McGLINCHEY STAFFORD

MHI Manufactured Housing Institute

McGlinchey Stafford and the Manufactured Housing Institute (MHI) are pleased to bring you the Manufactured Housing Law Update. With content prepared by McGlinchey Stafford's nationally-recognized consumer financial services team, the Update focuses on legal and regulatory actions in the manufactured housing industry. More about MHI and McGlinchey Stafford can be found at the end of the Update.

WELCOME!

April brought us the Tax Man and the Easter Bunny, but also some scintillating developments in the manufactured housing legal landscape. For instance, did you know that selling meth no longer is defined as a crime substantially related to manufactured housing installation in Delaware? This is progress, people!

On a more serious note, the April edition of the Update contains numerous new laws pertaining to manufacturer housing dealers. Indiana in particular has been active in this space. In Idaho, check out the Notices to Promulgate New Rules. If you do business in Idaho, you may want to watch how these rules develop. If you do business in New York, the state is transitioning its Exempt Mortgage Banker License-MH to NMLS, and you won't want to miss that.

In April, courts were relatively quiet in addressing manufactured housing issues, but the bankruptcy courts continued to employ a lender's least favorite technique, the cramdown. That's not to say that every manufactured home depreciates. In fact, one case addressed the appreciation of a manufactured home. Until May, good reader!

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CASE LAW

Discrimination – National origin

CASE NAME: *De Reyes v. Waples Mobile Home Park Limited Partnership*
DATE: *04/18/2017*
CITATION: *United States District Court, E.D. Virginia. Slip Copy. 2017 WL 1384118*

Plaintiffs, eight current or former residents of Waples Mobile Home Park, filed a Complaint against the Park's owners and operators in response to defendants' enforcement of a policy that, in plaintiffs' view, (1) impermissibly discriminates on the basis of race, national origin, alienage, and citizenship, (2) violates the terms of their lease agreements, and (3) violates a Virginia statute regulating mobile home parks. Plaintiffs comprise four married couples, and each plaintiff is a non-citizen of Salvadorian or Bolivian national origin.

At the relevant time periods, the Policy required all applicants seeking to rent at the Park to provide government-issued photo identification and proof of lawful presence in the United States. Because the female plaintiffs entered the United States illegally, they could not satisfy the Policy.

The Court found that the record failed to show a prima facie case of race or national origin discrimination under the FHA or Virginia Fair Housing Law. Although plaintiffs, as Latinos, were members of a protected class who were denied the opportunity to renew housing rental agreements, the undisputed factual record disclosed that plaintiffs did not qualify to renew leases under the Policy and Park rules because some adult occupants in plaintiffs' households could not provide the requisite forms showing lawful status—a requirement that applied uniformly to every household and applicant seeking to rent at the Park.

The Court also found that the Policy's alleged disparate impact on Latinos did not support an inference of intentional discrimination on the basis of race or national origin. Defendants regularly rented to Latinos, and the majority of residents at the Park were Latino, notwithstanding the effects of the Policy. Defendants aimed their housing advertisements to Latinos and employed Latino Spanish-speakers at the Park. Any disparate effect on Latinos caused by the Policy was incidental to the Policy's lawful effect on all illegal aliens and reflected nothing more than the fact that many illegal aliens in the U.S. happen to be Latino. Thus, plaintiffs' FHA and VFHL claims failed not only at the prima facie stage, but also at the pretext stage.

The Complaint also alleged that the Policy reflected intentional discrimination on the basis of plaintiffs' alienage and non-citizenship. The Court found, however, that the Policy was facially neutral, as it required all applicants, including U.S. citizens, seeking to qualify for a lease to provide proof of lawful presence in the United States, and defendants continually rented to and contracted with non-citizens, including non-citizens of Latino national origin.

In sum, the Court found that no reasonable jury presented with this undisputed factual record could conclude that defendants engaged in intentional discrimination on the basis of race, national origin, alienage, or non-citizenship.

The Court denied the cross motions for summary judgment on the remaining claims arising under state law; an alleged violation of the Virginia Rental Act and breach of contract.

The Court found that there were genuine disputes of material fact whether the male plaintiffs' alleged misconduct—permitting their wives to live in the Park ostensibly without disclosing the wives' presence to defendants—posed a "threat to health or safety" such that defendants could have terminated plaintiffs' leases

without 60 days' notice. There was also a triable issue on the question of defendants' waiver, as there were factual disputes regarding whether defendants accepted rent payments despite "knowledge in fact" of the female plaintiffs' presence at the Park or plaintiffs' inability to satisfy the Policy.

LEGISLATION

Arkansas

Refusal to vacate

2017 AR S 25. Enacted 2/13/2017. Effective 7/31/2017.

Findings and legislative intent.

The General Assembly finds that:

The decision of the United States Court of Appeals, Eighth Circuit, in *Munson v. Gilliam, 543 F.2d 48 (8th Cir. 1976*), and the decision of the Arkansas Supreme Court in *Duhon v. State, 299 Ark. 503, 774 S.W.2d 830 (Ark. 1989*), upheld the constitutionality of Ark Code § 18-16-101;

The General Assembly amended Ark. Code § 18-16-101 in 2001;

In January 2015, the Circuit Court of Pulaski County, in *State of Arkansas v. Artoria Smith, Case No. CR 2014-2707*, ruled that Ark. Code § 18-16-101, as amended, is unconstitutional; and

It is in the best interests of the people of the State of Arkansas for property owners to continue to have remedies against tenants who fail to pay rent for a dwelling house or other building but refuse to surrender possession of the dwelling house or other building.

It is the intent of the General Assembly by this act to amend Ark. Code § 18-16-101 so that the language of Ark. Code § 18-16-101 is exactly as was previously in effect when Ark. Code § 18-16-101 was upheld as constitutional in the *Munson* and *Duhon* decisions, and to eliminate the amendments to Ark. Code Ann. § 18-16-101 that were found to be unconstitutional in the Smith decision.

The bill amends Ark. Code Ann. § 18-16-101, Failure to pay rent — Refusal to vacate upon notice — Penalty, to provide that:

(a) Any person who shall rent any dwelling house or other building or any land situated in the State of Arkansas and who shall refuse or fail to pay the rent therefor when due according to contract shall at once forfeit all right to longer occupy the dwelling house or other building or land.

(b)(1) If, after ten (10) days' notice in writing shall have been given by the landlord or the landlord's agent or attorney to the tenant to vacate the dwelling house or other building or land, the tenant shall willfully refuse to vacate and surrender the possession of the premises to the landlord or the landlord's agent or attorney, the tenant shall be guilty of a misdemeanor.

(2)(A) Upon conviction before any justice of the peace or other court of competent jurisdiction in the county where the premises are situated, the tenant shall be fined in any sum not less than one dollar ($1.00) nor more than (adding, in any sum not less than one dollar ($1.00) nor more than) twenty-five dollars ($25.00) for each offense.

(B) Each day the tenant shall willfully and unnecessarily hold the dwelling house or other building or land after the expiration of notice to vacate shall constitute a separate offense.

Formerly, this section provided:

(a) Any person who shall rent any dwelling house or other building or any land situated in the State of Arkansas and who shall refuse or fail to pay the rent therefor when due according to contract shall at once forfeit all right to longer occupy the dwelling house or other building or land.

(b)(1) If, after ten (10) days' notice in writing shall have been given by the landlord or the landlord's agent or attorney to the tenant to vacate the dwelling house or other building or land, the tenant shall willfully refuse to vacate and surrender the possession of the premises to the landlord or the landlord's agent or attorney, the tenant shall be guilty of a misdemeanor.

(2)Upon conviction before any justice of the peace or other court of competent jurisdiction in the county where the premises are situated, the tenant shall be fined twenty-five dollars ($25.00) per day for each day that the tenant fails to vacate the premises.

(c)(1) Any tenant charged with refusal to vacate upon notice who enters a plea of not guilty to the charge of refusal to vacate upon notice and who continues to inhabit the premises after notice to vacate pursuant to subsection (b) of this section shall be required to deposit into the registry of the court a sum equal to the amount of rent due on the premises. The rental payments shall continue to be paid into the registry of the court during the pendency of the proceedings in accordance with the rental agreement between the landlord and the tenant, whether the agreement is written or oral.

(2)(A) If the tenant is found not guilty of refusal to vacate upon notice, the rental payments shall be returned to the tenant.

(B) If the tenant is found guilty of refusal to vacate upon notice, the rental payment paid into the registry of the court shall be paid over to the landlord by the court clerk.

(3) Any tenant who pleads guilty or nolo contendere to or is found guilty of refusal to vacate upon notice and has not paid the required rental payments into the registry of the court shall be guilty of a Class B misdemeanor.

LEGISLATION

Idaho

Forcible detainer

2017 ID S 1120. Enacted 4/6/2017. Effective 7/1/2017.

This bill amends Idaho Code § 6-302, Forcible Detainer Defined, to provide that every person is guilty of a forcible detainer who during the absence of the occupant (formerly, in the nighttime or during the absence ….) or property owner (adding, or property owner) of any lands, unlawfully enters upon real property, and who, after demand made for the surrender thereof (deleting, "for the period of five (5) days"), refuses to surrender the same to such former occupant or property owner. The occupant of real property, within the meaning of this subdivision, is one who, within five (5) days preceding such unlawful entry, was in the peaceable and undisturbed possession of such lands, regardless of whether the property was inhabited by the occupant of real property (adding, regardless of whether the property was inhabited by the occupant of real property).

The bill amends Idaho Code § 6-310, Action For Possession--Complaint—Summons, to add that in an action for possession against a defendant alleged to be occupying property as a result of forcible detainer, a property owner shall state in a verified complaint:

(a) A description of the premises with convenient certainty;

(b) That the defendant is in possession of the premises;

(c) That the defendant entered upon the premises and holds the premises by means of forcible detainer;

(d) That neither the property owner nor any agent thereof has ever entered into a lease or any other similar agreement with the defendant;

(e) That all notices required by law have been served upon the defendant in the required manner; and

(f) That the plaintiff is entitled to the possession of the premises.

Upon filing the complaint, a summons must be issued, served and returned as in other actions, provided, however, that at the time of issuance of the summons, the court shall schedule a trial within seventy-two (72) hours from the filing of the complaint, excluding weekends and official holidays. The service of the summons, complaint and notice of trial setting on the defendant shall be not less than twenty-four (24) hours before the time of trial appointed by the court.

If any property owner files an action for possession against a defendant alleged to be occupying the property as a result of forcible detainer when a landlord-tenant relationship existed with the defendant and/or in bad faith, said property owner shall be liable to the defendant for treble damages.

LEGISLATION
Indiana
Community sales of manufactured housing

2017 IN H 1119. Enacted 4/24/2017. Effective 7/1/2017.

This bill amends Ind. Code § 9-13-2-42 to provide that the definition of "dealer" includes a person that:

(1) sells;

(2) offers to sell; or

(3) advertises for sale;

including directly by the Internet or other computer network, at least twelve (12) vehicles within a twelve (12) month period. The term includes a person that sells manufactured homes. A dealer must have an established place of business that meets the minimum standards prescribed by the secretary of state under rules adopted under IC 4-22-2.

The bill amends Ind. Code § 9-32-11-1 to include manufactured home dealers as persons who must be licensed to engage in the business of buying, selling, or manufacturing motor vehicles.

The bill also amends Ind. Code § 16-41-27-32 to provide that a government body may not regulate or restrict the ability of a:

(1) mobile home community:

(A) owner; or

(B) manager; or

(2) manufactured home community:

(A) owner; or

(B) manager;

to obtain a dealer's license or to sell a mobile home or manufactured home located within the owner's or manager's mobile home community or manufactured housing community.

LEGISLATION
Indiana
Taxes

2017 IN S 455. Enacted 4/28/2017. Effective as noted.

Effective 1/1/2018, this bill amends Ind. Code § 6-1.1-1-8.4 to provide that "inventory" includes a mobile home or manufactured home that is owned and held for lease by the owner of the mobile home community, regardless of whether the mobile home that is held for lease is new or was previously owned.

Also effective 1/1/2018, the bill amends Ind. Code § 6-1.1-1-9 to provide that the holder of the legal title to personal property, or the legal title in fee to real property, is:

(1) the owner of that property, if a title document is not ordinarily issued to an owner for that type of property; or

(2) the owner of that property who is designated as the grantee, buyer, or other equivalent term in the title document or bureau of motor vehicles affidavit of sale or disposal, if a title document is ordinarily issued to an owner for that type of property.

Also effective 1/1/2018, the bill amends Ind. Code § 6-1.1-2-4 to provide that a person owning a mobile home assessed as personal property on the assessment date of a year is liable for the taxes imposed for that year on the property.

Effective 1/1/2018, the bill amends Ind. Code § 6-1.1-7-3 to provide that a person who places a mobile home or allows (formerly, permits) a mobile home to be placed on any land which the person owns, possesses, or controls shall report that fact to the assessor of the township in which the land is located, or the county assessor if there is no township assessor for the township, within thirty (30) (formerly, 10) days after the mobile home is placed on the land.

The bill also adds that, if a person that operates a mobile home community places a mobile home or allows a mobile home to be placed in the mobile home community, if a sale or lease of a mobile home previously held as inventory occurs, or if the status of a mobile home is changed to inventory, the person shall furnish the following information and other items to the assessor of the township in which the mobile home community is located, or the county assessor if there is no township assessor for the township, within thirty (30) days after the mobile home is placed in the mobile home community, the sale or lease of the mobile home occurs, or the change in status of the mobile home to inventory occurs:

(1) If applicable, notice of the sale or lease of the mobile home or the change in status of the mobile home to inventory.

(2) The name of the owner of the mobile home at the time the entry is made, as shown on the title to the mobile home.

(3) The vehicle identification number of the mobile home.

(4) A copy of the title held by the owner of the mobile home at the time the entry is made, or, if no title exists:

(A) a petition filed with a court requesting an order by the court for the title of the mobile home; or

(B) a bureau of motor vehicles affidavit of sale or disposal.

(5) A copy of the most recent permit issued to the owner of the mobile home or issued under section 10 of Chapter 7 (Taxation of Mobile Homes), if applicable.

The bill provides that the thirty (30) (formerly, 10) day period specified above commences the day after the day that the mobile home is placed upon the land.

Effective 1/1/2018, the bill amends Ind. Code § 6-1.1-7-10 to require that the person requesting a permit to move a mobile home has a state issued title, a court order, or a bureau of motor vehicles affidavit of sale or disposal.

A county treasurer is not liable for the county treasurer's good faith efforts to collect taxes that are due and payable for a mobile home. Good faith efforts include the refusal to issue a permit until all property taxes that are due and payable for a mobile home are paid to the county treasurer.

Effective 1/1/2018, the bill amends Ind. Code § 6-1.1-7-11 to provide that the person who is engaged to move a mobile home shall visibly display (formerly, retain possession of) the permit to move the mobile home while the mobile home is in transit.

Effective immediately, the bill amends Ind. Code § 6-1.1-7-15 to provide that the holder of a bureau of motor vehicles affidavit of sale or disposal for a mobile home or

manufactured home that has deteriorated to a degree that it can no longer provide suitable protection from the elements as to be used as a primary place of residence, that has little or no value as a structure to be rehabilitated for use as a primary place of residence, on which personal property tax liability has been imposed in an amount that exceeds the estimated resale value of the mobile home or manufactured home and that has been abandoned in a licensed mobile home community may submit a written request to the county assessor for the county where the mobile home or manufactured home is located requesting that personal property tax liability imposed on the mobile home or manufactured home be waived.

Effective 7/1/2017, the bill adds Ind. Code § 6-1.1-23-0 to provide that, after December 31, 2017, a county treasurer may collect delinquent property taxes, penalties, and collection expenses that are attributable to a mobile home assessed as personal property by using the procedures of this chapter or IC 6-1.1-23.5. However, after a county treasurer has initiated an action under this chapter or IC 6-1.1-23.5 to collect the delinquent property taxes, penalties, and collection expenses owed by a taxpayer for a mobile home assessed as personal property, the county treasurer shall continue to use the procedures of the chapter under which the action was initiated until the delinquent property taxes, penalties, and collection expenses are paid in full or the mobile home is sold or otherwise disposed of.

Effective 1/1/2018, the bill adds Ind. Code § 6-1.1-23.5 , Chapter 23.5, Collection of Delinquent Personal Property Taxes Attributable to a Mobile Home, to provide that a county treasurer may elect to use the procedures of this chapter to collect delinquent personal property taxes, penalties, and collection expenses that are attributable to a mobile home assessed as personal property.

The bill provides that, after a county treasurer prepares a tentative auction list, the county treasurer shall serve a written demand upon each taxpayer on the list. The written demand may be served upon the taxpayer.

A county treasurer may enter into an agreement with a taxpayer on the tentative auction list under section 4 of this chapter that allows the taxpayer to pay the taxpayer's delinquent personal property taxes, penalties, and collection expenses in installments.

Each year, the county executive or the county executive's designee may:

(1) after January 1; and

(2) not later than sixty (60) days after the county treasurer issues a written demand required under this chapter;

certify to the county treasurer that a mobile home is not suitable for tax sale. The certification must identify the names and addresses of each person with a substantial property interest of record. When making the application for judgment under this chapter, the county treasurer shall include a list of the mobile homes certified as not suitable for tax sale and the names and addresses of each person with a substantial property interest of record in the certified mobile homes that was provided to the county treasurer with the certification.

Not later than ten (10) days after making the certification, the county executive or the county executive's designee shall provide a notice to each person with a substantial property interest of record in the mobile home.

At least sixty (60) days after the date on which the written demands are issued by a county treasurer, the county treasurer shall prepare a notice that declares the county treasurer's intention to sell the mobile homes on the tentative auction list.

At least twenty-one (21) days before the earliest date on which the application for judgment and order for sale of mobile homes eligible for sale may be made, the county

treasurer shall send a notice of the sale by certified mail, return receipt requested, and by first class mail to:

(1) the owner of record of the mobile home with a single owner; or

(2) at least one (1) of the owners, as of the date that the tentative auction list is initially prepared under section 4 of this chapter, of a mobile home with multiple owners.

Annually, each county treasurer shall make application for judgment and order for sale. The county treasurer shall make the application as one (1) cause of action to a court with jurisdiction. The application must include the names of at least one (1) of the owners of each mobile home, the dates of mailing of the notice required by this chapter, as applicable, the dates of publication required the chapter, and the affidavit and corrected tentative auction list.

Any objection to the application for judgment and order of sale shall be filed with the court on or before the earliest date on which the application may be made as set forth in the notice required under this chapter. The county treasurer for the county where the mobile home is located is entitled to receive all pleadings, motions, petitions, and other filings related to an objection to the application for judgment and order of sale.

At least three (3) days before the advertised date of the tax sale, the court shall enter judgment for those taxes, penalties, and costs that appear to be due. This judgment is considered a judgment against each taxpayer for the taxpayer's delinquent personal property taxes, penalties, and collection expenses that are attributable to the taxpayer's mobile home.

If written objections are timely filed, the court shall conduct a hearing on the written objections at least seven (7) days before the advertised date of the auction.

At least seven (7) days before the date set for the hearing, notice of the date, time, and place of the hearing shall be provided by the court.

Except as otherwise provided, the county treasurer shall, at the time and place designated in the notice, sell at public auction to the highest bidder each mobile home that is specified in the order for sale.

Effective 1/1/2018, the bill amends Ind. Code § 16-41-27-31 to provide that after December 31, 2019, entries made in the register to be maintained by each mobile home community operator for inspection by the township assessor or county assessor responsible for assessing mobile homes and manufactured homes located in the mobile home community and by the state department, must contain the following for each mobile home and manufactured home in a mobile home community:

(1) The name of the owner of the mobile home or manufactured home at the time the entry is made, as shown on the title to the mobile home or manufactured home.

(2) The vehicle identification number of the mobile home or manufactured home.

(3) Beginning after September 30, 2020, a copy of the title held by the owner of the mobile home or manufactured home at the time the entry is made.

The bill also provides that, effective 7/1/2017, before January 1, 2018, the bureau of motor vehicles and the Indiana archives and records administration shall update the records retention schedule for titles of mobile homes and manufactured homes to provide for a retention period of twenty (20) years for titles of mobile homes and manufactured homes.

LEGISLATION

Kentucky

"Protected tenants"

2017 KY H 309. Enacted 4/11/2017. Effective 6/29/2017.

This bill adds a new section to KRS Chapter 383, applicable only to leases or rental agreements created or renewed on or after the effective date of the Act, to provide that "protected tenant" means a residential rental or leased housing tenant, applicant for tenancy, or a tenant with a minor household member, who is protected by a valid domestic violence order or interpersonal protective order.

"Named individual" means a person identified in protective orders as restrained from contact with the protected tenant.

The bill provides that a landlord shall not terminate, fail to renew, refuse to enter into, or otherwise retaliate in the renting or leasing of a residence because of the person's status as a protected tenant.

After informing the landlord of an intention to install a new lock, a protected tenant at his or her expense, may install a new lock to his or her dwelling.

The tenant shall provide a key to the new lock to the landlord upon request.

Regardless of any provision in the lease or rental agreement, the landlord may refuse to provide a key to the new lock to a named individual, even if the named individual is a party to the lease or rental agreement.

A named individual who has been excluded from leased or rented property under this section remains liable for rent.

For a protected tenant who obtains a valid protective order after entering into a lease or rental agreement, the lease or rental agreement may be terminated by providing the landlord with:

1. Written notice of termination to be effective on a date stated in the notice that is at least thirty (30) days after the landlord's receipt of the notice; and

2. A copy of the valid protective order.

For a protected tenant who obtains a valid protective order before entering into a lease or rental agreement, the lease or rental agreement may be terminated by:

1. Providing the landlord with written notice of termination to be effective on a date stated in the notice that is at least thirty (30) days after the landlord's receipt of the notice;

2. Attaching a copy of the valid protective order; and

3. Demonstrating a safety concern to the landlord that arises after execution of the lease.

Upon termination of a lease or rental agreement under this section, the released protected tenant shall:

1. Be liable for the rent due under the lease or rental agreement prorated to the effective date of the termination and payable at the time that would have been required by the terms of the lease or rental agreement;

2. Not receive a negative credit entry, a negative character reference, or be liable for any other rent or fees due solely to the early termination of the tenancy; and

3. Not be subject to any damages or penalties if a lease or rental agreement is terminated under this subsection fourteen (14) or more days prior to occupancy.

Regardless of whether the named individual is a party to a lease or rental agreement terminated under this subsection, the named individual:

1. Is deemed to have interfered with the terminated lease or rental agreement between the landlord and tenant; and

2. Shall be civilly liable for all economic losses incurred by the landlord for the early lease termination, including unpaid rent, early lease termination fees, commissions and advertising costs incurred in reletting the premises, costs to repair damages to the premises, or any

reductions in rent previously granted to the protected tenant.

Regardless of conflicting provisions in a named individual's rental agreement or lease, if a named individual and a protected tenant are co-tenants, a landlord may:

(a) Refuse access to the property by a named individual unless the named individual is specifically permitted access by court order; and

(b) Pursue all available legal remedies against the named individual, including:

1. Termination of the named individual's rental agreement or lease;

2. Eviction of the named individual, whether or not a lease or rental agreement between the landlord and the named individual exists; and

3. Action for damages against the named individual for any unpaid rent owed by the named individual or any damages resulting from a violation of a valid protective order.

Notwithstanding the release of a protected tenant or an exclusion of a named individual from a lease or rental agreement under this section, if there are any remaining tenants residing in the dwelling unit, the tenancy shall continue for those tenants.

A landlord is immune from civil liability if the landlord in good faith acts in accordance with this section.

The bill adds another new section to KRS Chapter 383 to provide that a landlord shall not include in a residential rental agreement or lease for housing a provision authorizing the landlord to terminate the agreement or to impose a penalty on a tenant for requests made by the tenant for assistance from peace officers or other assistance in response to emergencies.

This section shall apply only to leases or rental agreements created or renewed on or after the effective date of this Act.

LEGISLATION
Maryland
St. Mary's County

2017 MD H 163 and 2017 MD S 162. Enacted 4/18/2017. Effective 10/1/2017.

St. Mary's County - Mobile Home Parks - Repeal

The purpose of this bill is to repeal certain provisions of law that relate to the licensing and operation of mobile home parks in St. Mary's County, repealing the Public Local Laws of St. Mary's County, §§ 136-1 through 136-4, 136-7, 136-11, and 136-13 through 136-19 and "Chapter 136. Trailers."

LEGISLATION
North Dakota
Service animals

2017 ND H 1272. Enacted 4/12/2017. Effective 8/1/2017.

This bill relates to reasonable accommodations for service animals in rental dwelling units.

The bill amends N.D. Cent. Code § 47-16-07.5, Disability documentation for service or assistance animal in rental dwelling, to provide that reliable supporting documentation may be provided by a physician or medical professional who does not operate in the state solely to provide certification for service or assistance animals.

The bill also adds N.D. Cent. Code § 47-16-07.6, Service animals-Housing-Penalties for furnishing fraudulent disability documentation, to provide that an individual is guilty of an infraction if the individual, in an attempt to

obtain a reasonable housing accommodation under section 47-16-07.5, knowingly makes a false claim of having a disability that requires the use of a service animal or assistance animal or knowingly provides fraudulent supporting documentation in connection with such a claim.

If the individual pleads guilty or is convicted of an offense relating to fraudulent documentation, a lessor may evict a lessee and the lessor is entitled to a damage fee, not to exceed one thousand dollars, from a lessee if the lessee provides fraudulent disability documentation indicating a disability requiring the use of a service animal or assistance animal.

LEGISLATION
Oklahoma
Personal property taxes

2017 OK S 91. Enacted 4/13/2017. Effective 11/1/2017.

This bill amends Okla. Stat. tit. 68, § 3106 to provide that if personal property taxes become delinquent on a manufactured home that is located on property not owned by the owner of the manufactured home and the county treasurer provides notice pursuant to Sections 3102 and 3103 of this title, such notice shall also be sent to the last-known address of the owner of the real property on which the manufactured home is located.

LEGISLATION
Utah
Criminal history of tenants

2017 UT H 178. Enacted 3/20/2017. Effective 5/9/2017.

This bill amends Utah Code Ann. § 10-1-203.5 to prohibit a municipality from requiring a residential landlord to deny tenancy based on the individual's criminal history unless a halfway house is located within the municipality. Formerly, this subsection prohibited a municipality from requiring a residential landlord to deny tenancy to an individual released from probation or parole whose conviction date occurred more than four years before the date of tenancy.

LEGISLATION
Vermont
"Business days" - Writs of possession

2017 VT H 4. Enacted 5/1/2017. Effective 7/1/2017.

The purpose of this bill is to make clear that when the Vermont statutes establish periods of time of less than 11 days in court proceedings, the period of time means less than 11 business days.

The bill makes amendments to several sections by either changing the time period from 10 days to 14 days, or by specifying "business" days, including:

Vt. Stat. Ann. tit. 12, § 2796, REDEMPTION-BOND; WRIT OF POSSESSION; ACCOUNTING BY PURCHASER FOR RENTS AND PROFITS – to provide that when real estate is sold on execution, the debtor or person claiming under him or her may redeem the same at any time within six months from the date of such sale. He or she shall file a bond within 14 (formerly, 10) days after such sale with the clerk of the court or magistrate who issued such execution, to the purchaser, in a penal sum that the clerk or magistrate shall order, conditioned in case he or she does not redeem the property to pay the purchaser the fair rents and profits of such premises and commit no waste on the same, which bond shall be approved by the clerk or magistrate.

Vt. Stat. Ann. tit. 12, § 4853a, PAYMENT OF RENT INTO COURT; EXPEDITED HEARING – to provide that a hearing on the motion shall be held any time after 14 (formerly, 10) days' notice to the parties. If the tenant appears at the hearing and has not been previously defaulted, the court shall not enter judgment by default unless the

tenant fails to file a written answer within 14 (formerly, 10) days after the hearing. Any rent escrow order shall remain in effect notwithstanding the issuance of a default judgment but shall cease upon execution of a writ of possession.

If the tenant fails to pay rent into court in the amount and on the dates ordered by the court, the landlord shall be entitled to judgment for immediate possession of the premises. The court shall forthwith issue a writ of possession directing the sheriff of the county in which the property or a portion thereof is located to serve the writ upon the defendant and, not earlier than five business days (adding, "business") after the writ is served, or, in the case of an eviction brought pursuant to 10 V.S.A. chapter 153, 30 days after the writ is served, to put the plaintiff into possession.

Vt. Stat. Ann. tit. 12, § 4854, JUDGMENT FOR PLAINTIFF; WRIT OF POSSESSION – to provide that a writ of possession shall issue on the date judgment is entered, unless the court for good cause orders a stay. The writ shall direct the sheriff of the county in which the property or a portion thereof is located to serve the writ upon the defendant and, not earlier than 14 (formerly, 10) days after the writ is served, to put the plaintiff into possession.

Vt. Stat. Ann. tit. 12, § 4914, COMPLAINT AND WARRANT – to provide that, when a complaint is formally made in writing, to a district judge of such unlawful or forcible entry or detainer, he or she shall issue a warrant returnable within such county not less than six business days (adding, "business") thereafter, which shall be directed to the sheriff, commanding such officer to apprehend the person against whom such complaint is made and bring him or her before the district judge having jurisdiction.

Vt. Stat. Ann. tit. 12, § 4933 – to provide that acceptance of a foreclosure complaint by the court clerk that, due to a good faith error or omission by the plaintiff or the clerk, does not contain the certification required in subsection (a) of this section shall not invalidate the foreclosure proceeding, provided that the plaintiff files the required notice with the Commissioner within 14 (formerly, 10) days of obtaining knowledge of the error or omission.

Vt. Stat. Ann. tit. 27, § 372, PROCEEDINGS WHEN GRANTOR REFUSES TO ACKNOWLEDGE-SUMMONS – to provide that when a grantor or lessor refuses to acknowledge his or her deed, the grantee or lessee, or a person claiming under him or her, may apply to a district judge who shall thereupon issue a summons to the grantor or lessor to appear at a certain time and place before him or her to hear the testimony of the subscribing witnesses to the deed. Such summons, with a copy of the deed annexed, shall be served like a writ of summons, seven business days (adding, "business") at least before the time therein assigned for proving the deed.

Vt. Stat. Ann. tit. 27, § 378, EFFECT OF RECORDING UNACKNOWLEDGED DEED – to provide that a person interested in a deed or lease not acknowledged may cause the deed or lease to be recorded without acknowledgment before or during the application to the court, or the proceedings before any of the authorities named in sections 371-376 of this title; and, when so recorded in the proper office, it shall be as effectual as though the same had been duly acknowledged and recorded for 60 days thereafter. If such proceedings for proving the execution of the deed are pending at the expiration of such 60 days, the effect of such record shall continue until the expiration of six business days (adding, "business") after the termination of the proceedings.

LEGISLATION

Virginia

Foreclosure - Tenants

2016 VA H 1623. Enacted 2/20/2017. Effective 7/1/2017.

This bill amends Va. Stat. Ann. § 55-225.10 to provide that if there is in effect at the date of a foreclosure sale a tenant in a residential dwelling unit foreclosed upon, the foreclosure shall act as a termination of the rental agreement by the owner. In such case, the tenant may remain in possession of such dwelling unit as a month-to-month tenant on the terms of the terminated rental agreement until the successor owner gives a notice of termination of such month-to-month tenancy. If the successor owner elects to terminate the month-to-month tenancy, written notice of such termination shall be given in accordance with the rental agreement, or the provisions of Section 55-222 or 55-248.6, as applicable.

Unless or until the successor owner terminates the month-to-month tenancy, the terms of the terminated rental agreement remain in effect except that the tenant shall make rental payments (i) to the successor owner as directed in a written notice to the tenant in this subsection; (ii) to the managing agent of the owner, if any, or successor owner; or (iii) into a court escrow account pursuant to the provisions of Section 55-225.12; however, there is no obligation of a tenant to file a tenant's assertion and pay rent into escrow. Where there is not a managing agent designated in the terminated rental agreement, the tenant shall remain obligated for payment of the rent but shall not be held to be delinquent or assessed a late charge until the successor owner provides written notice identifying the name, address, and telephone number of the party to which the rent should be paid.

The successor owner may enter into a new rental agreement with the tenant in the dwelling unit, in which case, upon the commencement date of the new rental agreement, the month-to-month tenancy shall terminate.

The bill also amends Va. Stat. Ann. § 55-507, Transfer of deposits upon purchase, to provide that if the current owner has entered into a written property management agreement with a managing agent, the current owner shall give written notice to the managing agent requesting payment of such security deposits to the current owner prior to settlement with the new owner. Upon receipt of the written notice, the managing agent shall transfer the security deposits to the current owner and provide written notice to each tenant that his security deposit has been transferred to the new owner in accordance with this section.

DEFAULT SERVICING

CASE LAW

Bankruptcy – Purchase money security interest

CASE NAME: *In re Jett*
DATE: *01/04/2017*
CITATION: *United States Bankruptcy Court, S.D. Mississippi. 563 B.R. 206*

On January 14, 2015, prior to filing bankruptcy, the Jetts obtained a loan from Community Bank for $20,915.41 to purchase a 2013 Dodge Avenger and gave Community Bank a security interest in the vehicle ("the first secured loan"). On February 19, 2015, Community Bank made an unsecured loan to the Jetts in the amount of $4,277.80, and, on August 20, 2015, Community Bank made a second unsecured loan to the Jetts in the amount of $2,777.90. Community Bank made one more loan to the Jetts ("the second secured loan").

On April 28, 2016, the debtors renewed the original January 14, 2015 loan in the amount of $20,790.50. The renewal loan remained secured by the 2013 Dodge Avenger. Proceeds from the renewal loan in the amounts of $2,037.63 and $2,032.15 were used to pay off the two unsecured loans.

The Jetts filed a Chapter 13 on September 1, 2016. The Jetts listed the Avenger, valued at $10,012.50, with a secured claim held by Community Bank in the amount of $19,000.00. The Jetts objected to Community Bank's

secured claim, proposing to cramdown the claim. Community Bank objected to the Jetts' proposed plan.

The Court found that a purchase money security interest cannot exceed the price of what is purchased in the transaction wherein the security interest is created. The Court also found that, where no goods are purchased with the money obtained by loan, no purchase money security interest is created. And where a second loan of additional funds takes a security interest in purchase money collateral from a prior loan, the purchase money character of that original collateral is lost.

The Jetts' Objection to Pre–Petition Secured Claim of Community Bank was sustained, and the Objection to Confirmation of Plan filed by Community Bank was overruled.

CASE LAW

Bankruptcy – Purchase money security interest

CASE NAME: *In re McPhilamy*
DATE: *01/31/2017*
CITATION: *United States Bankruptcy Court, S.D. Texas, Brownsville Division. --- B.R. ----. 2017 WL 435802*

Debtors sought confirmation of their Amended Plan, seeking to pay several loans cross-collateralized with two personal vehicles as wholly unsecured. The Court found that the Cross–Collateralized Loans were not subject to the hanging paragraph, 11 U.S.C. § 1325(a), and therefore Could be bifurcated and crammed down. Neither exception under the hanging paragraph applied to the Cross–Collateralized Loans because the creditor did not have a purchase-money security interest in the loans. Additionally, the second exception of the hanging paragraph did not apply to the Cross–Collateralized Loans entered into within one-year of Debtors' bankruptcy because motor vehicles are excluded from the phrase "any other thing of value." Therefore, the Debtors were free to bifurcate and cramdown the Cross–Collateralized Loans. Consequently, Debtors' Amended Chapter 13 Plan was confirmed and the Trustee's Motion to Dismiss or Convert the Case was denied.

CASE LAW

Bankruptcy – Foreclosure

CASE NAME: *In re JASON ALAN HUBBARD, Debtor*
DATE: *03/28/2017*
CITATION: *United States Bankruptcy Court, M.D. Alabama. Slip Copy. 2017 WL 1169542*

The Debtor purchased a mobile home, financing the purchase. The indebtedness was secured by a security interest in the mobile home and a mortgage on the land upon which the mobile home sat. The loan went into default and 21st Mortgage Corporation ("the Bank") conducted a foreclosure sale on the land, at which time it purchased the property. The Bank subsequently brought suit against the Debtor, seeking to eject the Debtor from the property.

The Debtor filed a Chapter 13, proposing to "cure and maintain" the indebtedness to the Bank under his Plan. The Bank objected, contending that the Debtor's right to "cure and maintain" terminated at the time of the foreclosure sale. The Debtor claimed that there was no valid foreclosure sale because he did not receive any of the foreclosure notices sent by the Bank or their lawyers.

The Court rejected the Debtor's contention that he did not receive the notices and found that a debtor may not cure a mortgage delinquency after the property is sold at a foreclosure sale that is conducted in accordance with applicable nonbankruptcy law.

The Bank's objection was sustained and confirmation of the Plan was denied.

CASE LAW

Valuation

CASE NAME: *BRANDI BURGE, ET AL. v. FARMERS MUTUAL OF TENNESSEE. Additional Party Names: Daniel Layne, Sharon Layne*
DATE: *04/13/2017*
CITATION: *Court of Appeals of Tennessee. Slip Copy. 2017 WL 1372864*

This case makes the point that the value of MH can increase. Mrs. Burge maintained a mobile homeowner's insurance policy with Farmers Mutual of Tennessee. The policy provided coverage for direct physical loss or damage to her mobile home and her personal property because of fire. As co-owners of the mobile home, Mrs. Burge's parents, Sharon and Daniel Layne, were listed as additional insureds on the policy.

The day after the home was destroyed by fire, Sharon Layne contacted their local insurance agency to report the fire.

Almost one year after the fire occurred, Plaintiffs filed suit against Insurer, seeking to recover $69,000 for the "face amount" of the policy coverage for the residence, $34,500 as the limit on coverage for personal property (minus $2,000 for an advanced payment for school clothing), and $13,800 for additional living expenses, in addition to prejudgment interest, attorney's fees, and the statutory "bad faith penalty" set forth at Tennessee Code Annotated section 56-7-105.

The trial court awarded Plaintiffs $65,000 for the value of the residence at the time of the fire, which was less than the coverage limit of $69,000 that Plaintiffs sought to recover. The trial court awarded Plaintiffs $34,500 for the loss of personal property, which was the policy limit they requested. The court awarded $2,500 for additional living expenses (minus the $2,000 advance already paid), which was also less than the policy limit of $13,800 that Plaintiffs sought to recover for additional living expenses.

The trial court awarded prejudgment interest at the rate of ten percent and imposed a statutory bad faith penalty of fifteen percent, noting Insurer's delays, its failure to pursue its claimed defense in an efficient manner, and the "harsh and rude treatment" Plaintiffs received from Insurer's adjuster and company representative. Insurer appealed.

The appeals court found that the trial court apparently valued the home at such a low figure due to general notions about the concept of depreciation. Plaintiff's "very credible" expert did not believe that Plaintiffs' mobile home had depreciated in value in light of the number of improvements that were made to the home. Furthermore, even the tax card listing an annual depreciation rate of 3.91% also listed the "depreciated value" of the same mobile home at $84,348. As such, the Court modified the trial court's award of $65,000 to an award of $69,000 in accordance with the policy limit.

The Court also concluded that the trial court's award of $34,500 in accordance with the limit on personal property coverage was supported by the evidence and affirmed the rest of the trial court's award.

CASE LAW

Bankruptcy – Bifurcation

CASE NAME: *IN RE: BENJAMIN MATTHEW BENNETT AND TERESIA ROBIN BENNETT, Debtors*
DATE: *04/20/2017*
CITATION: *United States Bankruptcy Court, N.D. Iowa. Slip Copy. 2017 WL 1417221*

Debtors lived in a manufactured home in a neighborhood operated by The Paddock. As a part of its business, The Paddock rents and sells manufactured homes that have been installed in its neighborhood.

Debtors rented the home from 2003 until 2007 when they purchased it from The Paddock. The Paddock provided financing for the home under a Manufactured Home Installment Contract and had a secured interest in

the home. Debtors also entered into a 990 year lease for the lot under the home. Debtors paid The Paddock a $134 monthly association fee under that lease. Debtors paid personal property tax for the home. The Paddock paid the real property tax for the lot.

Debtors filed a Chapter 13 plan that proposed bifurcating The Paddock's claim. The Paddock objected.

The Court found that the home was a manufactured home in a manufactured home community and, as a result, personal property under Iowa tax law. There was no evidence that The Paddock or Debtors had taken steps to convert the home to real property. Thus, the Court held that, under Iowa law, the home was not real property. Consequently, § 1322(b)(2) did not bar Debtors from bifurcating The Paddock's claim.

The Court noted that, under Iowa law, personal property becomes real property when it becomes a fixture. Personal property becomes a fixture when:

(1) it is actually annexed to the realty or to something appurtenant thereto;

(2) it is put to the same use as the realty with which it is connected; and

(3) the party making the annexation intends to make a permanent accession to the freehold.

According to the Court, the factual record showed at least minimal annexation.

As to whether the home was put to the same use as the realty, the Court found that the record could be read to show that Debtors used the home as a home while The Paddock used the real estate for income and continued possession. These are not necessarily the same use.

However, the Court found that the third prong is generally considered the most important and that the method of attachment here did not show an intent to make the home a permanent accession to the property. The home was more like a structure on blocks than a structure deeply embedded into the ground. The home did not have a basement or a foundation. The home sat on piers and blocks, and The Paddock did not show that the piers were deeply embedded in the soil.

Further, because that structure to which the wheels and axels attach was still there, Debtors would simply need to reattach the wheels and axels to move the home and the home could be removed from the property and would not lose substantial value. And, although the Ground Lease agreement specified that the home be "permanently affixed," have "permanent footings," and that "the Land Owner and Resident agree that the home shall be installed as a permanent improvement and fixture," it also expressly contemplated that the home could in fact be removed from the property. The Paddock admitted at trial that Debtors could move the home but noted that they would forfeit their lease on the land if they did so.

The Paddock's objection to Debtors' plan treatment based on 11 U.S.C. § 1322(b)(2) was overruled.

LEGISLATION

West Virginia

Default charges

2017 WV S 344. Enacted 4/24/2017. Effective 7/4/2017.

This bill amends W. Va. Code § 46A-2-115(3)(c), Limitation on default charges, to provide that all payments made to a creditor in accordance with the terms of any consumer credit sale or consumer loan (formerly, all amounts paid to a creditor arising out of any consumer credit sale or consumer loan) shall be credited upon receipt against payments due.

The bill amends W. Va. Code § 46A-3-111(1), Application of payments on account; rebate upon prepayment, refinancing or consolidation; judgments and interest on judgments, to add that all payments made to a creditor which do not comply with the terms of a precomputed

consumer credit sale or consumer loan may be held in a suspense or unapplied funds account. The creditor must disclose to the consumer the total amount of funds held in a suspense or unapplied funds account. On accumulation of funds sufficient to cover a full payment in accordance with terms of the precomputed consumer credit sale or consumer loan agreement, the creditor shall apply the payment in accordance with this section. These amendments do not apply to credit card payments.

W. Va. Code § 46A-3-112(3), Delinquency charges on precomputed consumer credit sales or consumer loans, has been amended to provide that no delinquency charge may be collected on an installment which is paid in full within ten days after its scheduled or deferred installment due date, even though a delinquency or deferral charge on an earlier installment may not have been paid in full.

Formerly, this subsection provided added that, "for purposes of this subsection, payments shall be applied first to current installments, then to delinquent installments and then to delinquency and other charges."

The bill amends W. Va. Code § 46A-3-113(3), Delinquency charges on nonprecomputed consumer credit sales or consumer loans repayable in installments, to provide that no delinquency charge may be collected on an installment which is paid in full within ten days after its scheduled or deferred installment due date, even though a delinquency or deferral charge on an earlier installment may not have been paid in full.

Formerly, this subsection added that, "for purposes of this subsection, payments shall be applied first to current installments, then to delinquent installments and then to delinquency and other charges."

INSTALLATION

PROPOSED RULE

Delaware

Education - Crimes

This rule would amend 24 Del. Admin. Code §§ 4400-1.0 et seq., pertaining to crimes substantially related to the practice of manufactured home installation, as well as a provision on qualifying education.

The rule amends 24 Del. Admin. Code § 4400-4.1 to provide that completion of the HUD certification course satisfies the Delaware requirement that all applicants for licensure as a manufactured home installer successfully complete a Board-approved course.

The rule provides that training courses must provide at least twelve (12) (formerly, 15) hours of education.

The rule amends 24 Del. Admin. Code § 4400-16.0, Crimes Substantially Related to the Practice of Manufactured Home Installation or Installation Inspection, by removing the following from the list of crimes, or the attempt to commit or of a conspiracy to commit or conceal or of solicitation to commit, the conviction of which is deemed to be substantially related to the practice of manufactured home installation or manufactured home installation inspection in the State of Delaware, without regard to the place of conviction:

Criminal Penalties, Organized Crime and Racketeering. 11 Del.C. §1504;

Prohibited Acts A; penalties. 16 Del.C. §4751;

Prohibited Acts B; penalties. 16 Del.C. §4752;

Unlawful delivery of non-controlled substance. 16 Del.C. §4752A;

Prohibited Acts C; penalties. 16 Del.C. §4753;

Trafficking in marijuana, cocaine, illegal drugs, methamphetamines, Lysergic Acid Diethylamide (L.S.D.), designer drugs, or MDMA. 16 Del.C. §4753A;

Prohibited acts D; penalties. 16 Del.C. §4754;

Possession and delivery of non-controlled prescription dug. 16 Del.C. §4754A;

Prohibited acts; penalties. 16 Del.C. §4756;

Hypodermic syringe or needle; delivering or possessing; disposal; exceptions; penalties. 16 Del.C. §4757;

Distribution to persons under 21 years of age; penalties. 16 Del.C. §4761;

Purchase of drugs from minors; penalties. 16 Del.C. §4761A;

Distribution, delivery, or possession of controlled substance within 1,000 feet of school property; penalties; defenses. 16 Del.C. §4767;

Distribution, delivery or possession of controlled substance in or within 300 feet of park, recreation area, church, synagogue or other place of worship; penalties; defenses. 16 Del.C. §4768;

Drug paraphernalia. 16 Del.C. §4771(a) and (b);

Penalties [drug paraphernalia]. 16 Del.C. §4774; and

Criminal Penalties [for violation of §6003 or Regulations]. 7 Del.C. §6013.

The rule adds to the list:

Criminal impersonation of a police officer, firefighter, emergency medical technician (EMT), paramedic or fire police. 11 Del.C. §907B (formerly, this referred only to a police officer)

NOTICE OF INTENT TO PROMULGATE RULES

Idaho

Installation standards

Idaho Admin. Code r. 07.03.12.

Pursuant to Section 44-2201, Idaho Code, all used mobile and manufactured homes shall be installed in accordance with the Idaho Manufactured Home Installation Standard, as provided by rule. The Idaho Manufactured Home Installation Standard has not been updated since 2004, and the Division of Building Safety, the Board, and interested members of the industry desire to adopt a newer edition of the standard reflecting installation requirements and safety considerations currently applicable to the industry. Additionally, the Division is seeking to modify the annual training requirements for manufactured home installation inspectors. The Division seeks the participation of the affected industry, inspection authorities, interested parties, and the public at large in this rulemaking process to ensure that due consideration is given to the varying views about the adoption of a new edition of the Idaho Manufactured Home Installation Standard, as well as installation inspector requirements for application in Idaho.

LEGISLATION

Kentucky

Department of Housing, Buildings and Construction

2017 KY H 394. Enacted 4/10/2017. Effective 6/28/2017.

This bill adds a new section to Ky. Rev. Stat. Ann. Chapter 198B to establish the Housing, Buildings and Construction Advisory Committee. The committee is to include at least one manufactured or mobile home retailer or certified installer.

The bill amends Ky. Rev. Stat. Ann. § 198B.030 to provide that the Department of Housing, Buildings and Construction shall perform all budgeting, procurement, and other administrative activities necessary for the statewide regulation and enforcement of building, construction, and inspection standards and codes. The department or commissioner shall submit any proposed administrative regulation to the committee and shall not

promulgate the administrative regulation without giving the committee the opportunity to produce written comments, as required by subsection (8) of this section. If the committee chooses to produce written comments, the comments shall be attached to any public submission of the administrative regulation, including any filing under KRS Chapter 13A.

The bill amends Ky. Rev. Stat. Ann. § 227.550 by deleting the definition of "Board" as the Manufactured Home Certification and Licensure Board.

The bill amends Ky. Rev. Stat. Ann. § 227.570 to provide that the department shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

(a) Establish a process for certifying installers, licensing retailers, and issuing certificates of acceptability to qualifying manufacturers pursuant to KRS 227.550 to 227.660;

(b) Establish and enforce standards and requirements for the installation of plumbing, heating, and electrical systems in manufactured homes and mobile homes and for previously owned recreational vehicles as it determines are reasonably necessary in order to protect the health and safety of the occupants and the public; and

(c) Establish and enforce standards and requirements for the body and frame design, construction, and installation of manufactured homes and mobile homes as it determines are reasonably necessary in order to protect the health and safety of the occupants and the public.

Formerly, the statute provided that these standards and requirements shall be those adopted by the Manufactured Home Certification and Licensure Board. If any part of 1976 Ky. Acts ch. 136 conflicts with Title 6 of the Federal Housing and Community Development Act of 1974, the federal act shall take precedence.

The amended statute also provides that all installations of manufactured homes and mobile homes shall be performed:

(a) By an installer certified by the department; and

(b) In accordance with the manufacturer's instructions, if available, or the current ANSI standard or the generally accepted industry standard as adopted by the department through the promulgation of an administrative regulation

A certified installer shall apply for a certified installer seal prior to installing a manufactured home or a mobile home. The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish a schedule of fees and the requirements for purchase and application of the seal, report procedures, and attachment of the certified installer seal.

The bill repeals Ky. Rev. Stat. Ann. § 227.560 Manufactured Home Certification and Licensure Board-- Membership-- Compensation-- Meetings.

The bill provides that all duties, functions, rights, responsibilities, powers, obligations, records, equipment, staff, and supporting budgets of the Kentucky Board of Housing, Buildings and Construction; the Kentucky Board of Heating, Ventilation, and Air Conditioning Contractors; the Board of Boiler and Pressure Vessel Rules; the Manufactured Home Certification and Licensure Board; the Kentucky Single Family Dwellings Advisory Committee; the State Plumbing Code Committee; the Elevator Advisory Committee; and the Electrical Advisory Committee, as these boards and committees existed prior to the effective date of this Act and including the right to promulgate regulations, to determine whether to issue, suspend, or revoke a license, and to determine whether to issue a penalty to a licensee, shall be transferred to the Department of Housing, Buildings and Construction on the effective date of this Act. This shall include all duties, functions, rights, responsibilities, powers, and obligations of these boards and committees

as found in KRS Chapters 198B, 227, 236, and 318, and any other law.

All administrative regulations promulgated under the authority of the Kentucky Board of Housing, Buildings and Construction; Kentucky Board of Heating, Ventilation, and Air Conditioning Contractors; the Board of Boiler and Pressure Vessel Rules; the Manufactured Home Certification and Licensure Board; the Kentucky Single Family Dwellings Advisory Committee; the State Plumbing Code Committee; the Elevator Advisory Committee; and the Electrical Advisory Committee prior to the effective date of this Act shall remain in full force and effect, shall be deemed promulgated by the Department of Housing, Buildings and Construction, and shall be administered by the department.

LEGISLATION
Virginia
Nonconforming use

Virginia

2016 VA S 1173. Enacted 3/13/2017. Effective 7/1/2017.

This bill amends Va. Code Ann. § 15.2-2307 to provide that if a structure is one that requires no permit, and an authorized local government official informs the property owner that the structure will comply with the zoning ordinance, and the improvement was thereafter constructed, a zoning ordinance may provide that the structure is nonconforming but shall not provide that such structure is illegal and subject to removal solely due to such nonconformity. In any proceeding when the authorized government official is deceased or is otherwise unavailable to testify, uncorroborated testimony of the oral statement of such official shall not be sufficient evidence to prove that the authorized government official made such statement.

LEGISLATION
Washington
Penalties

2017 WA H 1329. Enacted 4/14/2017. Effective 7/23/2017.

This bill amends the monetary penalties imposed for infractions relating to mobile and manufactured home installation in Wash. Rev. Code § 43.22A.190.

The bill provides that a person found to have committed an infraction under this chapter may be assessed a monetary penalty of two hundred fifty dollars for the first infraction and not more than one thousand dollars for a second or subsequent infraction. The department of labor and industries shall set by rule a schedule of monetary penalties for infractions imposed under this chapter.

Formerly, this section provided that a person found to have committed an infraction under this chapter shall be assessed a monetary penalty one thousand dollars.

JAMES L. CLAYTON

RESOLUTION
Tennessee
To honor and commend

2017 TN SR 19. Adopted 3/2/2017.

A RESOLUTION to honor and commend James L. Clayton, 2017 Governor's Arts Leadership Award recipient.

BE IT RESOLVED BY THE SENATE OF THE ONE HUNDRED TENTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, that we honor and commend James L. Clayton, the 2017 Governor's Arts Leadership Award recipient and extend to him our best wishes for success in all of his future endeavors.

LENDING

LEGISLATION

Indiana

Fees and charges -

2017 IN H 1539. Enacted 4/24/2017. Effective 7/1/2017.

This bill adds Ind. Code § 24-4.4-1-205 to provide that a mortgage licensee may carry on other business at a location where the licensee engages in first lien mortgage transactions unless the licensee carries on other business for the purpose of evasion or violation of this article.

The bill amends Ind. Code § 24-4.5-3-201, under the UCCC, to replace the term "loan origination fee" with "nonrefundable prepaid finance charge."

The bill amends Ind. Code § 24-4.5-3-209 to provide that, for purposes of this section, the collection of the amount of any conditionally waived closing costs (as allowed under section 202(d) of this chapter) by a creditor, as stipulated in the loan agreement, at the time of prepayment in full does not constitute a prepayment penalty and is not subject to the limitations set forth in this subsection.

The bill also replaces the term "loan origination fee" with "nonrefundable prepaid finance charge."

Ind. Code § 24-4.5-3-508 has been amended to replace the term "loan origination fee" with "nonrefundable prepaid finance charge."

The bill amends Ind. Code § 24-4.5-7-405 to provide that a licensee may carry on other business at a location where the licensee makes small loans unless the licensee carries on other business for the purpose of evasion or violation of this article.

Formerly, this section provided that a lender shall not conduct the business of making small loans under this chapter within an office, suite, room, or place of business where another business is solicited or engaged unless the lender obtains a written opinion from the director of the department of financial institutions that the other business would not be contrary to the best interests of consumers.

LICENSING

LEGISLATION

Alabama

Manufactured Housing Commission

2017 AL H 109. Enacted 3/6/2017. Effective immediately.

This bill extends the continuance of the Alabama Manufactured Housing Commission until October 1, 2021.

PROPOSED RULE

Delaware

Installer education

This rule amends 24 Del. Admin. Code § 4400-4.1 to provide that completion of the HUD certification course satisfies the Delaware requirement that and all applicants for licensure as a manufactured home installer successfully complete a Board-approved course.

The rule provides that training courses must provide at least twelve (12) (formerly, 15) hours of education.

NOTICE OF INTENT TO PROMULGATE RULES

Idaho

Installer/Retailer education

Idaho Admin. Code r. 07.03.11.

Individuals licensed in the Manufactured and Mobile Home industry as installers and retailers who are installers are required to perform continuing education in order to renew their licenses. The Division of Building Safety, along with the Manufactured Housing Board and interested participants in the industry seek to modify the required amount of continuing education over a designated period to reflect a more practical and valuable schedule for licensees to acquire necessary education. The Division seeks the participation of the affected industry, interested parties, and the public at large in this rulemaking process to ensure that due consideration is given to the varying views about the adoption of education requirements for the renewal of manufactured home licenses in the state of Idaho.

LEGISLATION
Indiana
Dealers

2017 IN H 1119. Enacted 4/24/2017. Effective 7/1/2017.

This bill amends Ind. Code § 9-13-2-42 to provide that the definition of "dealer" includes a person that:

(1) sells;

(2) offers to sell; or

(3) advertises for sale;

including directly by the Internet or other computer network, at least twelve (12) vehicles within a twelve (12) month period. The term includes a person that sells manufactured homes. A dealer must have an established place of business that meets the minimum standards prescribed by the secretary of state under rules adopted under IC 4-22-2.

The bill amends Ind. Code § 9-32-11-1 to include manufactured home dealers as persons who must be licensed to engage in the business of buying, selling, or manufacturing motor vehicles.

The bill also amends Ind. Code § 16-41-27-32 to provide that a government body may not regulate or restrict the ability of a:

(1) mobile home community:

(A) owner; or

(B) manager; or

(2) manufactured home community:

(A) owner; or

(B) manager;

to obtain a dealer's license or to sell a mobile home or manufactured home located within the owner's or manager's mobile home community or manufactured housing community.

LEGISLATION
Indiana
Dealers

2017 IN H 1488. Enacted 4/25/2017. Effective 7/1/2017.

This bill amends Ind. Code § 9-13-2-50 to provide that "Established place of business" means premises owned or leased and continuously occupied by a dealer licensed or applying to be licensed under IC 9-32 for the primary purpose of the business activity for which the dealer is licensed or applying to be licensed that:

(1) contains a permanent enclosed building or structure for the purpose of carrying out the business for which the dealer is licensed or applying to be licensed under IC 9-32; and

(2) meets any additional requirements established by IC 9-32 or rules adopted by the Secretary of State under IC 4-22-2.

The bill amends Ind. Code § 9-32-2-4 to provide that "Automobile auction" means a person whose primary business consists of arranging, managing, sponsoring,

advertising, hosting, carrying out, or otherwise facilitating the auction of more than three (3) motor vehicles or watercraft on the basis of bids by persons acting for themselves or others, within a twelve (12) month period.

Formerly, "Automobile auction" meant a person that, as part of the person's business arranges, manages, sponsors, advertises, hosts, carries out, or otherwise facilitates facilitating the auction of more than three (3) motor vehicles on the basis of bids by persons acting for themselves or others, within a twelve (12) month period.

The bill amends Ind. Code § 9-32-2-6 to provide that "broker" does not include:

1) a dealer licensed under this article or an employee of a dealer licensed under this article acting in an employment arrangement with the dealer, if the motor vehicle being sold is a motor vehicle in the dealer's inventory or is subject to a consignment agreement between the dealer and the owner of the motor vehicle;

(2) a distributor licensed under this article, or an employee of a distributor licensed under this article and acting in an employment arrangement with the distributor, if the sale being arranged is a sale to a dealer licensed under this article; or

(3) a manufacturer licensed under this article, or an employee of a manufacturer licensed under this article and acting in an employment arrangement with the manufacturer, if the sale being arranged is a sale to a dealer licensed under this article.

The bill adds Ind. Code § 9-32-2-9.9 to provide that "Dealer owner" means the following:

(1) For a licensed or applicant dealer, other than a manufacturer, that is a corporation, each officer, director, and shareholder having a ten percent (10%) or greater ownership interest in the corporation.

(2) If no officer, director, or shareholder has a ten percent (10%) or greater ownership interest in the corporation, one (1) or more officers, directors, or shareholders designated in writing by the board of directors.

(3) If the licensed or applicant dealer, other than a manufacturer, is a sole proprietorship, the proprietor.

(4) If the licensed or applicant dealer, other than a manufacturer, is a partnership, each partner.

(5) If the licensed or applicant dealer, other than a manufacturer, is a limited liability company, each member of the company.

(6) For a licensed or applicant manufacturer, one (1) or more officers, directors, or shareholders designated in writing by the manufacturer.

Ind. Code § 9-32-2-18.7 is amended to provide that "Personal information" does not include:

(1) the name of a dealer owner;

(2) the name of a representative of a:

(A) manufacturer; or

(B) distributor;

(3) the name of the zoning official who signed a dealer license application or zoning affidavit related to a dealer license application;

(4) the name of the lessor of a dealer's established place of business;

(5) the name of a dealer's registered agent; or

(6) the name, address, or telephone number of the established place of business of a:

(A) business; or

(B) dealer.

The bill amends Ind. Code § 9-32-2-25 to provide that "Transfer dealer" means a person that transfers ownership of at least twelve (12) motor vehicles during a twelve (12) month period as part of the person's primary business.

(b) "Transfer dealer" does not include:

(1) a manufacturer;

(2) a distributor;

(3) a converter manufacturer;

(4) a watercraft dealer;

(5) an automotive mobility dealer;

(6) an automotive auction;

(7) a person engaged in the business of:

(A) storing vehicles;

(B) furnishing supplies for vehicles;

(C) providing towing services for vehicles; or

(D) repairing vehicles; or

(8) a person whose primary business is selling motor vehicles.

Ind. Code § 9-32-3-4 now provides that the secretary may accept payment of a correct fee by guaranteed electronic check.

The bill amends Ind. Code § 9-32-11-6 to provide that, if a dealer's:

(1) business name, including a doing business as name;

(2) established place of business address;

(3) business entity type;

(4) contact information; or

(5) dealer owner;

changes, the dealer shall submit to the secretary an application for approval of the change not later than ten (10) days after the change in a manner prescribed by the secretary.

If the change is to information described in subsection (1) or (2), the dealer shall remit a fee of five dollars ($5) with the notification and submit any additional information necessary to obtain an amended dealer license. The fee is nonrefundable, and the secretary shall retain the fee.

Ind. Code § 9-32-11-8.5 has been added to provide that if a dealer's license is lost or destroyed, the dealer must apply for a replacement dealer license in a manner prescribed by the secretary.

The bill amends Ind. Code § 9-32-16-11 to provide that the dealer must, for the entire licensing period, have an established place of business with a physical Indiana address. The dealer may not have a mailing address that differs from the actual location of the business. At the discretion of the secretary, an exemption may be granted for dealers with an established place of business in a location not serviced by the United States Postal Service to allow a post office box to be used as a mailing address. A dealer using a post office box for this reason must notify the division in writing with the dealer's application.

Before the secretary may issue a license to a dealer, the following must submit to a national criminal history background check (as defined in IC 10-13-3-12) or expanded criminal history check (as defined in IC 20-26-2-1.5) administered by the state police:

(1) Each dealer owner.

(2) Each dealer manager.

If a dealer adds or changes a dealer owner or dealer manager after issuance of the initial license, the dealer must submit an application for a change in ownership in a manner prescribed by the secretary not later than ten (10) days after the change. The new dealer owner or dealer manager shall submit to a national criminal history background check or expanded criminal history check.

Following licensure under this article, a dealer shall, not later than ninety (90) days after the entry of an order or judgment, notify the division in writing if the dealer owner or dealer manager has been convicted of a:

(1) felony within the past ten (10) years;

(2) felony or misdemeanor involving theft or fraud; or

(3) felony or misdemeanor concerning an aspect of business involving the:

(A) offer;

(B) sale;

(C) financing;

(D) repair;

(E) modification; or

(F) manufacture;

of a motor vehicle or watercraft.

The bill amends Ind. Code § 9-32-16-16 to provide that a dealer license or endorsement issued under this article or by the bureau of motor vehicles under IC 9-23 (before its repeal) may not be:

(1) loaned;

(2) leased;

(3) sold;

(4) transferred;

(5) copied;

(6) altered; or

(7) reproduced.

NMLS INFORMATION
New York
Transition

Companies holding the NY Exempt Mortgage Banker License-MH are required to submit a license transition request through NMLS by filing a Company Form (MU1) and an Individual Form (MU2) for each of their control persons by June 30, 2017. The NY Exempt Mortgage Banker License-MH is now available in NMLS to submit the transition request. The transition to NMLS for this license is required. Additionally, for each branch holding a NY Exempt Mortgage Banker Branch License-MH, a company must complete and submit a Branch Form (MU3) through NMLS.

Note: Companies that already have a record in NMLS and have submitted these forms in the past do not need to re-enter company information into NMLS. However, companies will need to identify the business activities the company conducts and the states in which the various activities are conducted, select the appropriate license in NY, and complete a few state-specific fields.

It is important that current licensees have the appropriate transition number available when completing and submitting their Company Form (MU1), so they are not charged a new application fee. Please utilize the Institution Number (C800xx) listed on the initial Exempt Mortgage Banker License approval letter you received from the Department. Article 12-D, Section 590.1(a).

PROPOSED RULE
North Carolina
Manufacturers – Retailers - Installers

11 N.C. Admin. Code 08 .0904.

This rule would delete the requirement that an application to be licensed as a manufactured housing manufacturer or dealer include a criminal history record check consent form signed by each owner, partner and officer of the corporation, and any other documentation or materials required by G.S. 143.143.10A.

The rule would also require that the application for license as a manufactured set-up contractor include the following:

(1) The name of the person or business applicant;

(2) The business address of applicant;

(3) The state under whose laws the applicant firm or corporation is organized or incorporated;

(4) A resume' of each owner, partner, or officer of the corporation. Each resume' shall include education and a complete job history, as well as a listing of residences for the last seven years;

(5) Type of license applied for;

(6) Signature of the person with authority to legally obligate the applicant;

(7) A statement that the appropriate bond is attached; and

(8) A criminal history record check consent form signed by each owner, partner and officer of the corporation with their initial application, and any other documentation or materials required by G.S. 143-143.10A.

LEGISLATION

Washington

Wholesale vehicle dealers

2017 WA H 1722. Enacted 4/14/2017. Effective immediately.

This bill enacts a new section to provide that, effective July 1, 2017, the department of licensing may not issue any new wholesale vehicle dealer licenses.

Effective July 1, 2018, the department of licensing may not renew any wholesale vehicle dealer licenses.

This section expires October 31, 2019.

The bill also makes conforming amendments.

SALES AND WARRANTIES

CASE LAW

Removal motion

CASE NAME: *Spencer v. CMH Homes, Inc.*
DATE: *03/30/2017*
CITATION: *United States District Court, M.D. Pennsylvania. Slip Copy. 2017 WL 1178052*

Plaintiffs purchased a manufactured home from the CMH Defendants. Pursuant to the purchase agreement, the CMH Defendants agreed to place the manufactured home on top of a poured wall foundation and employed the RCR Defendants to pour the wall foundation.

Shortly after moving into the home, plaintiffs observed a crack in the foundation and discussed the crack in the foundation wall with the CMH and RCR Defendants.

Several months later, plaintiffs notified the CMH Defendants of additional issues with their home and filed a nine-count complaint in the Court of Common Pleas of Columbia County, asserting eight state law causes of action against the CMH Defendants and RCR Defendants, as well as a violation of the Magnuson-Moss Warranty Improvement Act. The CMH Defendants filed a notice of removal. Plaintiffs and the RCR Defendants filed a joint motion to remand, alleging the CMH Defendants failed to properly obtain the written consent of the RCR Defendants to remove the action.

The CMH Defendants argued that the "unique circumstances presented in this matter"—namely an arbitration provision—required the Court to exercise its discretion and retain jurisdiction over the case.

The Court noted that the CMH Defendants cited no binding authority for the proposition that an arbitration provision compels federal courts to retain jurisdiction when confronted with a defect in the removal procedure, and the Court's research has uncovered none. Rather,

federal law requires that in cases involving multiple defendants, "all defendants who have been properly joined and served must join in or consent to the removal of the action."

Here, the RCR Defendants provided no indication that they joined the CMH Defendants' notice of removal. The RCR Defendants also failed to file a separate written consent to removal. Instead, the RCR Defendants filed a motion to remand this matter. Thus, the CMH Defendants' notice of removal was defective, and the Court remanded the action to state court.

PROPOSED RULE

California

Fee and tax waivers

This rule was formerly adopted as an emergency rule effective 1/23/2017.

The purpose of these proposed regulations is to permanently establish requirements for the Fee and Tax Waiver Program, which allows owners of manufactured homes/mobilehomes to register the home in the current homeowners' name(s) and participate in the Waiver Program. This program will permit those homeowners who otherwise have not been able to transfer title of ownership to their names due to delinquent fees and taxes from previous owners and/or themselves. If applicants complete the Waiver Program process, the Waiver Program will:

•release all Department liens related to delinquent fees/taxes;

•waive all outstanding Department charges based on certain dates as mandated by statute;

•provide applicant(s) a conditional certificate of title and record conditional ownership for manufactured homes/mobilehomes that are subject to local property tax that will authorize property tax waivers with the local county tax collector;

•accept a tax liability certificate or a tax clearance certificate issued to applicants that have been deemed eligible for tax waiver from the county tax collector;

•record the applicant(s) as the registered owner(s) once the requirements of registration with fee and tax waiver relief have been satisfied; and

•provide the approved registered owner with the appropriate registration and titling documentation.

The specific sections to be permanently added by this proposed action are Cal. Code Regs. tit. 25, §§ 5535, 5535.5, 5536, and 5536.5.

LEGISLATION

Washington

Notice of acceptance/rejection

2017 WA S 5244. Enacted 4/17/2017. Effective 7/23/2017.

This bill amends Wash. Rev. Code § 46.70.180 to provide that a vehicle dealer may inform a buyer or lessee regarding the unconditional acceptance or rejection of the contract, lease, or financing by sending an email message to the buyer's or lessee's supplied email address, by phone call, by leaving a voice message or sending a text message to a phone number provided by the buyer or lessee, by in-person oral communication, by mailing a letter by first-class mail if the buyer or lessee expresses a preference for a letter or declines to provide an email address and a phone number capable of receiving a free text message, or by another means agreed to by the buyer or lessee or approved by the department, effective upon the execution, mailing, or sending of the communication and before expiration of the "bushing" period.

Formerly, this section provided when a dealer informs a buyer or lessee regarding the unconditional acceptance or rejection of the contract, lease, or financing by an

electronic mail message, the dealer must also transmit the communication by any additional means.

TITLING AND PERFECTION

LEGISLATION

Nebraska

Electronic titling

2017 NE L 263. Enacted 4/27/2017. Effective immediately.

This bill amends Neb. Rev. Stat. § 60-144 to provide that, beginning January 1, 2019, if a vehicle if a vehicle is stored and kept for the greater portion of the calendar year in Nebraska, the application for a certificate of title may be filed with the county treasurer of any county.

The bill provides that an approved licensed dealer participating in the electronic dealer services system act may apply for a certificate of title for a vehicle to the county treasurer of any county or the Department of Motor Vehicles in a manner provided by the electronic dealer services system.

The bill amends Neb. Rev. Stat. § 60-149 to provide that an approved licensed dealer participating in the electronic dealer services system of this act may collect the fees for issuance of a certificate of title prescribed by this section and shall remit any such fees to the appropriate county treasurer or the department.

Neb. Rev. Stat. § 60-155 has been amended to provide that an approved licensed dealer participating in the electronic dealer services system of this act may collect the fees for notation of a lien prescribed by this section and shall remit any such fees to the appropriate county treasurer or the department.

The bill amends Neb. Rev. Stat. § 60-164 to provide that, beginning January 1, 2019, a licensed dealer may file a lien electronically as prescribed by the department.

The bill adds a new section to provide that, beginning January 1, 2019, if a certificate of title is an electronic certificate of title record, upon application by an owner or a lienholder and payment of the fee prescribed, the following changes may be made to a certificate of title electronically and without printing a certificate of title:

(1) Changing the name of an owner to reflect a legal change of name;

(2) Removing the name of an owner with the consent of all owners and lienholders; or

(3) Adding an additional owner with the consent of all owners and lienholders.

Amended Neb. Rev. Stat. § 60-166 provides that, in the event of (a) the transfer of ownership of a vehicle by operation of law as upon inheritance, devise, or bequest, order in bankruptcy, insolvency, replevin, or execution sale or as provided in sections 30-24,125, 52-601.01 to 52-605, 60-1901 to 60-1911, and 60-2401 to 60-2411, (b) the engine of a vehicle being replaced by another engine, (c) a vehicle being sold to satisfy storage or repair charges, or (d) repossession being had upon default in performance of the terms of a chattel mortgage, trust receipt, conditional sales contract, or other like agreement, and upon acceptance of an electronic certificate of title record after repossession (adding, and upon acceptance of an electronic certificate of title record after repossession, in addition to the title requirements in this section), in addition to the title requirements in this section, the county treasurer of any county or the department, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or when that is not possible, upon presentation of satisfactory proof of ownership and right of possession to such vehicle, and upon payment of the appropriate fee and the presentation of an application for certificate of title, may issue to the applicant a certificate of title thereto.

Neb. Rev. Stat. § 60-385 has been amended to provide that an approved licensed dealer participating in the

electronic dealer services system may submit an application for registration electronically to the appropriate county treasurer or the department.

Neb. Rev. Stat. § 60-3,141 has been amended to provide that an approved licensed dealer participating in the electronic dealer services system may collect all motor vehicle taxes, motor vehicle fees, and registration fees as agent for the appropriate county treasurer and the department in a manner provided by such system.

While acting as agents pursuant to the above, any approved licensed dealers participating in the electronic dealer services system shall in addition to the taxes and registration fees collect one dollar and fifty cents for each registration of a motor vehicle or trailer of a resident of the State of Nebraska and four dollars and fifty cents for each registration of a motor vehicle or trailer of a nonresident. The county treasurer shall credit such additional fees collected by the county treasurer or any approved licensed dealer participating in the electronic dealer services system to the county general fund in a manner provided by such system.

The bill adds a new section to provide that, beginning January 1, 2019, the Department of Motor Vehicles shall develop an electronic dealer services system for implementation. The Director of Motor Vehicles shall approve a licensed dealer for participation in the system. A licensed dealer may voluntarily participate in the system and provide titling and registration services. A licensed dealer who chooses to participate may collect from a purchaser of a vehicle, who also chooses to participate, all appropriate certificate of title fees, notation of lien fees, registration fees, motor vehicle taxes and fees, and sales taxes. All such fees and taxes collected shall be remitted to the appropriate county treasurer or the department as provided in the Motor Vehicle Certificate of Title Act, the Motor Vehicle Registration Act, and the Nebraska Revenue Act of 1967.

In addition to the fees and taxes described in subsection (1) of this section, a participating licensed dealer may charge and collect a service fee not to exceed fifty dollars from a purchaser electing to use the electronic dealer services system.

An approved licensed dealer who chooses to participate shall use the system to electronically submit title, registration, and lien information to the Vehicle Title and Registration System maintained by the department.

The director may remove a licensed dealer's authority to participate in the electronic dealer services system for any violation of the Motor Vehicle Certificate of Title Act, the Motor Vehicle Industry Regulation Act, the Motor Vehicle Registration Act, or the Nebraska Revenue Act of 1967, for failure to timely remit fees and taxes collected under this section, or for any other conduct the director deems to have or will have an adverse effect on the public or any governmental entity.

An approved licensed dealer participating in the electronic dealer services system shall not release, disclose, use, or share personal or sensitive information contained in the records accessible through the electronic dealer services system as prohibited under the Uniform Motor Vehicle Records Disclosure Act, except that a licensed dealer may release, disclose, use, or share such personal or sensitive information when necessary to fulfill the requirements of the electronic dealer services system as approved by the department. An approved licensed dealer participating in the electronic dealer services system shall be responsible for ensuring that such licensed dealer's employees and agents comply with the Uniform Motor Vehicle Records Disclosure Act.

The department may adopt and promulgate rules and regulations governing the eligibility for approval and removal of licensed dealers to participate in the electronic dealer services system, the procedures and requirements necessary to implement and maintain such

system, and the procedures and requirements for approved licensed dealers participating in such system.

The department shall implement the electronic dealer services system on a date to be determined by the director but not later than January 1, 2021.

LEGISLATION
West Virginia
Retitling

2017 WV S 658. Enacted 4/25/2017. Effective 7/5/2017.

This bill amends W. Va. Code § 17A-3-12b to establish a procedure whereby mobile and manufactured homes may be retitled provided certain conditions are met.

The bill provides that the commissioner shall reinstate and reissue any title for a mobile home or manufactured home which was previously titled in the state and for which the title was canceled when the owner of the home seeks to sever the home from the real property and applies for a certificate of title in accordance with the provisions of this section. For purposes of this subsection, "owner" means the owner, secured lender of foreclosed or surrendered property, owner of real property who takes possession of an abandoned manufactured home on the property or other person who has the legal right to the manufactured home through legal process.

The bill requires that the owner file with the clerk of the county commission where the real property is located an affidavit that includes or provides for all of the following information:

(A) The manufacturer and, if applicable, the model name of the mobile or manufactured home;

(B) The vehicle identification number and serial number of the mobile or manufactured home;

(C) The legal description of the real property on which the mobile or manufactured home is or was placed, stating that the owner of the mobile home or manufactured home also owns the real property;

(D) Certification that there are no security interests in the mobile home or manufactured home that have not been released by the secured party; and

(E) A statement by the owner that the home has been or will be physically severed from the real property.

The owner must submit to the commissioner:

(A) A copy of the affidavit filed in accordance with the above; and

(B) Verification that the manufactured home has been severed from the real property.

MARC LIFSET is a member in the firm's business law section, where he advises banks and financial institutions regarding consumer financial services issues, licensing, regulatory compliance and legislative matters. Marc has carved a place for himself in the manufactured housing lending arena as the primary drafter and proponent of New York's Manufactured Housing Certificate of Title Act. Marc is chairperson of the Manufactured Housing Institute ("MHI") Finance Lawyers Committee and serves on the Board of Governors of the MHI Financial Services Division. He is the primary draft person of manufactured home titling and perfection legislation in Alaska, Louisiana, Maryland, Missouri, Nebraska, New York, North Dakota and Tennessee. Marc represents manufactured home lenders, community operators and retailers throughout the country and is a frequent lecturer at industry conventions.

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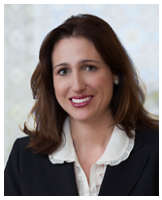

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The Manufactured Housing Institute (MHI) is the only national trade organization representing all segments of the factory-built housing industry. MHI members include home builders, lenders, home retailers, community owners and managers, suppliers and 50-affiliated state organizations.

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