

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

D

HOUSE DRH50197-LK-137 (4/1)

Short Title: Manufactured Home Leasehold Estate Financing. (Public)

Sponsors: Representative Brubaker.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT MANUFACTURED HOMES SET UP ON LEASED PROPERTY MAY BE FINANCED AS A REAL PROPERTY LEASEHOLD ESTATE TO ALLOW THE OWNERS TO OBTAIN BETTER INTEREST RATES IN FINANCING THE PURCHASES OF THEIR HOMES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter 47 of the General Statutes is amended by adding a new section to read:

"§ 47-20.8. Affidavit/Declaration for manufactured home in manufactured home park.

(a) As used in this section:

(1) 'Manufactured home' has the same meaning as in G.S. 143-143.9(6)k.

(2) 'Manufactured home community or park' means any parcel of land that contains three or more manufactured home spaces.

(3) 'Manufactured home space' means a parcel of land for rent that has been designed to accommodate a manufactured home and provide the required water, sewer, and utility connections.

(b) Notwithstanding any other law, a person who owns a manufactured home located on a manufactured home space leased from another person, and who desires that the home and leasehold interest be treated as a real property leasehold interest, may either:

(1) File an affidavit with the register of deeds as provided in G.S. 47-20.6, if a certificate of title has been issued for the home; or

(2) File a declaration of intent as provided in G.S. 47-20.7, if the home has never been titled or if the title has been cancelled or surrendered, if all of the following conditions are met:

- 1 a. The manufactured home has been set up on the manufactured
2 home space in compliance with the manufactured home set-up
3 requirements in G.S. 143-143.15, with its moving hitch, wheels,
4 and axles removed.
- 5 b. The owner of the manufactured home has entered into a lease
6 for the manufactured home space for a primary term of at least
7 20 years.
- 8 c. The affidavit under G.S. 47-20.6 or the declaration under G.S.
9 47-20.7 will state that the owner of the home is not the same as
10 the owner of the land to which the home is affixed, that the
11 parties have entered into a lease, and that the parties intend that
12 the leasehold interest be treated as a real property leasehold
13 interest.
- 14 d. Together with filing such affidavit or declaration, a
15 memorandum of lease is recorded that includes the:
- 16 1. Names and addresses of the landlord and the tenant.
17 2. Duration of the primary term of the lease.
18 3. Lease renewal provisions, if any.
19 4. The manufacturer and model name, if applicable, the
20 serial number, year and vehicle identification number of
21 the manufactured home.
22 5. Legal description of the real property on which the
23 manufactured home is located.
24 6. Acknowledged signatures of both the landlord and the
25 tenant.
- 26 (c) For purposes of this section and the legal description required under G.S.
27 47-20.6 or G.S. 47-20.7, a legal description of the real property is sufficient as follows:
- 28 (1) For a manufactured home community or park that has a subdivision
29 plat recorded with the register of deeds which identifies individual lots
30 within the community, the description shall refer to the lot, the name
31 of the community, and the recording information for the recorded plat;
32 or
- 33 (2) The owner or the manufactured home community or park may record a
34 leasehold map of the community. Such map shall, at a minimum, set
35 out the boundaries of the community, show the location of all rental
36 spaces in the community, and assign each space a unique identifying
37 number. The map shall identify the community by name and contain a
38 certification by the owner that it accurately depicts the location and
39 dimensions of the spaces in the community. For a community or park
40 that has recorded such a leasehold map, the legal description is
41 sufficient if it refers to the space number as shown on the leasehold
42 map and refers to the recording information for such map.

1 (d) Upon compliance with the procedures for surrender of title under G.S.
2 47-20.6 and G.S. 20-109.2, as modified by this section, the Division of Motor Vehicles
3 shall cancel the title to the manufactured home, if a title has been previously issued.

4 (e) The recording of an affidavit or declaration does not impair the rights of any
5 holder of a perfected security interest in the manufactured home, unless the affidavit or
6 declaration contains the acknowledged consent of the secured party to the termination of
7 the security interest. If a secured party so consents, that security interest terminates
8 when the affidavit or declaration is recorded.

9 (f) The landlord under the lease who is also the owner of the manufactured home
10 space on which the manufactured home is located may record a notice and affidavit that
11 terminates an affidavit or declaration of a manufactured home on the landlord's real
12 property, if the lease has been terminated before its expiration, provided all holders of
13 recorded liens against the manufactured home and the leasehold interest have approved
14 the lease termination and the termination of the affidavit. In that event, the landlord
15 shall attach to the notice and affidavit one or the following:

16 (1) An agreement executed by both the landlord and the tenant in which
17 both parties agree to the termination of the lease, and if there are
18 holders of liens against the manufactured home and leasehold interest,
19 by each such lienholder, in which all parties agree to the termination of
20 the lease.

21 (2) A copy of a judgment that is entered by a court of competent
22 jurisdiction, that upholds the termination of the lease and that awards
23 possession of the real property to the landlord and, if the home remains
24 on the space, a copy of a new lease of the same priority between the
25 landlord and the prior lienholder against the leasehold estate, or other
26 documentation showing that the lien against the leasehold estate and
27 the other rights and benefits given to the lienholder on the leasehold
28 estate have not been disturbed by the termination of the lease; or

29 (3) An affidavit of the landlord and any lienholder stating that the
30 manufactured home has been removed from the real property.

31 (g) At any time after the landlord records a notice and affidavit terminating an
32 affidavit or declaration under subsection (f) of this section, the Division of Motor
33 Vehicles shall retitle the manufactured home to the owner of the manufactured home on
34 presentation of a copy of such notice and affidavit, together with a moving permit from
35 the county tax assessor's office, and on satisfaction of other requirements that the
36 Division of Motor Vehicles may impose.

37 (h) Except as provided in subsection (j) of this section, the manufactured home
38 and the leasehold interest to which it is affixed shall be treated together as a real
39 property leasehold interest. If there is a change in the identity of the owner of the
40 manufactured home during the term of any lease for which an affidavit or declaration
41 has been recorded under this section, the landlord and the new owner of the
42 manufactured home as successor tenant shall execute an amended memorandum of
43 lease that identifies the successor tenant and that refers to the affidavit or declaration by
44 date and recording information. On the recording of the amended memorandum of

1 lease, the successor tenant succeeds to the rights and obligations of the manufactured
2 homeowner.

3 (j) A manufactured home and manufactured home space identified in an affidavit
4 or declaration recorded under this section shall, for property tax purposes, be assessed
5 as a real property leasehold interest."

6 **SECTION 2.** If any provision of this act or its application is held invalid, the
7 invalidity does not affect other provisions or applications of this act that can be given
8 effect without the invalid provisions or application, and to this end the provisions of this
9 act are severable.

10 **SECTION 3.** This act is effective when it becomes law.