

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

H

4

HOUSE BILL 253  
Committee Substitute Favorable 3/21/01  
Senate Finance Committee Substitute Adopted 10/3/01  
Fourth Edition Engrossed 10/17/01

Short Title: Certain Manufactured Homes Real Property.

(Public)

Sponsors:

Referred to:

February 26, 2001

A BILL TO BE ENTITLED

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, TO REQUIRE AN OWNER TO FILE EVIDENCE OF THE SURRENDER OF TITLE WITH THE REGISTER OF DEEDS, AND TO PROVIDE THAT THE GENERAL LAW ON SUBDIVISION REGULATION SHALL APPLY IN PENDER COUNTY.

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:

1 **"§ 20-109.2. Surrender of title to manufactured home.**

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

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

8 (1) The manufacturer and, if applicable, the model name of the  
9 manufactured home.

10 (2) The vehicle identification number and serial number of the  
11 manufactured home.

12 (3) The legal description of the real property on which the manufactured  
13 home is placed, stating that the owner of the manufactured home also  
14 owns the real property.

15 (4) A description of any security interests in the manufactured home.

16 (5) A section for the Division's notation or statement that the title has been  
17 surrendered and cancelled by the Division.

18 (c) Cancellation. – Upon compliance by the owner with the procedure for  
19 surrender of title, the Division shall rescind and cancel the certificate of title. If a  
20 security interest has been recorded on the certificate of title, the Division may not cancel  
21 the title without written consent from all secured parties. After cancelling the title, the  
22 Division shall return the original of the affidavit to the owner, or to the secured party  
23 having the first recorded security interest, with the Division's notation or statement that  
24 the title has been surrendered and has been cancelled by the Division. The owner or  
25 secured party shall file the affidavit returned by the Division with the office of the  
26 register of deeds of the county where the real property is located.

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

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

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

1 **"§ 47-20.6. Affidavit for permanent attachment of titled manufactured home to**  
2 **real property.**

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

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

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

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

23 **"§ 47-20.7. Declaration of intent to affix manufactured home; transfer of real**  
24 **property with manufactured home attached.**

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

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

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

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

4 **SECTION 3.1.** Chapter 204 of the 1991 Session Laws is repealed.

5 **SECTION 4.** Section 1 of this act is effective for taxes imposed for taxable  
6 years beginning on or after July 1, 2002. Sections 2 and 3 of this act become effective  
7 January 1, 2002, and apply to manufactured home title cancellations and to declarations  
8 of intent, deeds, deeds of trust, and other instruments recorded after that date. Section  
9 3.1 of this act becomes effective upon the adoption of a new subdivision regulation  
10 ordinance by the Board of Commissioners of Pender County. The remainder of this act  
11 is effective when it becomes law.