

DRAFT  
FOR DISCUSSION ONLY

# MANUFACTURED HOUSING ACT

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NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAW

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For October 15 – 17, 2010 Drafting Committee Meeting

*With Prefatory Note and Comments*

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September 29, 2010

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# MANUFACTURED HOUSING ACT

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# **MANUFACTURED HOUSING ACT**

## **Prefatory Note**

The act's primary focus is the proper classification of manufactured homes (also commonly called mobile homes) as real property or as personal property. The act is intended to modernize the law in this area, to bring uniformity and clarity into a chaotic area of state law, to increase the supply of affordable housing by making manufactured home financing more available and affordable, and to provide manufactured home owners with many of the same legal protections as owners of site-built homes.

Many states' laws concerning manufactured homes have not kept pace with the changes in them over the last 90 years. Based on manufactured homes' earliest ancestor—the travel trailer—state laws classify most of these homes as personal property, though only one percent of them are moved after being sited on a lot. Three-quarters of manufactured homes are sited on the owner's land, and the average lot size is more than twice the average lot size for all detached homes. HUD construction and installation standards have virtually eliminated the differences in construction quality and safety between manufactured and site-built homes. As a result, the life expectancy of and deterioration rate for manufactured homes are now equivalent to those for site-built homes. Moreover, a manufactured home's appearance can be virtually indistinguishable from that of a site-built home. Today's manufactured home is functionally more equivalent to a site-built home than to a travel trailer, but only 28% of manufactured homes are classified as real property.

In addition to being generally outdated, existing state laws vary tremendously from state to state, which creates substantial inefficiencies in the manufactured home sales and finance markets. Depending on the state, manufactured homes are (1) personal property even after they are attached to the land, (2) real property for all purposes, (3) real property for some purposes and personal property for others, or (4) personal property until they become a fixture or until the completion of statutorily specified procedures for “converting” the title from personal property to real property. Additionally, these state laws often are unclear or incomplete concerning matters such as the conversion procedure, the purposes for which the home is to be treated as real or personal property, and whether state statutes in this area preempt the common law. As a result, manufactured home dealers, owners, and lenders must cope with a complex variety of laws.

Modernizing these laws and creating uniformity among the states is particularly important because manufactured housing is the most significant form of unsubsidized housing in this country for low-income households. As a result, 8% of the United States population—more than twenty-three million people—live in manufactured homes. In some states, the percentage is almost 20%. Perversely, existing state laws frequently cause manufactured home purchasers to pay more to purchase and to finance their home than purchasers of a site-built home.

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

(2) “Home” means a manufactured home, as defined in Section 2(4) of this [act].

(3) “Legal description of the manufactured home” is the home’s manufacturer, make, model designation, model year, identification number, length, and width.

### **Alternative A**

(4) “Manufactured home” or “manufactured housing” means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code.

### **Alternative B**

(4) “Manufactured home” or “manufactured housing” means a structure, including the plumbing, heating, air-conditioning, and electrical systems contained therein, that is:

1 (A) transportable in one or more sections;

2 (B) built on a permanent chassis and designed to be used as a dwelling with or  
3 without a permanent foundation when connected to the required utilities;

4 (C) in the traveling mode is eight body feet or more wide or 40 body feet or more  
5 long; and

6 (D) when erected on site is 320 or more square feet.

7 The term includes any structure that meets all the requirements of this paragraph except the size  
8 requirements and with respect to which the manufacturer voluntarily files a certificate required  
9 by the United States Secretary of Housing and complies with the standards established under  
10 Title 42 of the United States Code.

11 (5) “Permanently affixed” means installed on the land in the manner specified by the  
12 manufacturer’s installation instructions and by the applicable federal, state, and local laws.

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

16 (7) “Record” means information that is inscribed on a tangible medium or that is stored in  
17 an electronic or other medium and is retrievable in perceivable form.

18 (8) “Recorder” means the government official that records documents affecting land titles  
19 and makes them available for public inspection.

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

23 (10) “Transferee” means a person who acquires property by any legal means, including

1 sale, gift, and testate and intestate succession.

2 (11) “Transferor” means a person who transfers property by any legal means, including  
3 sale, gift, and testate and intestate succession.

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

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

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

### 8 **Comment**

9 Paragraph (1) is the standard Uniform Law Commission definition of “electronic”.

10 Paragraph (3) includes the information required by most state statutes concerning  
11 conveyances of manufactured homes.

12 Paragraph (4), Alternative A, is the “manufactured home” definition from Uniform  
13 Commercial Code § 9-102(53). As stated in comment 4(b) to that section, the definition is  
14 intended to have the same meaning as the definition in the Manufactured Housing Act, 42 U.S.C.  
15 §§ 5401-26. Using this definition will help harmonize this act with the federal act and with the  
16 U.C.C.

17 The drafting committee’s style member, Professor Marion Benfield, drafted Paragraph  
18 (4), Alternative B, to make the definition consistent with the Style Committee’s requirements.

19 With respect to paragraph (5), a manufactured home is real property only if it “is or will  
20 be permanently affixed to land”. The definition of “permanently affixed” requires that the home  
21 be installed properly. If a home is improperly installed, would it still satisfy this standard  
22 because the owner can be ordered to install it properly (home *will be* permanently affixed)? Or  
23 should the definition be broader? For example, Colorado requires only that the home be  
24 “permanently affixed to the ground so that it is no longer capable of being drawn over the public  
25 highways”. It does not define “permanently affixed”. Colo. Rev. Stat. § 38-29-114(b).  
26 Similarly, Montana requires that the running gear be removed and that the home be “attached to  
27 a permanent foundation so that it is no longer capable of being drawn over public highways”.  
28 Mont. Code § 15-1-116(1).

29 Paragraph (6) is the standard Uniform Law Commission definition of “person”.

30 Paragraph (7) is the standard Uniform Law Commission definition of “record”.

31 Paragraph (9) is the standard Uniform Law Commission definition of “state”.

32 Paragraph (12) is the standard Uniform Law Commission definition of “sign”.

**SECTION 3. ADMINISTRATION.** The [government agency] shall administer this act. The [government agency] [may][shall] promulgate rules and forms necessary to administer this [act].

### Comment

Some states have regulations concerning the matters covered in this act, but many do not.

#### SECTION 4. CERTIFICATE OF LOCATION.

(a) When a manufactured home retailer sells a new manufactured home after [day before act's effective date], the retailer shall complete a certificate of location. The certificate must be in the form specified by [government agency] and must include the following:

- (1) the transferor's name and address;
- (2) the transferee's name and address;
- (3) a statement that the transferor is transferring title to the home to the transferee;
- (4) the date;
- (5) the sale price;
- (6) the home manufacturer's name and address;
- (7) the legal description of the manufactured home;
- (8) the street address and legal description of the land to which the home is or will be permanently affixed;
- (9) the name of each record owner of the land to which the home is or will be permanently affixed;
- (10) unless the home is or will be permanently affixed to land owned by someone other than a home transferee, a release of all rights in the home by each transferee that does not also own the land to which the home is or will be permanently affixed;



(11) for each lien on the home, the lienholder's name and address, the date of the lien, and when and where it was recorded;

(12) a statement that each lienholder has consented to the filing of the certificate of location;

(13) a statement that a person who provides false information in the certificate is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than five hundred dollars but not more than one thousand dollars, or by imprisonment for not less than ten days but not more than six months, or by both fine and imprisonment;

(14) the transferor's and transferee's signatures; and

(15) any other information that the [government agency] requires.

The certificate must be executed with the same formalities as a deed in recordable form.

(b) Within ten days after the date on the certificate of location, the retailer shall file it for recording, together with the original manufacturer's certificate or statement of origin, in the land records of the jurisdiction in which the home is or will be permanently affixed.

### **Comment**

Subparagraph (a)(10) deals with the situation in which the home is affixed to land owned by some, but not all, of the home owners. In essence, it requires a home owner that does not also own the land to release its interest in the home to eliminate the title complexities that otherwise would arise. *See, e.g.*, Colo. Rev. Stat. § 38-29-202(2)(m).

Subparagraphs (a)(11) & (12) require information concerning each lien on the home and each lienholder's consent to the filing of the certificate of location. Some states limit these types of provisions to security interest holders. Colo. Rev. Stat. § 38-29-202(2)(j) (security interest holder); Mont. Code § 15-1-116(2)(b)(iv) (lienholder); Or. Admin. R. 918-550-0160(2) (lienholders must be notified; security interest holders must consent); Tex. Occ. Code § 1201.2075 (lienholder).

Subparagraph (a)(13) notifies the transferor and transferee that providing false information in the certificate constitutes a misdemeanor. An alternative approach would be to require each lienholder's signature, but that approach is more cumbersome and potentially unworkable if the lienholder refuses or otherwise fails to sign. Colorado has addressed the situation in which a lienholder fails to consent, albeit in the context of a home relocation, by

1 allowing the home owner to post a bond in an amount equal to 150% of the amount secured by  
2 the lien. Colo. Rev. Stat. § 38-29-203(4).

3 Paragraph (b) requires the certificate of location and the original manufacturer's  
4 certificate or statement of origin to be recorded first with the recorder, rather than with the  
5 government agency that maintains manufactured home title records or with the tax assessor.  
6 *Accord* Colo. Rev. Stat. § 38-29-114(2); Mont. Code § 15-1-116(1); N.H. Rev. Stat. § 477:44,  
7 subp. III. *Contra* Or. Admin. R. 918-550-0160 (tax assessor); Tex. Occ. Code § 1201.206  
8 (agency that maintains manufactured home title records).

9 Paragraph (b) requires the retailer, rather than the owner, to file the original  
10 manufacturer's certificate or statement of origin after the sale in order to establish a chain of  
11 custody for a home from the time of manufacture to the retail sale. Tex. Occ. Code §§ 1201.204,  
12 1201.206. Placing the burden on the retailer also increases the likelihood that the certificate will  
13 be filed. Tax assessors have said that buyers sometimes fail to file the necessary documents in  
14 an attempt to evade their property taxes. Additionally, some buyers will be unaware of the need  
15 to file or may be neglectful in doing so. Because a dishonest retailer may be tempted to sell the  
16 home to another consumer, rather than to file the certificate for recording, Section 13 of the act  
17 makes the retailer's failure to file a misdemeanor.

18  
19 **SECTION 5. MANUFACTURED HOME PURCHASED BEFORE [ACT'S**  
20 **EFFECTIVE DATE].**

21 (a) If the owner of a manufactured home acquired the home before [act's effective date]  
22 and if it is permanently affixed to land, the owner may file a certificate of location for recording  
23 in the land records of the jurisdiction in which the home is affixed. The certificate must be in the  
24 form specified by [government agency] and must include the following:

25 (1) the name of each person from whom the owner acquired the home and, if  
26 known to the owner, each transferor's address;

27 (2) the owner's name and address;

28 (3) the date that the owner acquired the home;

29 (4) the purchase price, if any;

30 (5) the legal description of the manufactured home;

31 (6) the street address and legal description of the land to which the home is

1 affixed;

2 (7) the name of each record owner of the land to which the home is affixed;

3 (8) unless the home is affixed to land owned by someone other than the home  
4 owner, a release of all rights in the home by each home owner that does not also own the land to  
5 which the home is affixed;

6 (9) for each lien on the home, the lienholder's name and address, the date of the  
7 lien, and when and where it was recorded;

8 (10) a statement that each lienholder has consented to the filing of the certificate  
9 of location;

10 (11) a statement that a person who provides false information in the certificate is  
11 guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than five  
12 hundred dollars but not more than one thousand dollars, or by imprisonment for not less than  
13 ten days but not more than six months, or by both fine and imprisonment;

14 (12) the home owner's signature; and

15 (13) any other information that the [government agency] requires.

16 The certificate must be executed with the same formalities as a deed in recordable form.

17 When the home owner files the original certificate of location for recording, the owner must  
18 deliver to the recorder the original manufacturer's certificate or statement of origin or a  
19 certificate of title that establishes the owner's ownership of the home.

20 (b) If the owner acquired a manufactured home before [act's effective date] and if the  
21 home is permanently affixed to land, the owner shall complete a certificate of location when  
22 transferring the home's title if the owner has not previously filed a certificate for recording in the  
23 land records of the jurisdiction in which the home is affixed. The certificate must contain the

1 information and be in the form specified in Section 4 of this [act]. Within ten days after the date  
2 on the certificate of location, the transferee of the home or the lender that financed the purchase,  
3 if any, shall file the certificate of location, together with the original manufacturer's certificate or  
4 statement of origin or a certificate of title that establishes the transferee's title to the home, for  
5 recording in the land records of the jurisdiction in which the home is affixed.

#### 6 **Comment**

7 Paragraph (a) makes the act voluntarily retroactive. If the owner of a pre-act home wants  
8 to convert it to real property, this section provides the means to do so. *Accord* Or. Rev. Stat. §  
9 446.626(1); Tex. Occ. Code § 1201.214. *Compare* Colo. Rev. Stat. §§ 38-29-112(1.5), 38-29-  
10 118 (home owner *must* file certificate of permanent location to reclassify home as real property  
11 when home is permanently affixed to the land even if owner purchased before law's effective  
12 date; recognizing that an owner may not comply with this requirement, a subsequent purchaser  
13 of the home must file certificate of permanent location).

14 By requiring the owner of a home purchased before the act's effective date to complete a  
15 certificate of location when transferring title to the home, all homes that are not part of a dealer's  
16 inventory should eventually be classified as real property, thereby eliminating the need for  
17 duplicative title systems for manufactured homes.

#### 18 **SECTION 6. MANUFACTURED HOME FROM ANOTHER STATE.**

19  
20 (a) A person that acquires a manufactured home in another state and permanently affixes  
21 the home to land in this state shall file a certificate of location for recording in the land records of  
22 the jurisdiction in which the home is affixed. The certificate must contain the information and be  
23 in the form specified in Section 5(a). The home owner shall file the certificate for recording,  
24 together with the original manufacturer's certificate or statement of origin or a certificate of title  
25 that establishes the owner's title to the home, within ten days after the home is permanently  
26 affixed in this state.

27 (b) After a manufactured home owner brings the home into this state from another state,  
28 subsequent purchasers for value of an interest in the home, including a security interest, acquire  
29 the interest free and clear of any lien or other encumbrance that is not recorded in the land

1 records of the jurisdiction in this state in which the home is located, unless the subsequent  
2 purchaser knows of the lien or other encumbrance at the time of purchase. Any such lien or  
3 encumbrance is recorded in the land records not only if the document that created it is recorded,  
4 but also if the recorded certificate of location describes it or if it is described on the  
5 manufacturer's certificate or statement of origin or the certificate of title that is recorded with the  
6 certificate of location.

#### 7 **Comment**

8 Paragraph (a) is based on Colo. Rev. Stat. § 38-29-117(6) (Colorado does not have a  
9 filing deadline).

10 Paragraph (b) is based on Colo. Rev. Stat. § 38-29-127.

#### 11 **SECTION 7. EFFECT OF FILING CERTIFICATE OF LOCATION.**

12  
13 (a) Unless a certificate of location for a manufactured home previously has been recorded  
14 in the jurisdiction in which the home is located, a transferee of the home does not acquire title to  
15 it until a certificate of location for the home has been filed for recording in accordance with  
16 Section 4 or Section 5 of this [act].

17 (b) When a certificate of location is filed for recording in the land records of the  
18 jurisdiction in which a manufactured home is or will be permanently affixed, the home becomes  
19 real property for all purposes, including, but not limited to: (1) the types of interests and estates  
20 that can be created, (2) the methods of conveying and recording the title, (3) the creation,  
21 perfection, and enforcement of security interests and other title encumbrances, (4) marital rights,  
22 (5) homestead protections, and (6) taxation.

23 (c) A manufactured home on land that is not owned by the home owner shall be valued  
24 and taxed separately from the land on which it is sited.

25 (d) If a manufactured home is affixed to land that the home owner does not own, the

landowner acquires no interest in the home when the certificate of location is filed for recording. Title to the home is not subject to the tenancies, liens, and other encumbrances on the title to the land to which the home is affixed.

(e) When a certificate of location is filed for a manufactured home that is or will be affixed to land owned by some, but not all, of the transferees of the home, title to the home vests only in the landowners. When the home becomes real property, its title is subject to the same tenancies, liens, and other encumbrances as the title to the land to which the home is affixed.

(f) Subject to Section 6 of this [act], transactions, certificates of title, records, and information that were validly entered into or created before the effective date of this [act], and would be subject to this [act] if they had been entered into or created on or after the effective date of this [act], and the rights, duties, and interests flowing from these transactions, certificates of title, records, and information, remain valid after the effective date of this [act].

### **Comment**

Paragraphs (a) and (b) are designed to ensure that a manufactured home purchaser acquires it as real property. In this way, mortgage financing will be more readily available, which can create significant cost savings. For example, on July 29, 2010, a Texas retailer said that, if a manufactured home purchaser's FICO score is 650, the interest rate on a chattel loan would be 12%, compared to 6.5% on an FHA deed of trust loan. The interest rate on a deed of trust loan for a manufactured home is only ½% more than for a site-built home.

If the home purchaser also owns the land on which the home will be affixed, the loan normally is funded like a construction loan. The lender takes a mortgage or deed of trust on the land and pays the loan amount in draws. For example, in Montana, a first draw of approximately 10% of the loan amount is used to pay the purchaser's deposit on the home. The second draw is the amount necessary to pay the retailer's floor financing on the home (about 75%). It is paid when the home is delivered to the site. The third and final draw is paid when the home has been properly installed, as determined by the lender's and appraiser's inspectors. For some loans, a separate draw is paid for site preparation before the home is installed. The construction loan term varies from a few days to as long as a year and is paid with the proceeds of a permanent loan. As for other construction loans, the permanent loan must be approved before the construction loan will be funded.

If the home is affixed to leased land, the lender's mortgage or deed of trust encumbers the home and the leasehold interest. The landlord, such as a manufactured home community owner,

1 normally will have prepared the site for the home, including building a foundation. Therefore,  
2 the loan is not paid in draws. Instead, the dealer usually receives the loan proceeds and the  
3 purchaser gets title to the home after it is installed on the site, which normally takes two to three  
4 days. The dealer's protections against the purchaser's default are a signed purchase agreement  
5 and a down payment. The purchaser also must have been pre-approved for a loan.

6 To deal with the possibility that a personal property lien will attach to the manufactured  
7 home before it becomes real property, a Wells Fargo manufactured home loan specialist said that  
8 the bank relies on title insurance. Wells Fargo will not make a loan if a pre-existing lien exists,  
9 and it requires the title company to file the necessary documents to convert the home to real  
10 property. The title company has an obvious incentive to convert the home to real property as  
11 quickly as possible to minimize its exposure on the title policy. As with land purchases, title  
12 insurance is used to cover the risks that are inherent in the recording system.

13 In addition to making mortgage financing available for all manufactured home purchases,  
14 paragraphs (a) and (b) are intended to create a strong incentive to file the certificate of location  
15 for recording as soon as possible. Texas has adopted this approach. In Texas, title to the home  
16 does not transfer until the retailer files a statutorily-required document with a specified  
17 government agency. Tex. Occ. Code § 1201.206(e). To ensure that the document is filed as  
18 quickly as possible, the lender's title insurer, rather than the retailer, normally files the  
19 certificate.

20 Pursuant to paragraphs (a) and (b), the home will become real property upon filing  
21 though the home owner does not own the land to which the home is affixed. Many state statutes  
22 permit a manufactured home on leased land to be real property. *E.g.*, Cal. Health & Safety Code  
23 § 18551(a)(1)(A); Colo. Rev. Stat. § 38-29-202(1)(d); Conn. Gen. Stat. § 21-67a; Fla. Stat. §  
24 319.261; Idaho Code § 63-304(1)(b); N.H. Rev. Stat. § 477:44, subp. I; Or. Rev. Stat. §  
25 446.626(1); S.C. Code § 56-19-510; Tex. Occ. Code § 1201.2055. However, other states prohibit  
26 a home from being real property if it is affixed to leased land. *E.g.*, Ala. Code § 32-8-30; Ariz.  
27 Rev. Stat. § 42-15201(2); Ga. Code § 8-2-181(b)(1); Mich. Comp. Laws § 125.2330i; Miss. Code  
28 § 27-53-15; Vt. Stat. tit. 9, § 2603(b). This restriction automatically excludes about one-quarter  
29 of manufactured homes from being converted to real property.

30 Some states that permit a manufactured home on leased land to be classified as real  
31 property require the landowner's consent to the real property classification. *E.g.*, Ariz. Rev. Stat.  
32 § 33-1501; Or. Rev. Stat. § 446.626. This requirement is unnecessary because, as provided in  
33 paragraph (d), title to the home and title to the land remain distinct, and because, as provided in  
34 paragraph (c), the home and the land are valued and taxed separately.

35 Another restriction in some states is that the land lease must have a minimum specified  
36 term. *E.g.*, Cal. Health & Safety Code § 18551(a)(1)(A) (thirty-five years); Colo. Rev. Stat. § 38-  
37 29-202(1)(d) (ten years); Fla. Stat. § 319.261 (thirty years); Or. Rev. Stat. § 446.626(1) (twenty  
38 years); S.C. Code § 56-19-510 (thirty-five years). This restriction addresses the concern that the  
39 owner will have to move the home in the relatively short term because, for example, the lease  
40 term has expired and the tenant cannot afford a rent increase. However, even if the lease is for a  
41 long term, it can provide for periodic rent increases and for early termination, such as upon the  
42 tenant's default. Moreover, when a lease terminates, the home usually is left in place and is sold

1 to a new owner, because the cost of moving and the potential for damage are so great. Although  
2 the length of the lease term is a loan underwriting consideration, it is an unnecessary restriction  
3 on the ability to classify a manufactured home as real property, as evidenced by the jurisdictions  
4 that do not require a minimum term. Conn. Gen. Stat. § 21-67a; Mont. Code § 15-1-116(1);  
5 N.H. Rev. Stat. § 477:44, subp. I; 10 Tex. Admin. Code § 80.2 (no minimum term required if  
6 each lienholder has approved the real property classification; otherwise, lease term must be at  
7 least five years).

8 Paragraph (b) provides that, when a home is classified as real property, it is real property  
9 for all purposes. *Accord* Colo. Rev. Stat. §§ 38-29-112(1.5), 38-29-114(2); Mont. Code § 15-1-  
10 116(5); Or. Rev. Stat. § 446.626(2) & (5). This provision eliminates the ambiguity that currently  
11 exists in some state statutes concerning the purposes for which the home is to be treated as real  
12 property.

13 Subparagraph (c) is based on Colo. Rev. Stat. § 38-29-112(1.5).

14 Paragraph (e) is based on Colo. Rev. Stat. § 38-29-202(2)(m). As noted in the comment  
15 to Section 4, the provision is designed to eliminate the title complexities that would arise if some,  
16 but not all, of the home owners own the land to which the home is affixed.

17 Paragraph (f) is from Uniform Law Commission Drafting Rule 603.

18  
19 **SECTION 8. RECORDING CERTIFICATE OF LOCATION.** Upon receiving a  
20 certificate of location and the original manufacturer's certificate or statement of origin or  
21 certificate of title, the recorder shall record and index them as one document. The recorder shall  
22 destroy the original manufacturer's certificate or statement of origin or the certificate of title.  
23 The recorder shall deliver the recorded certificate of location to the home owner and a copy of  
24 the recorded certificate of location to the [government agency] and to the tax assessor for  
25 jurisdiction in which the home is affixed.

#### 26 **Comment**

27 The possibility that a manufactured home seller will fraudulently transfer title to the  
28 home more than once is a significant practical concern. This wrongful practice is facilitated if  
29 the transferor retains the original ownership document. Therefore, this section requires delivery  
30 of the original ownership document to the recorder when the certificate of location is filed. It  
31 also requires the recorder to destroy the ownership document to prevent its future use. The  
32 recorder also must notify both the government agency that maintains the manufactured home  
33 title records, so that the home can be purged from its title system, and the tax assessor, so that the  
34 home can be added to the tax roll. This section is based on Colo. Rev. Stat. §§ 38-29-202(1)(c),



38-29-207.

In many states that permit a home to be classified as real estate when it is purchased from a retailer, the original ownership document must be delivered to the agency that maintains the manufactured home title records. For example, in Texas, the retailer must file an application for a Statement of Ownership and Location (“SOL”) and the original manufacturer’s certificate or statement of origin with the Manufactured Housing Division of the Texas Department of Housing & Community Affairs (“Department”) within 60 days after the retail sale of the home. The Department must issue the SOL within 15 days after it receives the application. After receiving the SOL, the home owner has 60 days to convert the home to real property by (1) filing a certified copy of the SOL in the real property records of the county where the home is located and (2) notifying the Department and the tax assessor-collector that the copy has been filed for record. Tex. Occ. Code §§ 1201.206, 1201.207, 1201.2055(d). *See* Or. Rev. Stat. § 446.626(2) (application to classify manufactured home as real property and any ownership document filed with county assessor; application then recorded in deed records; assessor then sends ownership document to agency that titles manufactured homes; agency cancels ownership document and sends cancellation confirmation to assessor and to owner).

The Texas process is unnecessarily cumbersome and lengthy. By initially filing the certificate of location and the ownership document with the recorder, the home immediately is brought into the real property system. By requiring the recorder to notify the relevant government agency and the tax assessor that the home has become real property, the notice is more likely to be given. The home owner may be unaware of the requirement to deliver notice or may be attempting to avoid paying property taxes.

## **SECTION 9. CERTIFICATE OF RELOCATION.**

(a) At least ten days before a manufactured home owner moves it from a location for which a certificate of location has been filed, the owner must file a certificate of relocation for recording in the land records of the jurisdiction in which the home is located before the move.

The certificate must be in the form specified by [government agency] and must include the following:

- (1) the home owner’s name and mailing address;
- (2) the legal description of the manufactured home;
- (3) the street address and legal description of the land to which the home is affixed before relocation;
- (4) the date that the home will be removed from the land to which it is affixed;

1 (5) the street address, including the county and state, of the land to which the  
2 home will be relocated;

3 (6) the date that the home will be delivered to the new location;

4 (7) the name of each record owner of the land to which the home will be  
5 relocated;

6 (8) for each lien on the home, the lienholder's name and address, the date of the  
7 lien, and when and where it was recorded;

8 (9) the recording information for the current certificate of location;

9 (10) a statement that a person who provides false information in the certificate is  
10 guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than five  
11 hundred dollars but not more than one thousand dollars, or by imprisonment for not less than ten  
12 days but not more than six months, or by both fine and imprisonment;

13 (11) the owner's and each lienholder's signature; and

14 (12) any other information that the [government agency] requires.

15 The certificate must be executed with the same formalities as a deed in recordable form.

16 (b) If a manufactured home for which a certificate of location has been recorded is  
17 affixed to land owned by someone other than the home owner, the landowner cannot remove the  
18 home until the landowner files a certificate of relocation, together with a certified copy of the  
19 judgment or order for possession of the land, for recording in the land records of the jurisdiction  
20 in which the home is located. The landowner, rather than the home owner and lienholder, shall  
21 sign the certificate of relocation.

22 (c) The recorder shall record and index the certificate of relocation, together with any  
23 certified copy of a judgment or order for possession, and shall deliver the recorded certificate to  
24 the home owner. Upon receiving a certificate of relocation, the recorder also shall deliver a copy

1 of it to the tax assessor for the jurisdiction in which the home is affixed before relocation.

2 (d) If the home is relocated and permanently affixed to land in this state, the home owner  
3 shall file a certificate of location for recording in the land records of the jurisdiction in which the  
4 home is affixed. The owner must file the certificate within ten days after the home is affixed. If  
5 the owner is the same before and after the home is relocated, the certificate must be in the form  
6 and must contain the information specified in Section 5 of this [act]. If the owner is different  
7 than the owner before the home was relocated, the certificate must be in the form and must  
8 contain the information specified in Section 4 of this [act]. The certificate of location must  
9 include the recording information for all previously recorded certificates of location and  
10 certificates of relocation for the home.

11 (e) If the home is relocated in this state but is not permanently affixed to land, the home  
12 owner shall apply to the [government agency] for a certificate or statement of origin or for a  
13 certificate of title within ten days of the relocation. The owner shall complete a certificate of  
14 location when subsequently transferring title to the home, unless the transferee does not intend to  
15 permanently affix the home to land. The certificate must contain the information and be in the  
16 form specified in Section 4 of this [act]. Within ten days after the date on the certificate of  
17 location, the transferee of the home or the lender that financed the purchase, if any, shall file the  
18 certificate of location, together with the certificate or statement of origin or the certificate of title  
19 that establishes the transferee's title to the home, for recording in the land records of the  
20 jurisdiction in which the home is or will be permanently affixed.

21 (f) Subject to Section 6 of this [act], relocation of a home does not impair a security  
22 interest or other lien or encumbrance on the home unless the interest holder releases it.

### 23 **Comment**

24 Paragraph 9 incorporates the requirements of a number of state statutes but simplifies the

1 requirements and fills in gaps in many of the existing statutes. The following description of  
2 some representative state statutes will provide an overview of the different methods for  
3 addressing the issue of home relocation.

4 *Colorado* requires the home owner to file a certificate of removal with the county clerk  
5 and recorder for the county where the home is located. Colo. Rev. Stat. § 38-29-203(1)(a) & (b).  
6 Within twenty days after the location change, the owner must file a notice of the change with the  
7 county assessor and the county treasurer for the counties from which and to which the home has  
8 been moved. § 38-29-143. A landlord that is evicting a tenant can record a certificate of  
9 removal. § 38-29-203(2.5)(b). If a lienholder fails to consent to a relocation, the home owner  
10 can file a bond in an amount equal to 150% of the secured amount. Colo. Rev. Stat. § 38-29-  
11 203(4). When the home is permanently affixed at the new location, the owner must file a  
12 certificate of permanent location. § 38-29-118.

13 *Connecticut* requires a manufactured home owner to file a statutorily-specified “Mobile  
14 Manufactured Home Removal Statement” for recording in the land records of the jurisdiction  
15 where the home currently is located at least 72 hours before moving the home. The form  
16 describes the home’s current location and the location to which it is being moved. It also  
17 requires the written consent of each security interest holder “subject to the condition that the . . .  
18 security interest/mortgage/lien/attachment shall remain in full force and effect.” Conn. Gen.  
19 Stat. § 21-67a(f).

20 In *Idaho*, at least thirty days before a manufactured home relocation, the owner must give  
21 the county assessor for the county where the home is located (1) A “Reversal of Declaration of  
22 Manufactured Home as Real Property”, (2) a copy of a title report from a title insurance  
23 company that identifies all owners of an interest in the land to which the home is affixed and the  
24 written consent of each owner, other than the owner of a right-of-way, easement, or subsurface  
25 right, and (3) an application for a title to the home. The reversal declaration must be recorded  
26 and a certificate of title must be issued before the owner moves the home. Idaho Code § 63-305;  
27 Idaho Admin. Code r. 35.01.03.304.02 & .04.

28 *Montana* requires the owner to file a statement of reversal of declaration with the county  
29 clerk and recorder of the county in which the home is located. All lienholders must consent to  
30 the reversal. The clerk and recorder must forward a copy of the statement to the Department of  
31 Justice (“Department”; entity responsible for titling manufactured homes). The Department must  
32 give the owner a restored certificate of origin or certificate of title. After receiving the fee for a  
33 new certificate of title, the county treasurer must forward the statement of reversal of declaration  
34 to the Department. The Department then must give the owner a statement in recordable form  
35 that the process of converting the home has been completed. The owner then must record the  
36 statement. Mont. Code § 15-1-118.

37 *New Hampshire* requires an owner that is relocating a home within the state to record a  
38 deed evidencing the change of location in the land records of the counties from which and to  
39 which the home is moved. If the home is moved outside the state, the owner must record a  
40 statutorily-prescribed relocation statement in the land records of the county from which the home  
41 is moved. The home cannot be moved out of state unless all lienors give written consent on the  
42 transfer statement. If the home is on leased land, the landowner’s written consent also is

1 required whether the owner is relocating the home inside or outside the state, because the  
2 landowner has a right to a lien for any unpaid rent. The consent requirement alerts the  
3 landowner to file a lien before the home is moved to another jurisdiction. N.H. Rev. Stat. §  
4 477:44, subp. II.

5 In *Oregon*, a manufactured home that is classified as real property cannot be moved  
6 unless the Department of Consumer and Business Services, the agency that titles manufactured  
7 homes, approves the move and the county assessor issues a “trip permit”. The department  
8 cannot approve an application to move a home to another county unless all taxes and special  
9 assessments have been paid. If the department approves the move, it must issue an ownership  
10 document and must deliver it to the holder of the most senior security interest in the home or, if  
11 none, to the owner. The department also must send a copy of the ownership document to any  
12 other security interest holder and to the county assessor for the county to which the home is to be  
13 moved. Or. Rev. Stat. § 446.631.

14 *Texas* requires the owner that relocates to apply for a new Statement of Ownership and  
15 Location (“SOL”) within sixty days after the relocation, Tex. Occ. Code § 1201.206(f), though  
16 the change location form states that it must be recorded within thirty days after relocation. The  
17 owner must submit a copy of the Texas DOT moving permit with the SOL application. 10 Tex.  
18 Admin. Code SOL Application Instructions 4.

19  
20 **SECTION 10. CONVEYING HOME ON ANOTHER PERSON’S LAND.** If a  
21 manufactured home has become real estate and is affixed to land that the home owner does not  
22 own, a deed, [mortgage] [deed of trust], and any other instrument that transfers or creates an  
23 interest in the home must include the legal description of the manufactured home, as well as the  
24 legal description of the land to which it is affixed.

25 **SECTION 11. HOME WARRANTIES.** All warranties concerning a manufactured  
26 home apply whether the home is real or personal property.

27 **Comment**

28 This section is based on Tex. Occ. Code § 1201.2055(h).

29  
30 **SECTION 12. REAL ESTATE LICENSE UNNECESSARY.** Nothing in this act  
31 requires a manufactured home retailer to be licensed as a real estate agent.

1 **Comment**

2 This section is based on Tex. Occ. Code § 1201.222.

3  
4 **SECTION 13. PENALTIES.** Any person who violates any provision of this act is

5 guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than five  
6 hundred dollars but not more than one thousand dollars, or by imprisonment for not less than ten  
7 days but not more than six months, or by both fine and imprisonment.

8 **Comment**

9 Tax assessors and government employees who work with manufactured home titles have  
10 said that fines have been an insufficient deterrent for transferees that attempt to hide their  
11 ownership in order to avoid paying property taxes or for transferors that want to sell the same  
12 home more than once. Therefore, section 13 makes imprisonment an additional penalty. *See,*  
13 *e.g.,* Colo. Rev. Stat. § 38-29-141 (failure to comply with act constitutes a misdemeanor  
14 punishable by a fine of not less than one hundred dollars but not more than five hundred dollars,  
15 or by imprisonment in the county jail for not less than ten days but not more six months, or by  
16 both fine and imprisonment).

17  
18 **SECTION 14. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In

19 applying and construing this uniform act, consideration must be given to the need to promote  
20 uniformity of the law with respect to its subject matter among states that enact it.

21 **Comment**

22 Uniform Law Commission Drafting Rule 601 (2006) requires inclusion of this provision  
23 to foster uniformity after the act's enactment.

24  
25 **SECTION 15. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND**

26 **NATIONAL COMMERCE .** This [act] modifies, limits, and supersedes the federal Electronic  
27 Signatures in Global and National Commerce Act, 15 U.S.C. section 7001, et seq., but does not  
28 modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize  
29 electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C.

1 Section 7003(b).

2 **Comment**

3 Uniform Law Commission Drafting Rule 602 (2006) requires inclusion of this provision  
4 to comply with Section 102(a)(2)(B) of the Electronic Signatures in Global and National  
5 Commerce Act, 15 U.S.C. Section 7002(a)(2)(B). Section 102(a)(2)(B) provides that a state  
6 statute can modify, limit, or supersede the Electronic Signatures in Global and National  
7 Commerce Act by specifically referring to it.

8  
9 **SECTION 16. REPEALS.** The following are repealed:

10 ***Legislative Note:** This section is for states wishing to replace their existing statutes concerning:*  
11 *(1) classification of manufactured homes as real property or as personal property, (2) titling*  
12 *manufactured homes, (3) creation and perfection of security interests in manufactured homes*  
13 *and creditor remedies, and (4) manufactured home taxation.*

14  
15 **SECTION 17. EFFECTIVE DATE.** This [act] takes effect on \_\_\_\_\_.