

UNIFORM MANUFACTURED HOUSING ACT*

Drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT
IN ALL THE STATES

at its

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By

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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UNIFORM MANUFACTURED HOUSING ACT

SECTION 1. SHORT TITLE. This [act] may be cited as the Uniform Manufactured Housing Act.

SECTION 2. DEFINITIONS. In this [act]:

(1) “Affidavit of lost document” means a record in recordable form that includes the following:

(A) the name of the owner of the manufactured home that is the subject of the affidavit;

(B) the unique identifier of the manufactured home;

(C) the homeowner’s representations that the homeowner:

(i) owns the home; and

(ii) cannot reasonably obtain possession of the certificate of origin [or certificate of title] because the certificate was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of a person who will not surrender it, or an unknown person, or a person that cannot be found;

(D) the name and, if known, address of the person from which the homeowner acquired the manufactured home;

(E) the date of the affidavit; and

(F) the homeowner’s signature.

(2) “Buyer” means a person who buys or contracts to buy a manufactured home.

(3) “Certificate of location” means a record in recordable form that includes the following:

(A) the homeowner’s name;

(B) the unique identifier of the manufactured home that is the subject of the

certificate;

(C) a legally sufficient description of the land on which the home is located or on which the homeowner intends to locate it;

(D) the name of the record owner of the land;

(E) the homeowner's representations that:

(i) the homeowner owns the home;

(ii) the home is or will be located on the land described in the certificate;

and

(iii) the homeowner has the legal right to locate the home on the land described in the certificate;

(F) the date of the certificate;

(G) the homeowner's signature;

(H) the name and mailing address of the person to which the [recorder] should return the recorded certificate; and

(I) as an attachment to the certificate:

(i) the certificate of origin for the home, together with an official Uniform Commercial Code Article 9 search report, dated not more than [15] days before the date of the certificate of location, and issued by the [Secretary of State or other central filing office] of the state in which the homeowner is located as determined under [Uniform Commercial Code Section 9-307], and listing and including a copy of each financing statement filed in the state that lists the homeowner as a debtor; [or]

(ii) a certified copy of the most recent certificate of location for the home and of the deed, if any, by which the homeowner acquired title to the home[; or] [.]

[(iii) the certificate of title for the home.]

(4) “Certificate of origin” means a record created by a manufacturer or importer as the manufacturer’s or importer’s proof of identity of a manufactured home.

(5) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(6) “Land controlled by the homeowner” means land on which the homeowner of a manufactured home has the legal right to locate the home.

(7) “Located” means that the towing hitch, wheels, and axles to a manufactured home have been removed and the home has electricity from any source. Whether the electric supply is stopped subsequently does not affect whether the home is real property.

(8) “Manufactured home” means a structure, including the plumbing, heating, air-conditioning, and electrical systems contained in the structure, that is:

(A) transportable in one or more sections;

(B) in the traveling mode, eight body feet or more in width or 40 body feet or more in length;

(C) built on a permanent chassis;

(D) designed to be used as a dwelling with or without a permanent foundation, when connected to the required utilities; and

(E) not a self-propelled recreational vehicle.

(9) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(10) “Purchaser” means a person that takes by sale, lease, discount, negotiation, mortgage, deed of trust, pledge, consensual lien, security interest, issue or reissue, gift, or any other voluntary transaction creating an interest in property.

(11) “Record”, used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(12) “Retailer” means a person that, in the ordinary course of business, sells manufactured homes to persons other than those in the business of selling or leasing manufactured homes.

(13) “Security interest” means an interest in real or personal property that secures payment or performance of an obligation. The term includes a mortgage, deed of trust, and a security interest as defined in [Uniform Commercial Code, Article 1].

(14) “Sign” means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(15) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(16) “Unique identifier of the manufactured home” means the name of the manufacturer of the manufactured home, the identification number placed on the home by the manufacturer, and the make, model designation, and model year of the home.

Legislative Note: *The word “recorder” is used in this act to identify the officer who has authority under state law to accept documents for recording in the land records office. Although “recorder” is the word commonly used in most states to identify that officer, it has been placed in brackets as an indication that other titles might be used for the position. For example, the words “registrar” or “clerk” are used in some states to designate that officer.*

In addition, because this act affects all land recording systems in a state, the word “recorder” also applies to the appropriate officer under the alternative title system sometimes known as a Torrens title registration system. In some states, the traditional officer is known as a “recorder” and the officer under the alternative system is known as a “registrar”. Regardless of name, this act would apply to both officers.

When adopting this act, the legislature should consider whether to delete the word “recorder” wherever it appears and substitute the appropriate word or words used under the system or systems in effect in the state. If the word “recorder” is retained, the brackets should be removed.

If the state already provides a method for dealing with a lost certificate of origin and, in those states that issue a title for manufactured homes, for dealing with a lost certificate of title, Paragraph (1) can be deleted. However, the state may choose to permit the use of an affidavit of lost document for the limited purpose of recording a certificate of location.

If the state uses electronic certificates of title, the state should provide a method for obtaining a certified copy to attach to the certificate of location described in Paragraph (2).

If the state does not issue a certificate of title for manufactured homes, it should delete the bracketed language in Paragraph (1)(C)(ii) and (I)(iii).

The Uniform Law Commission determined that a manufactured home should not have to be permanently affixed to land to become real property because (1) the HUD definition of “manufactured home” does not require it, (2) some states and many landlords do not permit a permanent foundation in a leasehold community, and (3) according to the American Housing Survey for the United States, approximately 60% of manufactured homes are not attached to a permanent foundation. Under this act, a manufactured home can be real property when it is “located”, as defined in Paragraph (6). However, if a state wishes to use permanent affixation to land as the prerequisite for real property status, it can define “located” and “location” to mean “the manufactured home is attached to a permanent foundation.”

SECTION 3. SALE OF MANUFACTURED HOME.

(a) When a retailer and buyer contract for the sale of a manufactured home, the retailer shall deliver a notice in a record to the buyer and shall obtain a signed receipt from the buyer.

The notice must include statements to the following effect:

(1) under the law of this state, the buyer shall elect whether the home will be real property or personal property if the home is to be located on land controlled by the homeowner;

(2) the buyer’s election may affect the amount of the monthly payments and costs for a loan to buy the home, the taxation of the home, and the buyer’s legal rights in the home;
and

(3) the buyer should consult a trusted adviser, other than the retailer, about this election.

(b) A seller may not direct or otherwise steer a buyer to classify the manufactured home as real property or personal property for purposes of financing or otherwise.

(c) If a sale of a manufactured home by a retailer is not governed by [Uniform Commercial Code Article 2], the warranty provisions of [UCC Article 2] that would apply to a sale of goods shall apply to the sale of the manufactured home, and any rights arising from breach of warranty shall likewise be those in [UCC Article 2].

(d) When a manufactured home is sold, the seller shall deliver to the buyer the certificate of origin [or the certificate of title] for the home. If the seller does not have a certificate of origin [or certificate of title] because the home is real property pursuant to Section 4(a), the seller shall deliver a certified copy of the most recent certificate of location for the home and of the deed, if any, by which the seller acquired title to the home. The seller shall deliver the certificate or certified copy or copies at the time of sale.

(e) [If, not later than [] days after buying a new manufactured home, a buyer files a certificate of location for recording in accordance with Section 4, the buyer need not obtain a certificate of title for the home.]

(f) Subsections (a) and (b) do not apply to a sale to a person that buys for resale.

Legislative Note: *If the state issues a certificate of title for a manufactured home, it should insert the number of days that the buyer has to file a certificate of location, if desired. If the state does not issue a certificate of title for manufactured homes, subsection (e) should be deleted.*

SECTION 4. CERTIFICATE OF LOCATION.

(a) If a manufactured home is or will be located on land controlled by the homeowner, the homeowner may elect to file a certificate of location for recording in the land records of the [county, municipality, or other recording jurisdiction] in which the home is or will be located. If the certificate of location substantially conforms to the provisions of Section 2(2), the home is real property for all purposes when it is located and the certificate is filed, subject to Section 7(b)

and (c) [and for purposes of taxation].

(b) If the certificate of origin [or certificate of title] must be attached to the certificate of location but the homeowner cannot locate or obtain the certificate of origin [or certificate of title], the homeowner may attach an affidavit of lost document to the certificate of location in lieu of the certificate of origin [or certificate of title].

[(c) If a manufactured home is moved to this state from another state or from land in this state for which a certificate of location was filed for recording, the homeowner shall obtain a certificate of title for the home, unless the homeowner files a certificate of location for recording in the land records of the [county, municipality, or other recording jurisdiction] to which the home is moved not later than [time period provided in state certificate of title laws for issuance of new title] after the home is moved. The homeowner may file a certificate of location only if the home is or will be located on land controlled by the homeowner.]

Legislative Note: *If the state wants a manufactured home that is real property to be taxed as such, the bracketed language in subsection (a) should be deleted.*

If the state already provides a method for dealing with a lost certificate of origin and a lost certificate of title, in those states that title manufactured homes, subsection (b) is unnecessary, as is the definition of “affidavit of lost document” in Section 2(1). However, the state may choose to permit the use of an affidavit of lost document for the limited purpose of recording a certificate of location.

If the state does not issue a certificate of title for manufactured homes, the bracketed language in subsection (b) and subsection (c) should be deleted.

SECTION 5. RELOCATION OF MANUFACTURED HOME; NONCOMPLIANCE.

(a) In this section, a “certificate of relocation” is a record in recordable form that includes the following:

- (1) the relocation declarant’s name;
- (2) if the declarant does not own the manufactured home that has been or will be

moved, the homeowner's name, if known;

(3) the unique identifier of the manufactured home, if known;

(4) a legally sufficient description of the land from which the home has been or will be moved;

(5) the name of the record owner of the land;

(6) the recording information for the most recent deed or certificate of location for the home;

(7) a statement that the home has been or will be moved;

(8) the date that the home was or will be moved;

(9) the date of the certificate;

(10) the declarant's signature; and

(11) the name and mailing address of the person to which the [recorder] should return the recorded certificate.

(b) If a manufactured home is moved from land in this state for which a certificate of location has been filed for recording, the declarant shall file a certificate of relocation for recording in the land records of the jurisdiction from which the home has been or will be moved not later than ten days after it is moved. A declarant that does not own the home also shall file, with the certificate, an affidavit that the declarant has the right to remove the home and a certified copy of any required judgment or order authorizing it to move the home.

(c) A person that does not comply with the requirements of subsection (b) is subject to [insert civil penalty].

Legislative Note: *The state should insert a civil penalty into subsection (c).*

SECTION 6. RECORDING.

(a) If a certificate of location or certificate of relocation is filed, the [recorder] shall

record it, together with any attachments, and index it. [The [recorder] shall index the certificate in the grantor index under the landowner's name and in the grantee index under the name of the owner of the manufactured home.] [The [recorder] shall create a new tract index page for the manufactured home.]

(b) If a certificate of origin [or certificate of title] is filed as an attachment to a certificate of location, the [recorder] shall stamp or make a notation on the certificate of origin [or certificate of title] that it is no longer valid.

Legislative Note: *As described in the legislative note to Section 2, if the officer who has authority under state law to accept documents for recording in the land records office is not known as a "recorder", the appropriate term should be substituted in this section.*

If the land records office employs only one type of document index, the state should delete the inapplicable bracketed sentence from subsection (a).

If the state does not issue a certificate of title for manufactured homes, the bracketed language concerning certificates of title should be deleted.

SECTION 7. RIGHT, TITLE, AND INTEREST IN MANUFACTURED HOME.

(a) In this section, "buyer in the ordinary course of business" means a person that buys a manufactured home that is real property in good faith, without knowledge that the sale violates the rights of another person in the home, and in the ordinary course from a person in the business of selling manufactured homes. A person buys a manufactured home in the ordinary course if the sale comports with the usual or customary practices in manufactured home sales or with the seller's own usual or customary practices. A buyer in the ordinary course of business may buy for cash, by exchange of other property, or on secured or unsecured credit, and may acquire a home under a preexisting contract for sale. Only a buyer that takes possession of the home or has a right to recover the home from the seller under the law of this state may be a buyer in the ordinary course of business. A person that acquires homes in a transfer in bulk or as security for or in total or partial satisfaction of a money debt is not a buyer in the ordinary course of business.

A buyer in the ordinary course of business takes free of a security interest in the manufactured home created by the buyer's seller, even if the security interest is perfected and the buyer knows of its existence.

(b) This subsection applies to a manufactured home that is converted to real property under Section 4(a).

(1) Except as provided in paragraph (2), the rules that determine the rights and remedies of a person that, before conversion, had a security interest governed by [UCC Article 9] in the manufactured home, and the effectiveness and priority of the security interest under this [act] against purchasers and creditors, are those that would apply under [UCC Article 9] if, upon conversion to real property under Section 4(a), the manufactured home had then become a fixture as that term is used in [UCC Article 9].

(2) If the manufactured home became a fixture as that term is used in [UCC Article 9] at a time before conversion to real property, for purposes of paragraph (1) the home shall be treated as having become a fixture at such time.

(3) A copy of a financing statement [or certificate of title] that is attached to a certificate of location and that was sufficient under [UCC Article 9] to perfect a security interest in the manufactured home immediately before conversion to real property constitutes a fixture filing under [UCC Article 9] covering the manufactured home and provides sufficient notice so that a subsequent bona fide purchaser of the manufactured home takes subject to the security interest.

(c) This subsection applies to a manufactured home that is real property pursuant to Section 4(a) and is subsequently detached from the land on which it is located.

(1) The manufactured home becomes personal property.

(2) Except as provided in paragraph (3), the rules that determine the rights of a

person that, immediately before detachment, had a security interest in the home arising under real property law, and the effectiveness and priority of the security interest against purchasers and creditors, are those that apply under [UCC Article 9].

(3) Upon default, a person that, immediately before detachment, had a security interest in the manufactured home arising under real property law may proceed under real property law or [Uniform Commercial Code Article 9 (except Section 9-609(b)(2))]. The remedies under [UCC Article 9] are subject to [insert mortgagor protection laws].

(d) Each transfer of a right, title, or interest in a manufactured home that is real property must be made in accordance with real property law and must include a legally sufficient description of the land on which the home is located. If the home is sold separately from the land, the conveyance document for the home must include the unique identifier of the manufactured home.

(e) Title to a manufactured home remains separate from the title to the land on which it is located though the home has become real property. Title to the home is not encumbered by a security interest in or other encumbrance in or on the title to the land. Title to the land is not encumbered by a security interest in or other encumbrance in or on the title to the home.

(f) If a manufactured home is located on land that the homeowner does not own, the terms of a land lease and the landlord's and tenant's rights and duties under the lease are unaffected by conversion of the home to or from real property.

SECTION 8. RELATION TO STATE AND LOCAL LAW.

(a) When a manufactured home becomes real property under this [act], it is not a fixture and, except as otherwise provided in Section 7, is not subject to the law of fixtures.

(b) Unless displaced by the particular provisions of this [act], the principles of law and equity supplement its provisions.

(c) Filing a certificate of location for recording does not of itself create a subdivision of land.

SECTION 9. HOME WARRANTY. Any warranty that applies to a manufactured home when it is sold and rights arising from a breach of the warranty are unaffected by a subsequent change in the home's classification as real or personal property. No additional warranty applies to a home solely because of a subsequent change in the home's classification as real or personal property.

SECTION 10. NONCOMPLIANCE.

(a) A person injured by another person's failure to comply with the terms of this [act] may be awarded damages and obtain other relief.

(b) If a retailer violates Section 3(a) or if a seller, including a retailer, violates Section 3(b) or (d), it is subject to all the remedies and penalties available to a consumer and to the [Attorney General] under [the state consumer protection act].

(c) This section does not limit other remedies of an injured person.

SECTION 11. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 12. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This [act] modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 *et seq.*, but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

SECTION 13. SAVINGS CLAUSE. This [act] does not affect an action or proceeding

commenced before the effective date of this [act].

SECTION 14. REPEALS [: TRANSITION]. The following are repealed:

***Legislative Note:** This section is for states that wish to replace their existing statutes concerning: (1) classification of manufactured homes as real property or as personal property, (2) titling of manufactured homes, (3) creation and perfection of security interests in manufactured homes and creditor remedies, and (4) manufactured home taxation. Because a wide variety of state statutory regimes exist, a uniform transition rule is inappropriate.*

SECTION 15. EFFECTIVE DATE. This [act] takes effect