

MEMORANDUM

To: Uniform Manufactured Housing Act Drafting Committee

From: Ann Burkhart

Re: October 2011 Draft

Date: October 20, 2011

Based on the many helpful comments at the Commission meeting in July, the act has been significantly revised. This memo describes the most significant changes for your comment:

- Several commissioners were concerned that a home, particularly a pre-HUD Code home, would not have its wheels removed. Therefore, the definition of “installed” now requires that the wheels and axles be removed and that electricity be supplied to the home. It also now provides that a home continues to be “installed” though the electric supply is subsequently terminated. The definition no longer provides that a home is installed when it has been occupied for thirty days. Removing the wheels is a more objective standard than “occupied,” and it more clearly indicates that the owner does not intend to move the home.
- Some commissioners objected to applying the act only to manufactured homes used for residential purposes. Their primary concern was that we would be adding complexity by layering a new system on top of the existing system, which would continue to apply to homes used for nonresidential uses. Therefore, the act now applies to manufactured homes used for residential and nonresidential purposes.
- The severance and relocation provisions have been split into separate sections. Section 5, the new severance section, applies to all manufactured homes in the state. It includes a new subsection (d) that addresses the lien priority issues that can arise when a home is severed.
- Section 6, the new relocation section, applies to homes moved intrastate and to homes moved into the state. When a home is moved to another state, Section 5 requires the owner to record a certificate of severance, but the Section 6 requirement to record of certificate of location at the new location does not apply because the home no longer will be in the state. Section 6 also now addresses the possibility that the home will not be installed after being moved, such as when it is moved to a dealership for resale.
- New Section 8 deals with a number of issues concerning liens and other encumbrances, including lien priorities. Special thanks to Neil Cohen, Wilson Freyermuth, Carl Lisman, Jim Prendergast, and Ed Smith for their insightful and incisive comments on these issues.

As you review Section 8, please keep in mind that:

“Security interest” is defined in Section 2(9) to include real and personal property security interests;

The home can change from personal to real property and then back to personal property upon severance and back to real property when the home is reinstalled; and

Section 8 applies not only to homes purchased after the act’s effective date, but also to homes purchased before the act’s effective date. The latter homes may remain personal property and, depending on the state, may have a certificate of title.

I’m looking forward to seeing all of you next week and to discussing this draft.