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HB 1431, Engrossed 1

2003 Legislature

A bill to be entitled

An act relating to mobile homes; creating s. 319.261, F.S.; providing a process to retire title to a mobile home; defining "real property owned by that same person"; providing procedures; requiring the clerk of court to record certain documents and provide copies to the owner; requiring the clerk of court to provide a copy of the recorded title or manufacturers' certificate of origin to the owner; providing for the owner or lienholder of the mobile home to file an application with the Department of Highway Safety and Motor Vehicles; providing for that department to retire the title; requiring notice to the applicant; providing for that department to issue a new title; providing for conveyance of such mobile home; providing for perfecting, realizing, and foreclosure of security interests; providing penalties; providing for application and construction of the act; providing for severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 319.261, Florida Statutes, is created to read:

319.261 Real property transactions; retiring title to mobile home.--

(1) This section shall provide a process by which the owner of a mobile home which is permanently affixed to real property owned by that same person may permanently retire the



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title to the mobile home. For purposes of this section, the term "real property owned by that same person" shall include any tenancy of a recorded leasehold interest in the real property for a term of 30 years or more.

(2) The title to the mobile home may be retired by the department if the owner of the real property records the following documents in the official records of the clerk of court in the county in which the real property is located:

a. The original title to the mobile home, or for a new home the manufacturers' certificate of origin, which document shall include a description of the mobile home, including model year, make, width, length, and vehicle identification number, and a statement by any recorded lienholder on the title that the security interest in the home has been released, or that such security interest will be released upon retirement of the title as set forth in this section.

b. The legal description of the real property, and in the case of a leasehold interest, a copy of the lease agreement.

c. 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.

(3) The clerk of court, upon receipt of the documents set forth in subsection (2), shall record said documents against the real property and provide a copy of the recorded title or manufacturers' certificate of origin to the owner of the real property with a copy of all the documents recorded pursuant to subsection (2).



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(4) The owner of the mobile home, or lienholder as shown on the certificate of title pursuant to power of attorney from the owner of the mobile home, shall file an application with the department for retirement of the title to the mobile home after completing the requirements in subsections (2) and (3). The department shall retire the title upon receipt of an application from the owner of the mobile home or lienholder requesting retirement of the title, accompanied by documents listed in subsection (2) which have been recorded by the clerk of court pursuant to subsection (3). Upon retirement of the title, the department shall notify the applicant that the title has been retired.

(5) A mobile home whose title has been retired pursuant to this section shall be conveyed by deed or real estate contract and shall only be transferred together with the property to which it is affixed, unless procedures described in this section for issuance of a new title are followed.

(6) The owner of the real property with a recorded and retired title shall file an application with the department to issue a new title to the mobile home, if the mobile home is to be removed from the real property. The department shall issue a new title upon receipt of an application from the owner of the real property containing the following information:

a. An affidavit signed by the owners of the land and all secured parties and other lienholders consenting to the removal of the home.

b. A certification from a title insurance company listing the owners and all secured parties and other lienholders, which



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is dated within 10 days after the date of application for a new title under this subsection.

(7) If the title has been retired pursuant to this section, for purposes of perfecting, realizing, and foreclosure of security interests, a separate security interest in the mobile home shall not exist, and the mobile home shall only be secured as part of the real property through a mortgage or deed of trust. This section in no way modifies or changes the existing common law.

(8) 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 property to which it is affixed.

(9) Every person who falsifies or intentionally omits material information required in an affidavit, or otherwise intentionally violates a material provision of this section, commits a misdemeanor of the second degree.

(10) This section applies to the sale or transfer of mobile homes occurring on or after the effective date of this section, or to any person who voluntarily elects to retire the title to the mobile home pursuant to this section.

(11) Nothing in this section shall be construed to affect the taxation of mobile homes.

Section 2. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Section 3. This act shall take effect upon becoming a law.