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Manufactured Housing Act Summary

In our legal system, property is divided into two main categories: real and personal. Real property is defined as land, and anything growing on, attached to, or erected on it. Personal property is anything movable or intangible that is subject to ownership rights. Where does a manufactured home fit in?

Current Law

In most (but not all) states, manufactured housing is classified by default as personal property. The law reflects the origin of manufactured housing in the United States: the trailer home. If a home is to be towed down the highway on a regular basis, it should be subject to the same laws as every other vehicle, including titling and licensing requirements, and minimum safety standards. However, manufactured housing has changed dramatically since the first trailer homes were built, and the vast majority of manufactured homes sold today are moved exactly once: when they leave the dealer's lot.

Furthermore, most (but not all) states allow the owner of a manufactured home to convert it from personal to real property under certain conditions. Unfortunately, the conditions and procedures required for conversion vary widely from state to state. The Uniform Manufactured Housing Act (UMHA) brings much needed clarity and uniformity to this complex area of property law.

The Problem

The laws regulating manufactured housing have failed to keep pace with dramatic changes in the manufactured housing industry. Modern manufactured housing has little in common with a trailer; instead, a manufactured home can be nearly indistinguishable from a traditional site-built house next door. Manufactured home units may be combined into clusters or stacks that include multiple stories, vaulted ceilings, and attached garages. Regulations first promulgated in 1976 by the U.S. Department of Housing and Urban Development require similar materials and construction standards as site-built housing, and the resulting life expectancy of a manufactured home is now the same as a comparable site-built model.

The scale of the industry has also changed. One in fourteen dwellings in the United States today is a manufactured home. Twenty-four million Americans – about eight percent of the population – live in manufactured housing. Defying the stereotypical image of a trailer park, about 75 percent of manufactured homes are located on land owned by the homeowner, and the average lot size for those homes is more than double the average for traditional site-built homes.

One major difference between manufactured and site-built housing remains: manufactured homes classified as personal property are ineligible for mortgage financing. Therefore, buyers who cannot pay the full price of a home in cash often resort to chattel loans. Typically, a chattel loan will have a higher interest rate and a shorter term than a mortgage loan, in part because there is no secondary market for chattel loans on manufactured homes. A qualified purchaser could save hundreds of dollars per month, or thousands of dollars in interest over the life of a loan, if mortgage financing were available.

There may be disadvantages to a real property classification as well. Not every purchaser can qualify for a mortgage loan, and reclassifying a manufactured home as real property can trigger other expenses such as closing costs and real estate taxes. The UMHA recognizes that every purchase is different, and uses a two-track approach to give manufactured home owners the right (but not the obligation) to reclassify their home as real property when it is advantageous to do so.

A Simple, Uniform Conversion Process

Under the UMHA, manufactured homes are personal property until the owner follows a simple procedure to reclassify the home as real property: 1) Locate the home on a particular parcel of land, and 2) file a certificate of location with the land records office of the jurisdiction where the home is located. By definition, the home is "located" when the towing hitch, wheels, and axles have been removed, and the home is connected to a supply of electricity (either from a utility, or from another source such as a solar panel or a gas-powered generator). The homeowner must have the legal right to locate the home on the land either because the homeowner also owns the land, or because the homeowner has a contract with the landowner such as a lease or common interest community agreement. If the home is subsequently moved, it becomes personal property by operation of law, and the owner is required to file a certificate of relocation with the same recording office.

To ensure consumers are fully informed, the UMHA requires dealers of manufactured homes to inform the buyer of the option to reclassify the home as real property at the time of sale.

Finally, the UMHA preserves the rights and expectations of everyone involved with the property. The act specifies that even when a manufactured home is located on land and reclassified as real property, title to the home remains separate from title to the land. This ensures that lenders who provide financing for either the land or the home will have the right to foreclose on the appropriate collateral in the event of default. The act also states that reclassification of a home as real property does not affect manufacturer's warranties, does not affect landlord and tenant rights under a lease if the home is located on leased property, and does not subject the property to the law of fixtures.

Conclusion

The Uniform Manufactured Housing Act modernizes state property law by giving homeowners the right to reclassify manufactured homes as real property once the home is located on a particular parcel of land. The law provides a simple definition of "located" and a simple procedure for reclassification to replace the widely varying state laws now in effect. The UMHA will benefit consumers by ensuring mortgage financing is available to qualified purchasers, and will benefit lenders, manufacturers, and dealers by providing a uniform regulatory system across all states that enact it.

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