

Department of Legislative Services
 Maryland General Assembly
 2012 Session

FISCAL AND POLICY NOTE
Revised

House Bill 678

(Delegates Niemann and McMillan)

Environmental Matters

Judicial Proceedings

Real Property - Manufactured Homes - Affixation to and Severance from Real Property

This bill establishes requirements that must be met to affix a manufactured home to or sever it from real property. Once the affixation requirements are met, the bill requires that the manufactured home be governed by the laws applicable to real property. The bill requires the Motor Vehicle Administration (MVA) to develop a model affidavit of affixation that meets the bill’s requirements for use in affixing a manufactured home to real property.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures increase by \$20,000 in FY 2013 for MVA for contractual reprogramming costs. MVA can develop the model affidavit of affixation with existing resources. Any impact on MVA revenues is likely to be minimal.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	20,000	0	0	0	0
Net Effect	(\$20,000)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Minimal increase in local revenues to the extent that local governments charge a fee for the recordation of affidavits of affixation and affidavits of severance. The bill’s requirements can be met with existing resources.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill requires that, upon satisfaction of specified requirements, any mortgage, deed of trust, lien, or security interest that can attach to real property must attach in the same manner to a manufactured home that is converted to real property as to the parcel of real property to which the manufactured home is affixed. Additionally, the title and all rights to a manufactured home must be transferred by deed with the transfer of the parcel of real property.

A manufactured home is converted to real property when (1) the manufactured home is attached to a permanent foundation; (2) the ownership interests in the manufactured home and the parcel of real property to which the manufactured home is affixed are identical; and (3) an affidavit of affixation complying with the bill's requirements has been recorded with the clerk of the court of the county in which the parcel of real property to which the manufactured home is affixed is located.

The bill requires an affidavit of affixation to include or be accompanied by specified information or documentation which describes the manufactured home and the parcel of real property to which it is being attached. An affidavit of affixation must be accompanied by (1) an original certificate of title issued by MVA containing specified information; and (2) a manufacturer's certificate of origin for the manufactured home containing specified information. If either certificate indicates there is a lien, encumbrance, or other security interest for the manufactured home, the certificate must be accompanied by a release from each party that has a security interest in the manufactured home.

If the owner is unable to locate an original certificate of title or a manufacturer's certificate of origin, the affidavit of affixation must be accompanied by a report prepared and acknowledged by an attorney licensed to practice in the State or a title insurance producer licensed to do business in the State that (1) identifies the party preparing the report; (2) states that a specified search has been conducted of the appropriate county's land records; and (3) states that no lien, encumbrance, or other security interest has been found for the manufactured home.

Additional accompaniments for the affidavit of affixation are required depending on whether the affidavit of affixation is accompanied by the original certificate of title, the manufacturer's certificate of origin, or a statement from an attorney or title insurance producer. An affidavit of affixation must be signed under penalty of perjury and acknowledged.

The recordation of an affidavit of affixation does not represent a sale or transfer of real property for the purpose of the collection of any tax or fee charged by the State or any

county or municipality. Immediately after filing an affidavit of affixation with the clerk of the circuit court, the owner of the property to which a manufactured home has been affixed must send a certified copy of the affidavit and any attachments to MVA. Once received, MVA must record the affidavit and attachments in its records. The bill requires that MVA make records for manufactured homes available to attorneys, title insurance producers, and other individuals authorized to conduct a title search.

The bill requires the clerk of the circuit court of the county in which the parcel of real property is located to accept an affidavit of affixation and any attachments for recordation and indexing. The clerk may also charge a reasonable fee for the recordation.

The bill requires the owner to file an affidavit of severance if a manufactured home which has been affixed to real property is to be severed from real property. An affidavit of severance must contain or be accompanied by specified information or documentation which provides the identity and contact information of the real property's owner, a description of the manufactured home, identifying information for the affidavit of affixation, and a statement from a State-licensed attorney or title insurance producer which states that the manufactured home and real property are free and clear of any lien, security interest, or encumbrance. An affidavit of severance must be acknowledged in writing and notarized.

The clerk of the circuit court of the county in which the parcel of real property is located must accept an affidavit of severance and any attachments for recordation and indexing. The clerk may also charge a reasonable fee for the recordation.

MVA must (1) accept a certified copy of a record affidavit of severance for filing; and (2) issue a certificate of title for the severed manufactured home.

A custodian may release personal information held by MVA for use by an attorney, a title insurance producer, or any other individual authorized to conduct a title search of a manufactured home.

Current Law/Background: In *Droney v. Droney*, 102 Md. App. 672, 651 A.2d 415 (1995), the Maryland Court of Special Appeals ruled that a mobile home became a fixture upon real property when significant changes and improvements were made to it, including the removal of the wheels and attachment of utility lines. Title 8A of the Real Property Article governs the relationship between a mobile home park owner and a mobile home owner who leases or rents a site in the park for residential use.

A manufactured or mobile home that is or may be used for residential purposes and is permanently attached to land or connected to utilities must be assessed as an improvement to real property to the owner of the land, unless such home is located on a

rented space in a manufactured home park. A mobile home may not be assessed as real property if it is unoccupied and for sale or is located temporarily in a rented space in a trailer park or mobile home court. Additionally, a mobile home may change its character from that of a motor vehicle, or an item of personalty, to a fixture upon real property.

According to the Manufactured Housing Institute, several states' laws consider manufactured homes to be real property in specified circumstances. For example, in Missouri, a manufactured home owner may convert the home to real property by attaching the home to a permanent foundation on property owned by the home owner and removing or modifying the transporting apparatus. In South Carolina, if the manufactured home owner also owns the underlying lands, the home must be considered real property. In Nevada, a mobile home is eligible to become real property if it is permanently affixed to the land and if the owner of the home also owns the land.

The National Manufactured Housing and Safety Standards Act of 1974 governs the construction of manufactured homes (*i.e.*, mobile homes).

State Expenditures: TTF expenditures increase by \$20,000 in fiscal 2013 for MVA for computer reprogramming costs. The bill requires that the owner of the manufactured home file a certified copy of the recorded affidavit of affixation with MVA. MVA advises that, in order to track the filing of the certified copies and conversions to real property, it would need to hire an outside vendor to create additional case and document types. MVA has received an estimate from such a vendor for approximately \$20,000.

Additional Information

Prior Introductions: None.

Cross File: SB 591 (Senator Stone) - Judicial Proceedings.

Information Source(s): Anne Arundel, Baltimore, Charles, Frederick, and Montgomery counties; State Department of Assessments and Taxation; Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Maryland Department of Transportation; Manufactured Housing Institute; Department of Legislative Services

Fiscal Note History: First Reader - February 29, 2012
ncs/kdm Revised - House Third Reader - April 1, 2012
Revised - Updated Information - May 16, 2012

Analysis by: Michael F. Bender

Direct Inquiries to:
(410) 946-5510
(301) 970-5510