

2014 -- S 2662 SUBSTITUTE A

LC003965/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- ABANDONED MOBILE AND
MANUFACTURED HOME ACT

Introduced By: Senators P Fogarty, Cool Rumsey, Ottiano, and DiPalma

Date Introduced: March 04, 2014

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 31 of the General Laws entitled "MOTOR AND OTHER
2 VEHICLES" is hereby amended by adding thereto the following chapter:

3 CHAPTER 44.2

4 ABANDONED MOBILE AND MANUFACTURED HOME ACT

5 **31-44.2-1. Legislative findings and purpose.** – The general assembly finds that
6 abandoned mobile and manufactured homes are a nuisance because they cause blight and depress
7 property values. This act is intended to provide local governments and landowners with the
8 authority to remove abandoned mobile and manufactured homes while protecting property rights.

9 **31-44.2-2. Definitions.** – As used in this chapter:

10 (1) "Department" means the department of business regulation.

11 (2) "Mobile and manufactured home" means a detached residential unit designed:

12 (i) For a long-term occupancy and containing sleeping accommodations, a flush toilet,
13 and a tub or shower bath and kitchen facilities, having both permanent plumbing and electrical
14 connections for attachment to outside systems;

15 (ii) To be transported on its own wheels or on a flatbed or other trailer or detachable
16 wheels; and

17 (iii) To be placed on pads, piers, or tied down, at the site where it is to be occupied as a
18 residence complete and ready for occupancy, except for minor and incidental unpacking and

1 assembly operations and connection to utilities systems.

2 (4) "Abandoned mobile and manufactured home" means a mobile and manufactured
3 home that is:

4 (i) Not connected to electricity or not connected to a source of safe potable water supply
5 sufficient for normal residential needs, or both; or

6 (ii) Not connected to an adequate wastewater disposal system; or

7 (iii) Unoccupied for a period of at least one hundred twenty (120) days and for which
8 there is clear and convincing evidence that the occupant does not intend to return; or

9 (iv) So damaged, decayed, dilapidated, unsanitary, unsafe or vermin infested that it
10 creates a hazard to the health and safety of the occupants or the public.

11 (5) "Landowner" means the owner of the real property on which an abandoned mobile or
12 manufactured home is located.

13 (6) "Municipality" means the city or town in which the mobile or manufactured home is
14 located.

15 (7) "Licensee" means any person or agent licensed under § 31-44-1.7 who is directly or
16 indirectly engaged in the business of maintaining or operating a mobile and manufactured home
17 park under the provisions of chapter 44 of title 31.

18 **31-44.2-3. Jurisdiction.** -- The district court of this state shall exercise jurisdiction in
19 both law and equity over removal of abandoned mobile or manufactured homes with respect to
20 any conduct in this state governed by this chapter or with respect to any claim arising from a
21 transaction subject to this chapter. In addition to any other method provided by rule or by statute,
22 personal jurisdiction may be acquired in a civil action or proceeding commenced in the court by
23 the service of process in the manner provided herein.

24 **31-44.2-4. Service of process for actions pursuant to chapter.** -- (a)(1) In actions
25 pursuant to this chapter, the summons for an action for removal of an abandoned mobile or
26 manufactured home shall be in the form provided in this chapter. At the time of filing of the
27 complaint, the clerk shall mark the date of hearing upon the summons, which shall be the ninth
28 (9th) day after filing of the complaint, or the first court day following the ninth (9th) day. For the
29 purposes of this section only, the time of filing of the complaint shall be the date upon which the
30 clerk assigns a case number to the action and the filing fee is paid to the clerk. On the same day
31 that the complaint is filed, the plaintiff's attorney or, if pro se, the plaintiff, or if more than one,
32 the person filing the complaint shall mail a copy of the summons and complaint by first class
33 mail, to the defendant, shall complete the proof of service on a copy of the original summons and
34 file the completed proof of service in the appropriate court. The clerk shall note on the docket the

1 mailing date of the summons and complaint, and shall complete the proof of service on the
2 original summons. The plaintiff shall deliver the original summons and a copy thereof, together
3 with a copy of the complaint to the division of sheriffs or any constable of the county in which
4 the appropriate court is located. The officer receiving the copies shall serve them by:

5 (i) Handing them to the defendant;

6 (ii) Serving them at the defendant's dwelling unit to a person of suitable age and
7 discretion then residing therein; or

8 (iii) If none be found, by posting them conspicuously on the door to defendant's dwelling
9 unit.

10 (2) The deputy sheriff or constable serving the summons and complaint shall make proof
11 of service on the original summons and shall file it with the clerk of the appropriate court at or
12 before the time of the hearing. The proof of service shall show the manner and the day, hour, and
13 place of service, and shall show that the defendant was served no less than five (5) days before
14 the hearing.

15 (b) In all actions pursuant to this chapter, the procedure shall be as follows:

16 (1) The summons pursuant to this chapter shall be in the form provided in § 31-44.2-8.

17 (2) Service shall be made pursuant to Rule 4 of the district court civil rules, or other
18 appropriate rule of court.

19 (c) If a plaintiff or defendant is not a resident of this state or is a corporation not
20 authorized to do business in this state and engages in any conduct in this state governed by this
21 chapter, or engages in a transaction subject to this chapter, he or she may designate an agent upon
22 whom service of process may be made in this state. The agent shall be a resident of this state or a
23 corporation authorized to do business in this state. The designation shall be in writing and filed
24 with the secretary of state. If no designation is made and filed or if the process cannot be served
25 in this state upon the designated agent, process may be served upon the secretary of state, but
26 service upon the secretary of state is not effective unless the plaintiff or petitioner forthwith mails
27 a copy of the process and pleading by registered or certified mail to the defendant or respondent
28 at his or her last reasonably ascertainable address. An affidavit of compliance with this subsection
29 shall be filed with the clerk of the court on or before the return day of the process, if any, or
30 within any further time the court allows.

31 (d) If, at the time of hearing, it appears that the clerk failed to provide mail service as
32 required by subsection (a) of this section, or that the mailed service was undeliverable, service
33 shall nevertheless be deemed complete if proof of service reflects that service was accomplished
34 in accordance with subsection (a)(1)(i) or (ii) of this section.

1 **31-44.2-5. Order for removal of an abandoned mobile or manufactured home. – (a)**
2 An action for the removal of an abandoned mobile or manufactured home may be commenced by
3 a landowner/licensee/municipality if a mobile or manufactured home has been abandoned and the
4 following conditions have been met:

5 (1) The mobile or manufactured home is not entitled to be situated on the property of the
6 landowner/municipality/licensee; and

7 (2) The mobile or manufactured home is:

8 (i) Not connected to electricity or not connected to a source of safe potable water supply
9 sufficient for normal residential needs, or both; or

10 (ii) Not connected to an adequate wastewater disposal system; or

11 (iii) Unoccupied for a period of at least one hundred twenty (120) days and for which
12 there is clear and convincing evidence that the occupant does not intend to return; or

13 (iv) So damaged, decayed, dilapidated, unsanitary, unsafe or vermin infested that it
14 creates a hazard to the health and safety of the occupants or the public.

15 (b) The action shall be commenced by filing a thirty (30) day notice for removal of the
16 mobile or manufactured home, which shall be filed in the appropriate court according to the form
17 provided in § 31-44.2-8.

18 (c) Prior to filing the complaint, the plaintiff shall send a notice in the form provided in §
19 31-4.2-8 and therein shall specify that the defendant has thirty (30) days from the date notice is
20 mailed therein to remedy the allegations in the complaint and that if he or she fails to do so within
21 that time, suit for possession shall be commenced in accordance with § 31-44.2-4.

22 (d) If the court finds that the defendant failed to remedy the allegations contained in the
23 complaint to the satisfaction of the court, the court shall issue an order for the removal of the
24 abandoned mobile or manufactured home in accordance with this chapter.

25 **31-44.2-6. Appeals. – Appeals of actions brought under this chapter shall be pursuant to**
26 § 9-12-10.1.

27 **31-44.2-7. Execution. -- If no appeal is claimed, and if the judgment has not been**
28 satisfied, execution shall be issued on the sixth (6th) day following judgment. Executions shall be
29 issued to the division of sheriffs or licensed constables. Every execution issued by any district
30 court pursuant to this chapter shall continue in full force and effect for one year after the date
31 thereof, and be returnable to the district court which issued it in accordance with the provisions of
32 § 9-25-21. All costs in carrying out the mandates of the execution may be added to the execution
33 by the clerk upon approval of the court upon presentment of evidence of the costs.

34 **31-44.2-8. Notices and complaint forms. – (a) A notice in substantially the following**

1 language shall suffice for the purpose of giving an owner notice of removal of an abandoned
2 mobile or manufactured home pursuant to chapter 44.2 of title 31:

3 THIRTY DAY NOTICE FOR REMOVAL OF MOBILE OR MANUFACTURED HOME

4 Date of Notice: _____

5 You are notified that a certain mobile or manufactured home (describe mobile home in
6 terms of size, color, make, and model, if known) located at (give address or describe location)
7 meets the definition of an abandoned mobile or manufactured home within the meaning of the
8 "Abandoned Mobile or Manufactured Home Act" pursuant to chapter 44.2 of title 31. Unless all
9 delinquent taxes (including penalty and interest) are paid, and electric, water, and waste service
10 are restored to this mobile or manufactured home within thirty (30) days of the date of this notice,
11 the defendant shall remove and dispose of the mobile or manufactured home, and it shall be
12 disposed of or sold at public auction free and clear of any existing liens.

13 _____

14 Signature of plaintiff

15 I certify that I placed in regular U.S. mail first class postage prepaid, a copy of this notice
16 addressed to the plaintiff on the _____ day of _____ 20 ____.

17 (b) A complaint in substantially the following language shall suffice for the purpose of
18 commencing removal of an abandoned mobile or manufactured home pursuant to chapter 44.2 of
19 title 31:

20 State of Rhode Island and Providence Plantations

21 _____, Sc. DISTRICT COURT

22 _____ DIVISION

23 PLAINTIFF

DEFENDANT

24 _____

25 (Landowner/Licensee/Municipality Name) V (Mobile or Manufactured Homeowner Name)

26 _____

27 _____

28 _____

29 (Address) (Address of premises on which abandoned mobile or manufactured home is located)

30 COMPLAINT FOR REMOVAL OF ABANDONED MOBILE OR MANUFACTURED HOME
31 chapter 44.2 of title 31.

32 (1) Plaintiff is the landowner/licensee/municipality in which defendant's/owner's mobile
33 or manufactured home is situated.

34 (2) The mobile or manufactured home meets the definition of abandoned mobile or

1 manufacturer home as set forth in § 31-44.2-2(4) in the following manner.

2 CHECK ONE

3 Defendant's mobile or manufactured home is:

4 _____ Not connected to electricity or not connected to a source of safe potable water
5 supply sufficient for normal residential needs, or both; or

6 _____ Not connected to an adequate wastewater disposal system; or

7 _____ Unoccupied for a period of at least one hundred twenty (120) days and for which
8 there is clear and convincing evidence that the occupant does not intend to return; or

9 _____ So damaged, decayed, dilapidated, unsanitary, unsafe or vermin infested that it
10 creates a hazard to the health and safety of the occupants or the public.

11 (3) Plaintiff seeks judgment for removal of defendant's mobile or manufactured home. If
12 you do not remedy this situation within thirty (30) days your mobile or manufactured home will
13 be removed without further notice on _____ (date), which must not be less than thirty-one
14 (31) days from the date of mailing this notice. Plaintiff seeks costs and fees (if applicable).

15 _____

16 Signature of landowner/licensee/municipality

17 I certify that I placed in regular U.S. mail first class postage prepaid, a copy of this
18 notice, addressed to plaintiff on the _____ day of _____ 20_____.

19 **31-44.2-9. Auction of abandoned mobile or manufactured home.** – (a) If an order for
20 removal of an abandoned mobile or manufactured home has been issued in accordance with § 31-
21 44.2-5 the mobile or manufactured home may be sold at public auction. The purchaser of the
22 mobile or manufactured home shall take title of the home free and clear of all liens and claims of
23 ownership, and shall receive a sales receipt and bill of sale, and shall be entitled to register the
24 mobile or manufactured home.

25 (b) From the proceeds of the sale of abandoned mobile or manufactured home, the
26 plaintiff shall reimburse itself the expenses of the auction, the costs of towing, preserving, and
27 storing the mobile or manufactured home and all notices and publication costs incurred pursuant
28 to this chapter. Any remainder from the proceeds of a sale shall be held for the owner of the
29 mobile or manufactured home or entitled lienholder for ninety (90) days and then shall be
30 deposited in a special abandoned mobile or manufactured home fund which shall remain
31 available for the payment of auction, towing, preserving, storage, and all notice and publication
32 costs which result from other abandoned mobile and manufactured homes, whenever the proceeds
33 from a sale of the other abandoned mobile or manufactured homes are insufficient to meet these
34 expenses and costs.

1 (c) Whenever the director finds that moneys in the abandoned mobile or manufactured
2 home fund are in excess of reserves likely to be needed, he or she may transfer the excess to the
3 general fund. But in the event there are additional claims against the abandoned mobile or
4 manufactured home fund, or if the abandoned mobile or manufactured home fund is temporarily
5 exhausted, these claims shall be met from the general fund to the limit of any transfers previously
6 made to it pursuant to this chapter.

7 **31-44.2-10. Severability.** – If any provision of this chapter or the application thereof to
8 any person or circumstances is held invalid, the invalidity does not affect other provisions or
9 application of this chapter which can be given effect without the invalid provision or application,
10 and to this end the provisions of this chapter are severable.

11 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- ABANDONED MOBILE AND
MANUFACTURED HOME ACT

- 1 This act would provide a procedure for removal of abandoned mobile or manufactured
- 2 homes under the jurisdiction of the district court.
- 3 This act would take effect upon passage.

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