarding the home’s foundation beyond those required to site any manufactured home.
- Not affect the landowner’s interests if the home is on rented land, nor should it require the permission of the landowner.
- Create a clear chain of ownership to facilitate title searches.
- Be user-friendly and permit homeowners to convert their homes without hiring a professional for assistance.
- Provide a bright-line rule for when a home is titled as real property to ensure predictable and consistent results.
- Include the cancellation of certificates of title in order to reduce the possibility of fraud.

As an alternative to conversion, automatic titling of homes as real property has several advantages, particularly in states where manufactured homes and site-built homes are already taxed at similar rates.

Regardless of whether a home is treated as real or personal property, states should consider adopting the following policies:

- Protections against Unfair, Deceptive or Abusive Practices (UDAP) should apply to manufactured home sales and state homestead exemption laws should apply to manufactured homes.
- Laws governing the practices of appraisers and real estate agents should not include restrictions that impede their involvement in manufactured home sales.
- The requirements of the federal Real Estate Settlement and Procedures Act should be incorporated into state law and applied to all loan transactions secured by a manufactured home.

## WHAT STATES CAN DO

States, not the federal government, determine the titling of manufactured homes and define the process by which homes may be converted from personal to real property. Currently, 40 states have statutes that set forth a procedure to convert a manufactured home from personal to real property and document that conversion. However, many of these statutes are problematic.

- Many do not permit homes on leased land to be converted. Even when such conversion is permitted, it often requires the permission of the landowner, particular types of financing and long lease terms.
- The implications of conversion can be unclear, often specifying that the home will be taxed as real property without clarifying whether the home is subject to foreclosure as real property or treated as real property for other purposes.
- Some statutes have onerous foundation requirements. In addition to cost, this policy forces homeowners on leased land to invest in a permanent foundation absent guarantees about their right to remain on the land.
- Conversion statutes can be complex, and often necessitate hiring an attorney to assist in the process.

By creating a straightforward conversion process that is not only easy for homeowners to follow, but also protects existing lienholders and future buyers of the home, states can open the door to increased security and asset-building potential for owners of manufactured housing.

Specifically, states should adopt the Uniform Manufactured Housing Act (UMHA), a model law adopted by the Uniform Law Commission in 2012. The act provides a clean, simple conversion process that can be adapted to meet state taxing priorities, as well as other issues. The act would open up the manufactured housing market to new lenders who are limited by secondary market and other investor guidelines to making only real estate loans.

## WHAT THE FEDERAL GOVERNMENT CAN DO

Although the classification of manufactured homes as real or personal property is a state issue, the federal government can also encourage states to provide equal rights and protections to owners of manufactured homes. Several years ago, Freddie Mac launched a home-only lending product, which required long-term leases in communities. It encouraged states to adopt laws allowing conversion of manufactured homes to real property to enable homeowners to obtain better loans. Although many states responded with policy changes, the resulting conversion procedures were overly narrow in many cases.

In August 2015, Fannie Mae announced its HomeReady™ mortgage, a new loan product for manufactured homes titled as real property. Coupled with regulatory requirements, such as Duty to Serve, these lending efforts provide tremendous incentive for states to improve conversion policy. Modification of underwriting by the Federal Housing Administration to promote liberal conversion of homes to real property—by providing more attractive loans to homes titled as real property—would be another positive step.

## 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 opportunities for all people in the US. The I'M HOME Network includes nonprofit and for-profit, national and local partners who together work to ensure that families who purchase manufactured homes are able to build wealth through homeownership. For more information about I'M HOME, please visit [www.cfed.org/go/imhome](http://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](http://www.consumerlaw.org).