

HOUSE OF REPRESENTATIVES ANALYSIS

BILL #: HB 1431 w/CS
SPONSOR(S): Jordan
TIED BILLS:

RELATING TO: Mobile Homes
IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
(1) <u>Finance and Tax</u>	<u>21 Y 0 N w/CS</u>	<u>Monroe</u>	<u>Diez-Arguelles</u>
(2) _____	_____	_____	_____
(3) _____	_____	_____	_____
(4) _____	_____	_____	_____
(5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill creates Section 319.261, F.S., which allows the owner of a mobile home which is permanently affixed to land that the mobile home owner also owns to permanently retire the title to the mobile home. Thereafter, ownership of the mobile home would be transferred by deed or real estate contract in conjunction with the transfer of the land. The bill defines "real property owned by the same person" to include any tenancy of a recorded leasehold interest for a term of 30 years or more.

This bill has no fiscal impact on state or local finances and takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Currently, all mobile homes, even those which are permanently affixed to real property, have an outstanding title showing an ownership interest. This can cause problems when the mobile home is subsequently conveyed as real property by means of a deed or real estate contract, because the title may still be outstanding and show a different owner than that indicated by the deed or contract. Moreover, different parties may be claiming a security interest on the same property with some making a claim based on the title while others are basing their claim on the deed.

This bill would create Section 319.261, Florida Statutes, which would allow an owner to retire the title to a permanently affixed mobile home. Thereafter title to the mobile home would be conveyed solely by deed or real estate contract.

C. SECTION DIRECTORY:

Section 1 of the bill creates Section 319.261, Florida Statutes. This section contains the following provisions:

- The owner of a mobile home which is permanently affixed to land owned by the same person who owns the mobile home, may choose to retire the title to the mobile home.
- "Real property owned by the same person" includes any tenancy of a recorded leasehold interest in the real property for a term of 30 years or more.
- Before the title may be retired by the Department of Highway Safety and Motor Vehicles, the owner must record with the clerk of the court:
 - 1) The original title to the mobile home or, for a new home, the manufacturer's certificate of origin, which shall include a description of the mobile home, including model year, make, width, length, and vehicle identification number.
 - 2) A statement from any recorded lienholder on the title that the security interest in the home has been released or shall be released upon the retirement of the title.
 - 3) The legal description of the real property to which the mobile home is affixed and, in the case of a leasehold interest, a copy of the lease agreement.
 - 4) A sworn statement by the owner of the real property, as shown on the real property deed or lease, that he or she is the owner of the mobile home and that the home is permanently affixed to the real property in accordance with state law.

- Requires the clerk to record the documents listed above against the real property and a copy of these documents to the owner of the real property.
- After receiving copies of these recorded documents the owner of the mobile home or the lienholder shall file an application with the Department for retirement of the title to the mobile home. Such application must be accompanied by copies of the documents recorded with the Clerk.
- The Department is required to notify the applicant upon the retirement of the title.
- A mobile home whose title has been retired may be conveyed only by deed or real estate contract, unless a new title is issued.
- The owner of a mobile home with a retired title may apply to the Department for issuance of a new title. Such application must be accompanied by:
 - 1) An affidavit signed by the owners of the land and all secured parties and other lienholders consenting to the removal of the home.
 - 2) A certification from a title insurance company, dated within 10 days after the application for a new title, listing the owners and all secured parties and other lienholders.
- If the title has been retired pursuant to this section, there can be no separate security interest in the mobile home. Instead, the mobile home may only be secured through a mortgage of deed of trust. Further provides that this section is in no way intended to modify or change the common law.
- A mobile home whose title has been retired shall be conveyed by deed or real estate contract and shall only be transferred together with the real property to which it is affixed.
- A person who falsifies or intentionally omits material information required in an affidavit, or otherwise intentionally violates a provision of this section, commits a second degree misdemeanor.
- This section applies to the sale or transfer of a mobile home on or after this bill becomes law, or to any person who chooses to retire the title of a mobile home pursuant to this section.
- Nothing in this section shall be construed to affect taxation of mobile homes.

Section 2 of the bill provides for the severability of its provisions.

Section 3 of the bill provides that the bill shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.
2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.
2. Expenditures: None.

- C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: Indeterminate. Clearing up the confusion as to ownership of a permanently affixed mobile home may improve the market for such homes by eliminating uncertainty. In addition, these provisions are intended to and may very well succeed in improving the secondary market for mortgages on such housing. See Comments Section.
- D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not: require cities or counties to expend funds or to take any action requiring the expenditure of funds; reduce the authority that municipalities or counties have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

3. Other:

None.

B. RULE-MAKING AUTHORITY: None required.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to the Florida Manufactured Housing Association, the primary purpose of this bill is to clarify the valid ownership and security interests in mobile homes and other manufactured housing so that mortgages on these properties will be eligible to be purchased by Fannie Mae and Freddie Mac.

The language in the bill as filed was drafted with the input of Fannie Mae and meets their requirements for allowing mobile home mortgages to be a part of their portfolio. In order to make sure that mortgages on these mobile homes can be serviced by Freddie Mac as well as Fannie Mae, an amendment was adopted in the Committee on Finance and Tax.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On April 2, 2003, the Committee on Finance and Tax adopted an amendment to this bill. The purpose of this amendment was to ensure the mortgages on manufactured homes and mobile homes can be serviced by Freddie Mac as well as Fannie Mae. Specifically, the amendment made three changes. It:

- 1) Specifies in Section 319.261(2)(a) that the original title to the mobile home, not just a copy, must be filed with the clerk of the court.
- 2) Provides in Section 319.261(4), that a lienholder may apply for retirement of the title pursuant to a power of attorney, and that the applicant shall be notified by the Department upon the retirement of the title.
- 3) States that this Section shall apply to the sale or transfer of a mobile home occurring on or after the date this act becomes law, as opposed to the previous date of July 1, 2003.