

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-506
HOUSE BILL 253**

AN ACT TO PROVIDE THAT MANUFACTURED HOMES NEED NOT HAVE MULTIPLE SECTIONS TO QUALIFY AS REAL PROPERTY FOR PROPERTY TAX PURPOSES, TO REQUIRE AN OWNER TO SURRENDER CERTIFICATE OF TITLE WHEN THE MANUFACTURED HOME BECOMES REAL PROPERTY, AND TO REQUIRE AN OWNER TO FILE EVIDENCE OF THE SURRENDER OF TITLE WITH THE REGISTER OF DEEDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-273(13) reads as rewritten:

"§ 105-273. Definitions.

When used in this Subchapter (unless the context requires a different meaning):

- (13) 'Real property,' 'real estate,' and 'land' mean not only the land itself, but also buildings, structures, improvements, and permanent fixtures ~~thereon, on the land,~~ and all rights and privileges belonging or in any ~~wise way appertaining thereto to the property.~~ These terms also mean a manufactured home as defined in G.S. 143-143.9(6) if it is a ~~multi-section residential structure (consisting of two or more sections);~~ structure; has the moving hitch, wheels, and axles removed; and is placed upon a permanent ~~enclosed~~ foundation on land owned by the owner of the manufactured home. A manufactured home as defined in G.S. 143-143.9(6) that does not meet all of these conditions is considered tangible personal property."

SECTION 2. Article 3 of Chapter 20 of the General Statutes is amended by adding the following new section to read:

"§ 20-109.2. Surrender of title to manufactured home.

(a) Surrender of Title. – If a title has been issued for a manufactured home and the manufactured home qualifies as real property as defined in G.S. 105-273(13), the owner shall submit an affidavit to the Division that the manufactured home meets this definition and surrender the certificate of title to the Division.

(b) Affidavit. – The affidavit must be in a form approved by the Commissioner and shall include or provide for all of the following information:

- (1) The manufacturer and, if applicable, the model name of the manufactured home.
- (2) The vehicle identification number and serial number of the manufactured home.
- (3) The legal description of the real property on which the manufactured home is placed, stating that the owner of the manufactured home also owns the real property.
- (4) A description of any security interests in the manufactured home.
- (5) A section for the Division's notation or statement that the title has been surrendered and cancelled by the Division.

(c) Cancellation. – Upon compliance by the owner with the procedure for surrender of title, the Division shall rescind and cancel the certificate of title. If a security interest has been recorded on the certificate of title, the Division may not cancel

the title without written consent from all secured parties. After cancelling the title, the Division shall return the original of the affidavit to the owner, or to the secured party having the first recorded security interest, with the Division's notation or statement that the title has been surrendered and has been cancelled by the Division. The owner or secured party shall file the affidavit returned by the Division with the office of the register of deeds of the county where the real property is located.

(d) Application for Title After Cancellation. – If the owner of a manufactured home whose certificate of title has been cancelled under this section subsequently seeks to separate the manufactured home from the real property, the owner may apply for a new certificate of title. The owner must submit to the Division an affidavit containing the same information set out in subsection (b) of this section, verification that the manufactured home has been removed from the real property, and written consent of any affected owners of recorded mortgages, deeds of trust, or security interests in the real property where the manufactured home was placed. The Commissioner may require evidence sufficient to demonstrate that all affected owners of security interests have been notified and consent. Upon receipt of this information, together with a title application and required fee, the Division is authorized to issue a new title for the manufactured home.

(e) Sanctions. – Any person who violates this section is subject to a civil penalty of up to one hundred dollars (\$100.00), to be imposed in the discretion of the Commissioner."

SECTION 3. Article 2 of Chapter 47 of the General Statutes is amended by adding the following new sections to read:

"§ 47-20.6. Affidavit for permanent attachment of titled manufactured home to real property.

(a) If the owner of real property has surrendered the title to a manufactured home that is placed on the real property and the title has been cancelled by the Division of Motor Vehicles under G.S. 20-109.2, the owner, or the secured party having the first security interest in the manufactured home at time of surrender, shall record the affidavit described in G.S. 20-109.2 with the office of the register of deeds of the county where the real property is located. Upon recordation, the affidavit shall be indexed on the grantor index in the name of the owner of the manufactured home and on the grantee index in the name of the secured party or lienholder, if any.

(b) After the affidavit is recorded, the manufactured home becomes an improvement to real property. Any lien on the manufactured home shall be perfected and given priority in the manner provided for a lien on real property.

(c) Following recordation of the affidavit, all existing liens on the real property are considered to include the manufactured home. Thereafter, no conveyance of any interest, lien, or encumbrance shall attach to the manufactured home, unless the interest, lien, or encumbrance is applicable to the real property on which the home is located and is recorded in the office of the register of deeds of the county where the real property is located in accordance with the applicable sections of this Chapter.

(d) The provisions of this section control over the provisions of G.S. 25-9-334 relating to the priority of a security interest in fixtures, as applied to manufactured homes.

"§ 47-20.7. Declaration of intent to affix manufactured home; transfer of real property with manufactured home attached.

(a) A person who owns real property on which a manufactured home has been, or will be placed, as defined in G.S. 105-273(13), and either where the manufactured home has never been titled by the Division of Motor Vehicles or where the title to the manufactured home has been surrendered and cancelled by the Division, may record in the office of the register of deeds of the county where the real property is located a declaration of intent to affix the manufactured home to the property and may convey or encumber the real property, including the manufactured home, by a deed, deed of trust, or other instrument recorded in the office of the register of deeds.

(b) The declaration of intent, deed, deed of trust, or other instrument shall contain a description of the manufactured home, including the name of the manufacturer, the model name, if applicable, the serial number, and a statement of the owner's intention that the manufactured home be treated as real property.

(c) On or after the filing of the instrument with the office of the register of deeds pursuant to subsection (a) of this section, the manufactured home placed, or to be placed, on the property becomes an improvement to real property. Any lien on the manufactured home shall be perfected and have priority in the manner provided for a lien on real property.

(d) The provisions of this section control over the provisions of G.S. 25-9-334 relating to the priority of a security interest in fixtures, as applied to manufactured homes."

SECTION 4. Section 1 of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2002. Sections 2 and 3 of this act become effective January 1, 2002, and apply to manufactured home title cancellations and to declarations of intent, deeds, deeds of trust, and other instruments recorded after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 3rd day of December, 2001.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 7:29 p.m. this 19th day of December, 2001