

## MOBILE HOME AFFIXED TO REAL PROPERTY

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**House Bill 5449 as reported from committee**

**Sponsor: Rep. TC Clements**

**Committee: Regulatory Reform**

**Complete to 12-14-21**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Bill 5449 would amend the Mobile Home Commission Act to establish a process by which an owner of a mobile home located on his or her real property who lost or never received a certificate of title to the mobile home at the time of acquiring the property with the mobile home already affixed to it, could establish that the mobile home is affixed to that property.

**The act** allows the owner of a mobile home that is affixed to his or her real property to deliver to the Department of State (DOS) a certificate of title for the mobile home as well as an affidavit of affixture that includes a statement that the mobile home is affixed to the real property. When DOS receives the affidavit, it cancels the certificate of title, the mobile home is considered to be part of the real property, sections 30 to 30h of the act do not apply to that mobile home, any security interest must comply with laws pertaining to liens or security interests on real property, and the owner can convey the mobile home (e.g., sell it) only as part of the real property to which it is affixed. DOS must maintain the affidavit for 10 years from the date of filing.

In order to detach a mobile home from real property, the owner must record an affidavit of detachment in the office of the register of deeds in the county in which the affidavit is recorded and apply to DOS for a certificate of title. The home cannot be detached from the property before the certificate of title is issued. Once issued, the mobile home is no longer considered part of the real property and sections 30 to 30h of the act once again apply.

**The bill** would add a new section 30j to the act. Under section 30j, and notwithstanding section 30i (which is described above), if the owner of the mobile home either lost or never received the certificate of title to the mobile home when acquiring the real property with the mobile home already affixed to it, the mobile home would be considered affixed to the real property free of any interests that previously attached to it if both of the following apply:

- The party claiming to own the mobile home also owns the real property it is affixed to.
- The mobile home has been located on the real property for at least 10 years.

Under the act, a mobile home is *affixed* to real property if the wheels, towing hitches, and running gear are removed and the home is attached to a foundation or other support system.

DOS would have to approve the affidavit of affixture as submitted if the owner of the mobile home submits to DOS an affidavit of missing title that contains all of the following information and pays any fees required to issue the affidavit of affixture:

- The name and address of the owner of the real property.
- A description of the mobile home that includes the manufacturer's name, year of manufacture, model, and serial number, to the extent known to the affiant. DOS could not withhold approval of an affidavit of affixture solely because the affidavit lacks the mobile home's serial number or manufacturer's name, or both.
- A statement that the mobile home is affixed to the real property and either the date it was placed on the property or the date the property assessment or tax roll first reflected on the real property to which the mobile home is affixed was improved with the mobile home.
- A statement that the mobile home and the property are not located in a mobile home park.
- The real property's legal description and tax parcel number, including a copy of the vesting deed of the real property.
- A statement that, to the best of the affiant's knowledge, no payments are currently being made to any secured party and no amount is currently owed under any debt obligation that may have previously been secured by the mobile home.
- A statement that the mobile home's wheels, towing hitches, and running gear have been removed.
- A statement that the mobile home is attached to a foundation or other support system.

Once the affidavit of affixture is accepted by DOS, the owner would have to immediately record it with the register of deeds of the county as provided in the act. A secured party wishing to preserve the secured party's security interest in the mobile home prior to the expiration of the 10-year-period that would automatically extinguish that party's security interest in the mobile home could preserve that security interest by complying with the requirements of section 30i(6) and recording notice of the security interest with the register of deeds of the county. The 10-year-period would begin when the manufacturer of the mobile home first sells the mobile home or when the tax roll reflects the subject real property as being improved for assessment purposes, whichever is earlier.

MCL 125.2330i and proposed MCL 125.2330j

## **BRIEF DISCUSSION:**

House Bill 5449 seeks to address an issue facing property owners who have an abandoned or old mobile home on their property. Reportedly, if the property owner lacks the documents to establish that the mobile home is affixed to his or her property, he or she may not be able to obtain a loan (such as a home equity loan) or sell the mobile home as part of the property. Often these mobile homes were already on a property when it changed hands but no documentation was given to the new owner or the documentation has been lost. Currently, if a property owner has all of the required information (e.g., serial number), he or she must obtain a court order to establish ownership before seeking a title with DOS and

establishing that the mobile home is affixed to the property. This process is said to add several thousand dollars and several weeks to the process.

The bill would provide a process by which a property owner could establish ownership and obtain a clear title to a mobile home affixed to the property without having to go to court. The bill would apply to individual property owners and not to owners of mobile home parks seeking title to an abandoned trailer in a mobile home park.

According to DOS, any process used must ensure that one and only one title exists, that there are no other titles floating around, and that there are no liens on a title before granting clear title to the current property owner. Reportedly, part of the problem facing DOS and property owners alike is that the trailer's serial number often cannot be found or it is no longer known when the trailer was first put on the land. Regardless, the result of any process used must be something reliable that financial institutions and others can rely on.

### **FISCAL IMPACT:**

The bill would result in a marginal increase to the Mobile Home Code Fund by providing a means for mobile home owners to obtain a missing title and to pay the standard mobile home title fee. Section 30a of the act sets the fee at \$90. The number of additional title transactions and fees that would result from the bill is unknown. In fiscal year 2019-20 there were approximately 19,300 transactions that collected over \$1.6 million. Revenue to the Mobile Home Code Fund is distributed to the Department of Licensing and Regulatory Affairs (LARA) for inspection costs and other regulatory purposes, to the Department of the Attorney General for legally representing LARA in contested case administrative hearings and appeals, and to the Department of State for processing mobile home titles.

### **POSITIONS:**

Representatives of the following entities testified in support of the bill (11-9-21):

- Michigan Realtors
- Michigan Land Title Association

The Michigan Manufactured Housing Association indicated support for the bill.  
(11-30-21)

A representative of the Department of State testified with a neutral position on the bill.  
(11-9-21)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.